

RESOLUTION 2020-01

A RESOLUTION OF THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF KIMBALL, TENNESSEE TO ADOPT MARION COUNTY'S 2020 AMENDED NATURAL HAZARD MITIGATION PLAN

WHEREAS, by Resolution 2014-04 dated August 14, 2014, the Board of Mayor and Aldermen of the Town of Kimball adopted Marion County's Natural Hazard Mitigation Plan for application and response to all hazards occurring in the Town; and

WHEREAS, the "Marion County Natural Hazard Mitigation Plan" under date of March 24, 2014, has now been updated and amended. Said updated 2020 Plan has now been approved by the Federal Emergency Management Agency (FEMA), and request has been made that the Board of Mayor and Aldermen of the Town of Kimball approve and adopt the 2020 Amended Plan as required by law.

NOW, THEREFORE, BE IT HEREBY RESOLVED, by the Board of Mayor and Aldermen of the Town of Kimball, Tennessee, meeting in regular session on this 4th day of June, 2020, that:

SECTION 1: The Marion County Natural Hazard Mitigation Plan as amended in 2020, which is attached hereto as Exhibit "A" and incorporated herein by reference, is hereby approved and adopted for application and usage within the Town of Kimball.

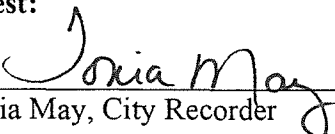
SECTION 2: This Resolution shall take effect immediately upon its passage as required by law, the public welfare requiring it.

ADOPTED this 4th day of June, 2020.

THE TOWN OF KIMBALL, TENNESSEE

By: 
Rex Pesnell, Mayor

Attest:


Tonia May, City Recorder

DATE PASSED: June 4, 2020

RESOLUTION # 2020-01PC

A RESOLUTION TO AMEND THE SUBDIVISION REGULATIONS TO UPDATE AND CHANGE VARIOUS SECTIONS OF THE DOCUMENT AS DETAILED IN THIS RESOLUTION AND TO READOPT THE REGULATIONS IN THEIR ENTIRETY IN THE TOWN OF KIMBALL, TENNESSEE

WHEREAS, pursuant to Tennessee Code Annotated Section 13-4-303, the Town of Kimball has adopted subdivision regulations for the purpose of promoting the health, safety, convenience, order, prosperity, and general welfare of the citizens of Kimball, Tennessee; and

WHEREAS, pursuant to Tennessee Code Annotated Section 13-4-303, the Kimball Municipal Planning Commission desires to amend the adopted Subdivision Regulations; and

WHEREAS, pursuant to Tennessee Code Annotated 13-4-303(c) a public hearing was held before this body, pursuant to a notice published in a local newspaper in advance of the hearing;

NOW, THEREFORE, BE IT RESOLVED by the Kimball Municipal Planning Commission that the Subdivision Regulations for Kimball, Tennessee be amended as described herein:

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CHAPTER 1

INTRODUCTION

Section:

01.00. Preamble

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01.00. Preamble.

PURSUANT TO THE AUTHORITY SET FORTH IN SECTION 13-4-301 THROUGH SECTION 13-4-310, **TENNESSEE CODE ANNOTATED**, AND FOR THE PURPOSE OF:

1. PROMOTING THE HEALTH, SAFETY, MORALS, CONVENIENCE, ORDER, PROSPERITY, AND GENERAL WELFARE OF THE CITY;
2. ENCOURAGING ECONOMICALLY SOUND AND STABLE LAND DEVELOPMENT; TO ASSURE THE PROVISION OF REQUIRED STREETS, UTILITIES, AND OTHER FACILITIES AND SERVICES TO LAND DEVELOPMENTS;
3. ASSURING THE ADEQUATE PROVISION OF SAFE AND CONVENIENT TRAFFIC ACCESS AND CIRCULATION, BOTH VEHICULAR AND PEDESTRIAN, IN LAND DEVELOPMENT;
4. ASSURING THE PROVISION OF NEEDED PUBLIC OPEN SPACES AND BUILDING SITES IN LAND DEVELOPMENT THROUGH THE DEDICATION OR RESERVATION OF LAND FOR RECREATIONAL, EDUCATIONAL, AND OTHER PUBLIC PURPOSES; AND,
5. TO ASSURE THAT LAND IS DEVELOPED IN CONFORMITY WITH THE COMPREHENSIVE PLAN OF KIMBALL, TENNESSEE.

THE MUNICIPAL PLANNING COMMISSION OF THE TOWN OF KIMBALL, TENNESSEE, DOES ORDAIN AND ENACT THE FOLLOWING CHAPTERS AND SECTIONS.

01.01. Purpose.

Land subdivision is the first step in the process of community development. Once land has been divided into streets, lots and blocks and publicly recorded, the correction of defects is costly and difficult. Subdivision of land sooner or later becomes a public responsibility, in that roads and streets must be maintained and various public services must be provided. It is therefore in the interest of the public, the developer and the future owner that subdivisions be conceived, designed and developed in accordance with sound rules and proper minimum standards.

01.02. Enactment Clause.

In pursuance of the authority set forth in Section 13-4-301 through 13-4-310, of the *Tennessee Code Annotated*, and for the purpose of promoting the health, safety, morals, convenience, order, prosperity, and general welfare of the municipality; to encourage economically sound and stable land development; to assure the provision of required streets, utilities and other facilities and services to land developments; to assure the adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian, in land development; to assure the provision of needed public open spaces and building sites in land developments through the dedication or reservation of land for recreational, educational and other public purposes; and to assure that land is developer in conformity with Comprehensive Plan of Kimball, the Municipal Planning Commission of Kimball, Tennessee ordain and enact the following Chapters and Sections:

01.03. Short Title.

This document shall be known and may be cited as the **Subdivision Regulations of Kimball, Tennessee.**

CHAPTER 2

DEFINITIONS OF TERMS

Section:

02.00. Definitions

02.00. Definitions.

Except as specifically defined herein, all words used in these regulations have their customary dictionary definitions where not inconsistent with the context. The term "shall" is mandatory. When not inconsistent with the context, words used in the singular include the plural and those used in the plural number include the singular. Words used in the present tense include the future. For the purpose of these regulations, certain words or terms are defined as follows.

Abutting: having a common border with or being separated from such common border by an alley or easement.

Access: the right to cross between public and private property, thereby permitting pedestrians and vehicles to enter and leave property.

Base Flood: the flood having a one (1) percent chance of being equaled or exceeded in any given year.

Building: any structure built for support, shelter, or enclosure for any occupancy or storage.

Building Inspector: the codes enforcement officer or his authorized representative appointed by the Kimball Board of Mayor and Aldermen.

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.

(Added 6-16-2015)

Certified Check: A form of check for which the bank verifies that sufficient funds exist in the account to cover the check, and so certifies, at the time the check is written. Those funds are then set aside in the bank's internal account until the check is cashed or returned by the payee.

Development: any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

Drainage: the removal of surface water or ground water from land by drains, grading, or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during and after development and includes the means necessary for water supply preservation or prevention or alleviation of flooding.

Flag Lot: a "flag lot" is a lot which is shaped somewhat like a flag on a pole. These lots are used to provide a building site in the interior of a tract of land behind the lots which front a public street.

Flood or Flooding: a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. the overflow of inland or tidal waters;
2. the unusual and rapid accumulation or runoff of surface waters from any source.

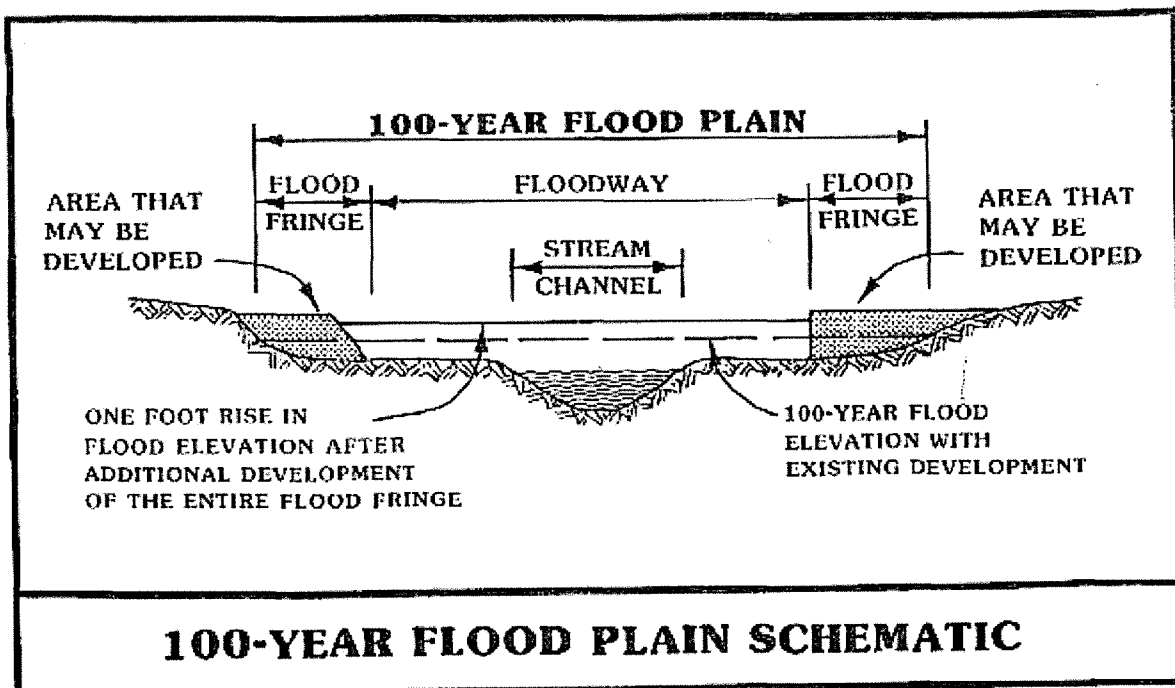
Flood Insurance Rate Map (FIRM): an official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study: the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the risk premium zones applicable to the community.

Flood Protection Elevation: the elevation to which structures and uses, regulated by these regulations, are required to be elevated or flood-proofed. Since Kimball's floodways are calculated to pass the 100-year flood with an increase in water level not more than one (1) foot, the flood protection elevation at any point along a stream is the natural 100-year flood level at the point plus one (1) foot.

Floodway: the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

Floodway Fringe: the land located between the floodway boundary line and the maximum elevation subject to inundation by the 100-year flood.



Health Authority: the environmentalist of the Marion County Health Department or his duly authorized representative.

Letter of Credit: An agreement or commitment by a bank made at the request of a subdivider/developer that the bank will honor drafts or other demands of payment from third parties (i.e. the Town of Kimball) if the subdivider/developer deviates from the conditions specified in the letter of credit.

Lot: a portion or parcel of land separated from other portions or parcels by description as on a subdivision plat, or record of survey map, or as described by metes and bounds, and is intended for transfer of ownership or for building development. For the purpose of these regulations, the term does not include any portion of a dedicated right-of-way.

Lot of Record: a lot which is part of a subdivision, recorded in 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 adoption of the *Kimball Subdivision Regulations*.

Planning Commission: refers to the Kimball Municipal Planning Commission.

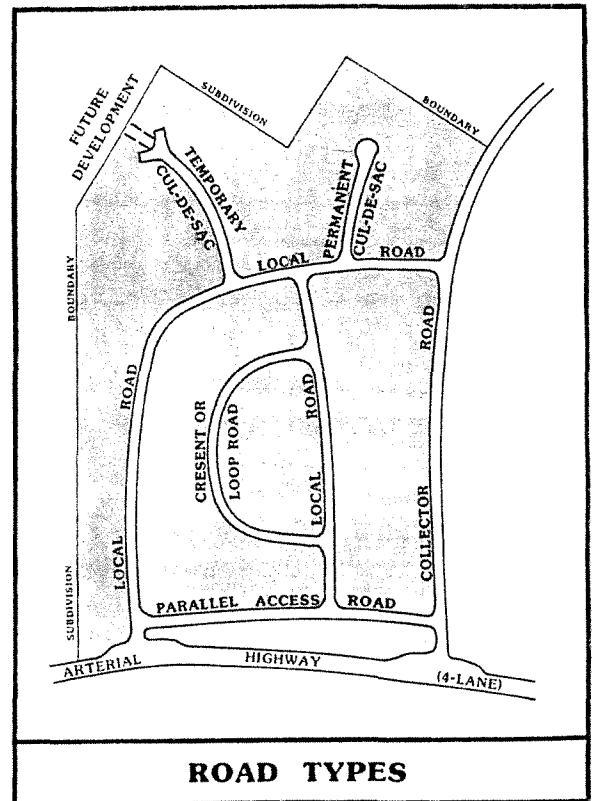
Reserve Strip: A narrow strip of land overlying a dedicated street reserved to the town for control of access until such time as additional right-of-way is accepted by the town for continuation or widening of the street.

Right-of-Way: a strip of land upon which a public road is built. The right-of-way includes not only the pavement surface, but the additional dedicated width of land provided for utilities, drainage and future widening of the roadway.

Setback: See definition for Building Setback. *(Added 6-16-2015)*

Street: a way for vehicular traffic, whether designated as an avenue, arterial, collector, boulevard, road, highway, expressway, lane, alley, or other way, and for the purpose of these regulations streets are divided into the following categories:

1. Interstate: Interstate Highway 24
2. Arterials: major thoroughfares designed to move large volumes of vehicles.
3. Collectors: those which carry traffic from minor streets to the major system of arterial streets and highways and include the principal entrance streets of a residential development and streets for major circulation within such a development.
4. Local Street: a neighborhood street used primarily for access to the abutting properties.
5. Marginal Access Street: a minor street parallel and adjacent to arterials which offers access to abutting properties.
6. Alley: a minor way used for service access to the back or side of properties otherwise abutting on a street.
7. Cul-de-Sac: a local street with only one outlet, sometimes called a dead-end street.



Subdivider: the person, firm, or corporation having such a proprietary interest in the land to be subdivided as will authorize the maintenance or proceedings to subdivide such land under these regulations, or the authorized agent, person, firm, or corporation for the purpose of proceeding under these regulations.

Subdivision: within these regulations the term "subdivision" means, according to Tennessee Code Annotated 13-4-301, the division of a tract or parcel of land into two (2) or more lots, sites, or other divisions requiring new street or utility construction, or any division of less

than five (5) acres, for the purpose, whether immediate or future, of sale or building development, and includes resubdivision and when appropriate to the context, relates to the process of resubdividing or to the land or area subdivided. Further, the term "utility construction" does not include the mere extension of individual service pipes or lines for the purpose of directly connecting a single lot, site or other division to existing utility mains. The term "subdivision" may be further defined as follows:

1. **Major Subdivision**: All divisions of land into five (5) or more lots, building sites or other divisions for the purpose, whether immediate or future, of sale or building development; and including all division of land into two (2) or more lots involving a new street, or change in existing streets; or divisions of land involving the extension of water, sewer, or gas lines and includes re-subdivisions and, where appropriate to the context, relates to the process of subdividing or to the land or area subdivided.
2. **Minor Subdivision**: All divisions of land into four (4) or less lots, building sites or other divisions for the purpose, whether immediate or future, of sale or building development, and where appropriate to the context, relates to the process of subdividing or to the land or area subdivided. This definition shall not include any divisions of land involving a new street, a change in an existing street, or the extension of water, sewer, or gas lines.

Surety Instrument: A surety bond, letter of credit, or certified check that has been accepted by the Town of Kimball guaranteeing the completion of required water lines, sewer lines, roads, or any other infrastructure project that is required by the Town in order to obtain approval on a final subdivision plat. The subdivider/developer is bound by the terms of the agreement and the timeframe set by the Kimball Municipal Planning Commission.

Surety Bond: A promise by a surety or guarantor to pay one party (the obligee) a certain amount if a second party (the principal) fails to meet some obligation or fails to fulfill the terms of a contract. It is a legally binding contract that ensures obligations will be met between a principal (a developer or subdivider) and the obligee (the Town of Kimball) by a surety (insurance company guaranteeing the principal can fulfill the obligations).

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 document. *(Added 6-16-2015)*

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 document. *(Added 6-16-2015)*

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 document. *(Added 6-16-2015)*

CHAPTER 3

PLATTING JURISDICTION AND ENFORCEMENT

Section:

03.00. Platting Authority

03.01. Use of the Plat

03.02. Enforcement

03.03. Opening and Improving Public Streets

03.04. Erection of Buildings

03.05. Penalties

03.00. Platting Authority.

The **Kimball Municipal Planning Commission (KMPC)** shall be the official platting authority for land within its planning jurisdiction. The KMPC's planning jurisdiction shall include land within the corporate limits of Kimball, Tennessee and any future region, outside its corporate limits, that may be designated by the State of Tennessee.

03.01. Use of Plat.

The transfer of sale, agreement to sell, or negotiation to sell land by reference to or exhibition of, or other use of a subdivision plat that has not been given final approval by the planning commission and recorded in the Office of the Marion County Register of Deeds is prohibited. The description by metes and bounds in the instrument of transfer or other document shall not exempt the transaction from these regulations.

03.02. Enforcement.

No plat or plan of a subdivision located within the area of planning jurisdiction shall be filed or recorded by the county register of deeds until said plat or plan has received final approval in writing by the Kimball Municipal Planning Commission.

03.03. Opening and Improving of Public Streets.

No public officer, authority, or city governing body shall accept, layout, open, improve, grade, pave, or light any street; lay or authorize the laying of water mains or sewers; or the construction of other facilities or utilities in any street located within the area of planning jurisdiction unless such street shall have been accepted, opened, or otherwise received the legal status of a public street prior to the adoption of these regulations, or unless such street corresponds in its location and lines to a street shown on a subdivision plat approved by the planning commission, or on a street plan made and adopted by the planning commission. The city commission may accept or layout any other road provided the ordinance for such acceptance, laying out, or adoption shall first be submitted to the planning commission for its approval. And if disapproved by the planning commission, shall receive at least a majority vote of the entire membership of the Kimball Board of Mayor and Aldermen.

03.04. Erection of Buildings.

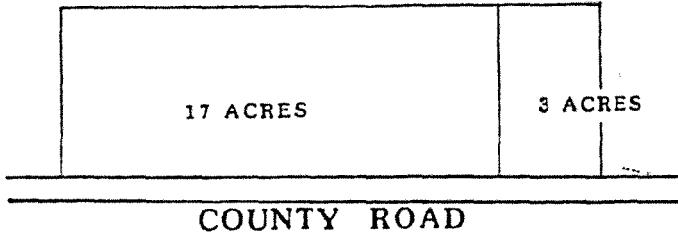
No building permit shall be issued and no building shall be erected on any lot in a subdivision within the area of jurisdiction of the planning commission unless the street giving access thereto has been accepted as a public street in accordance with these regulations.

Any new building or structure erected or to be erected in violation of this section shall be deemed an unlawful building or structure, and the building inspector or the city attorney or other official designated by the Kimball Board of Mayor and Aldermen may bring action to enjoin such erection or cause it to be vacated or removed.

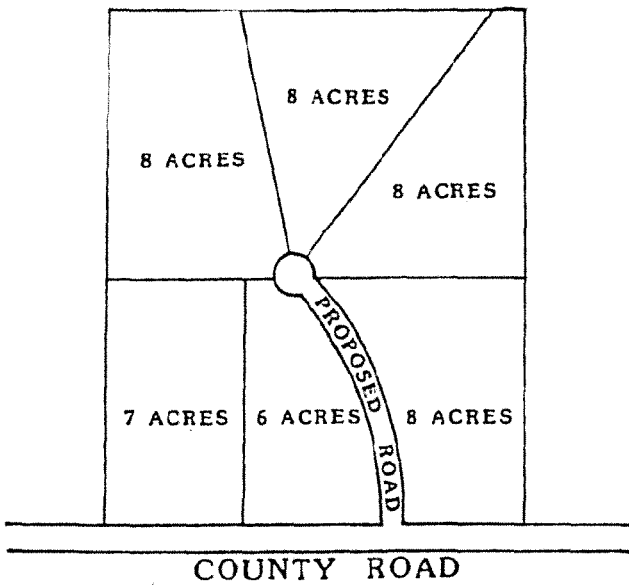
03.05. Penalties.

No county register of deeds shall receive, file, or record a plat of a subdivision without the approval of the planning commission. Violation of this provision shall be deemed a misdemeanor, punishable as provided by law.

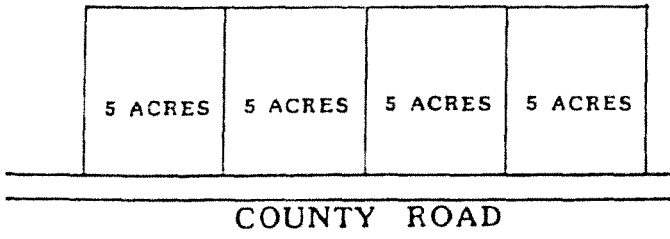
Any owner or agent of the owner of any land, transfers or sells or agrees to sell or negotiates to sell such land by reference to or exhibition of or by other use of a plat of such subdivision to the planning commission and obtained its approval as required before such plat be recorded in the office of the appropriate county register, shall be deemed guilty of a misdemeanor, punishable as other misdemeanors as provided by law, and the description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties. The city, through its attorney or other official designated by the city council, may enjoin such transfer or sale or agreement by action or injunction.



THIS IS A SUBDIVISION
BECAUSE ONE LOT IS LESS
THAN FIVE (5) ACRES.



THIS IS A SUBDIVISION
BECAUSE A NEW ROAD IS
NEEDED FOR ACCESS.



THIS IS NOT A SUBDIVISION
BECAUSE ALL LOTS ARE FIVE
(5) ACRES AND NO NEW ROADS
OR PUBLIC UTILITIES ARE
REQUIRED

WHAT IS A SUBDIVISION ?

CHAPTER 4

DESIGN REQUIREMENTS FOR SUBDIVISIONS

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04.00. Suitability of Land

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04.02. Access

04.03. Public Use Areas

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04.11. Reverse Frontage Lots

04.12. Flag Lots

04.00. Suitability of Land.

The planning commission shall not approve the subdivision of land if from adequate investigations is deemed unsuitable for platting and development purposes of the kind proposed.

1. Land within the floodways shall not be platted for residential occupancy or building sites, but may be used in calculating overall lot size. Such land shall be set aside for uses as shall not be endangered by periodic or occasional inundation and extreme water velocities.
2. Land located in floodway fringe areas may be platted for residential occupancy or for such other uses which will not increase the flood hazard, endanger health, life, or property, or aggravate erosion provided a notation of the flood hazard is shown on the plat and provided the lot has a flood-free building site. In applying this provision, land below the elevation of the 100-year flood shall be considered subject to periodic flooding.
3. The elevation of these controls shall be determined from the "Flood Insurance Study" and the corresponding Flood Insurance Rate Maps, and any subsequent revisions thereto developed by the Federal Emergency Management Agency, which are made part of these regulations.
4. Fill may not be used to raise land within the floodway area. In other areas subject to flood, fill may be used provided the proposed fill does not restrict the flow of water or increase flood heights.

04.01. Name of Subdivision.

The name of the subdivision must have the approval of the planning commission. The name shall not duplicate or closely approximate the name of an existing subdivision.

04.02. Access.

Access to every subdivision shall be provided over a public road.

04.03. Public Use Areas.

When public use features or other plans adopted by the planning commission are located in whole or in part in a subdivision, land for such features shall be either dedicated or reserved by the subdivider for acquisition within one (1) year by the appropriate public agency.

The planning commission shall refuse to approve the plat and shall notify the governing body of the reasons for such action whenever it finds a dedication of land to public uses is not required or suitable for such use.

Where public use is to be made of the property and the residents of the subdivision will receive benefit, the dedication of the property should be encouraged. Where the public use is for the public as a whole, the community should pay proportionately for the acquisition of reserved areas within a reasonable time. A reasonable time is to be determined according to the circumstance--the subdivider should not be required to hold his land idle for a lengthy, indefinite period.

04.04. Block Lengths and Widths.

Block lengths and widths shall be as follows:

1. Blocks shall be no shorter than four hundred (400) feet nor longer than twelve hundred (1,200) feet in length, except in unusual circumstances.
2. Blocks shall be wide enough to provide two (2) tiers of lots of minimum depth, except where abutting upon major streets or where other situations make this requirement impractical.

04.05. Flood Protection Elevation.

Each lot in a subdivision shall contain a flood-free building site outside the limits of any existing easement or the building setback lines as required by these regulations. The finished floor elevation for a concrete slab on-grade type of structure or the bottom of the floor joist for a crawl-space type of structure shall be a minimum of one (1) foot above the 100-year flood elevation.

04.06. Lot Sizes.

Residential lots shall not be less than seventy-five (75) feet wide at the building setback line. Other lot size requirements follow.

1. Residential lots shall have a depth of not less than one hundred (100) feet and not greater than three (3) times the width of the lot at the building line, unless unusual circumstances make these limitations impractical.
2. Lot sizes shall be determined by the Kimball Municipal Zoning Ordinance. In the absence of any zoning, lots not served by public water or sanitary sewer systems shall be at least thirty thousand (30,000) square feet in area or of a size specified by the county health authority; the minimum distance between the septic tank and well shall be one hundred (100) feet.
3. Lot sizes shall be determined by the Kimball Municipal Zoning Ordinance. In the absence of any zoning, lots that are served by individual septic tanks and a public water system, minimum lot size shall be fifteen thousand (15,000) square feet. The county health authority may require minimum lot sizes greater than herein specified.
4. Corner lots shall have adequate width to meet building setback requirements for both abutting streets.
5. Commercial and industrial lots shall be adequate in size to provide service areas and off-street parking suitable for the type of use and development contemplated.
6. Land shall not be platted for commercial or industrial purposes unless the subdivider can demonstrate that each lot provides:
 - (A) A site that does not unduly interfere with through traffic,
 - (B) An integrated parking area,
 - (C) Insulation against any adverse effect on any present or future adjacent residences,
 - (D) A parcel size sufficient in area to allow future expansions.

04.07. Lot Lines.

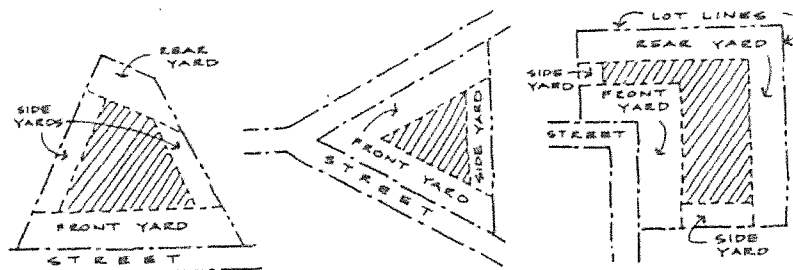
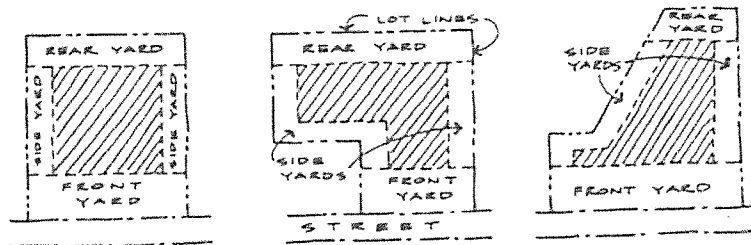
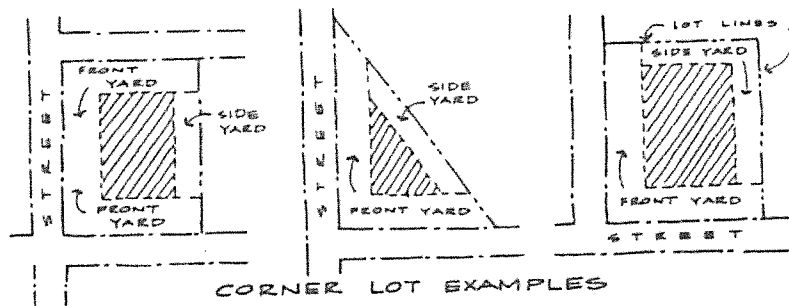
All lot lines shall be perpendicular or radial to the street lines, unless impractical because of topographic or other features.

04.08. Building Setback Lines.

All building setback lines shall be measured from the property line. For any property not located within a zoning district the minimum building setback lines shall be as follows:

1. Front yard setback..... 40 feet
2. Side yard setback..... 10 feet
3. Rear Yard Setback..... 15 feet
4. Side yard setback abutting a minor street (corner lot) 20 feet or as may be required

In cases where a drainage or other easement is required on the plat, setbacks may be increased.



REQUIRED YARDS

Building Envelope (Two Dimensional)

04.09. Lot Abutting Public Streets.

Each lot shall abut for at least fifty (50) feet upon a dedicated public street.

04.10. Double Frontage Lots.

Double frontage lots should be avoided, except to overcome specific disadvantages of topography and orientation.

04.11. Reverse Frontage Lots.

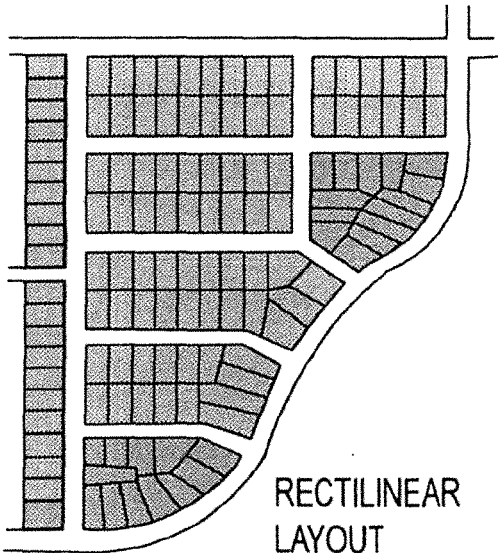
Reverse frontage lots should be encouraged where essential to provide separate residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. Reverse frontage lots shall have a depth of not less than one hundred fifty (150) feet. A planted evergreen buffer strip, at least ten (10) feet wide, shall be provided along the lot lines which abut the traffic artery of highest classification. *(An earthen berm or opaque fence may be used in lieu of an evergreen buffer strip.)*

04.12. Flag Lots.

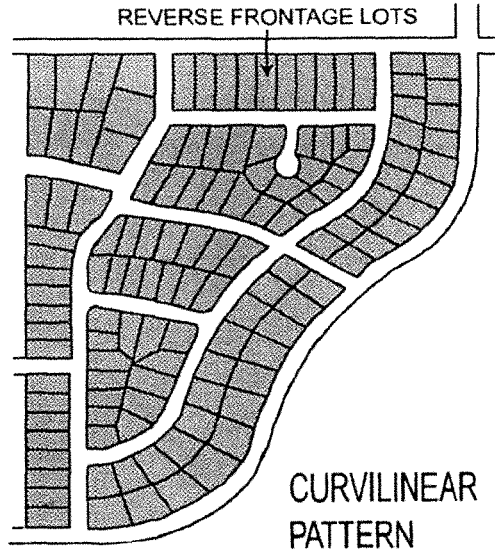
Flag lots may be allowed and shall meet the following criteria:

1. For flag lots of one (1) acre or less, the access strip shall be a maximum of 200 feet in length and a minimum of 25 feet in width;
2. For flag lots of more than one (1) acre, the access strip shall be a maximum of 500 feet in length and a minimum of 50 feet in width. (This additional width will allow for the construction of a public street if the flag lot is ever re-subdivided.);
3. The overall subdivision shall be designed so that the point where the access strip of the flag lot abuts the public street shall be safe for vehicular ingress and egress as far a visibility and grade are concerned since, unlike the purchaser of a conventional lot, the owner of a flag lot will have no other choice as to driveway location. (The safety of this location is even more important if the flag lot is ever made into a subdivision, containing several lots.);
4. Whenever a fifty (50) foot wide access strip is required, the developer shall locate it in a position where:
 - (A) the grade could meet the specifications of section 05.12.;
 - (B) the intersection for of ingress and egress is safe for vehicular traffic;
5. Within the portion of the flag lot which does not include the access strip the various building setbacks for front, side and rear shall still apply and be measured from the boundaries of the portion excluding the access strip;
6. Minimum lot sizes shall be calculated, excluding the access strip.

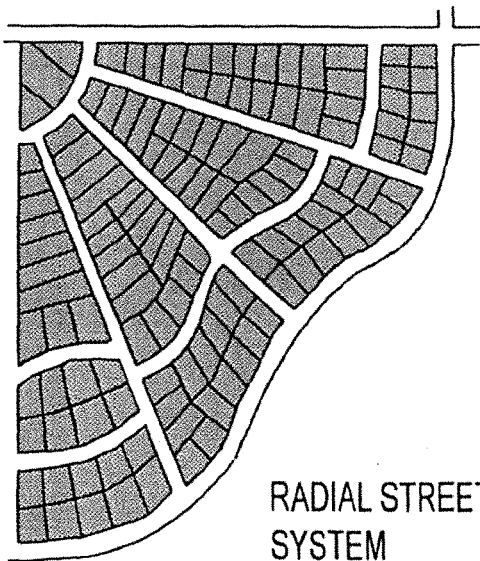
SUBDIVISION DESIGNS



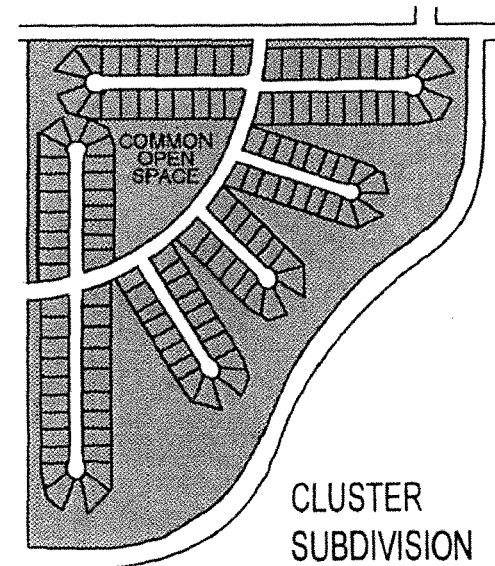
RECTILINEAR
LAYOUT
130 LOTS



CURVILINEAR
PATTERN
130 LOTS



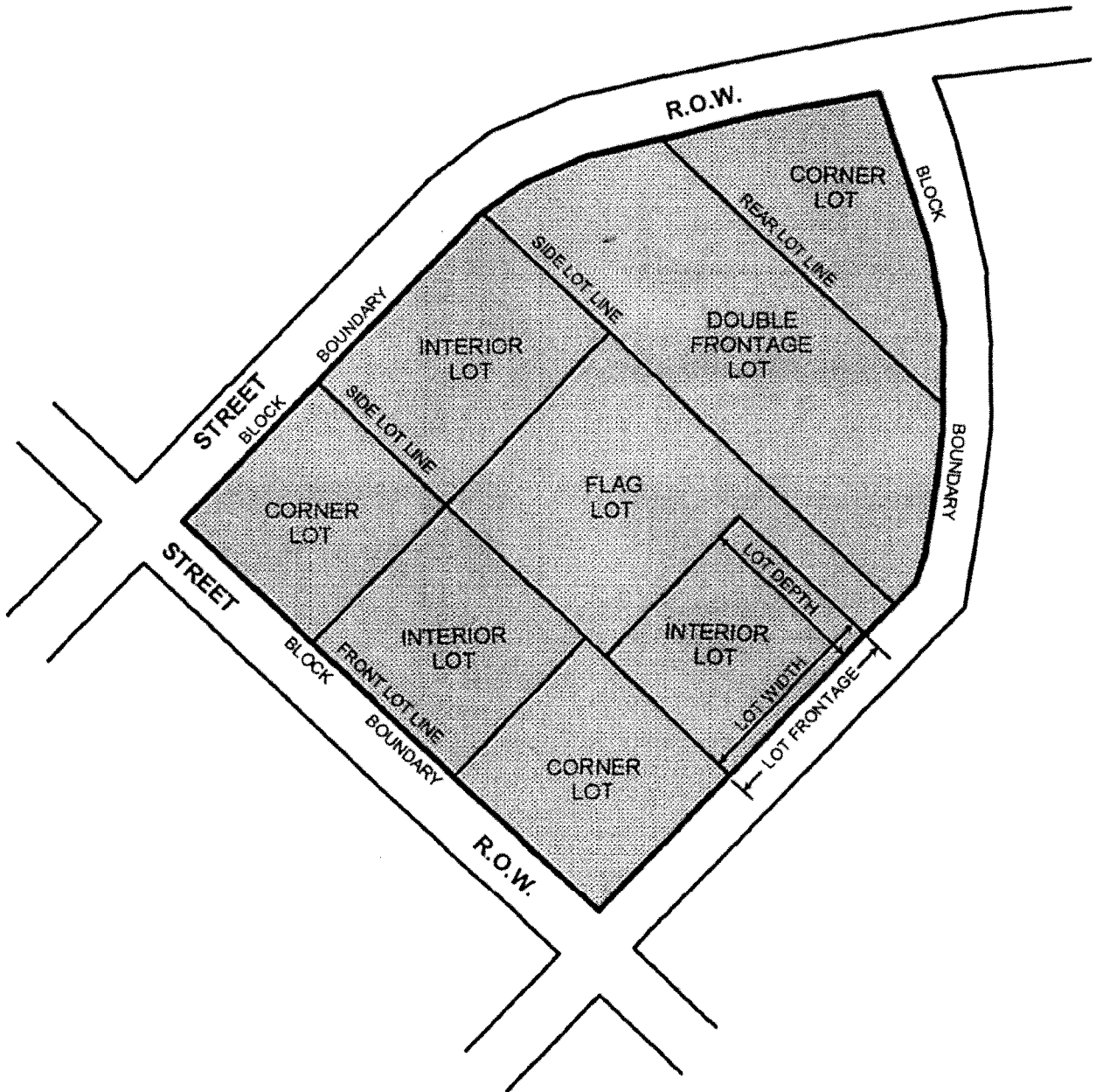
RADIAL STREET
SYSTEM
130 LOTS



CLUSTER
SUBDIVISION
130 LOTS

SUBDIVISION DESIGNS

TYPES OF LOTS



CHAPTER 5

DESIGN REQUIREMENTS FOR STREETS AND OTHER RIGHTS-OF-WAY

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05.11. Minimum Pavement Widths

05.12. Street Grades

05.13. Horizontal Curves

05.14. Vertical Curves

05.15. Intersections

05.16. Tangents

05.17. Street Jogs

05.00. Conformance to Major Road Plan.

All streets and features of the *Major Road Plan of Kimball, Tennessee*, shall be platted by the subdivider in the location and to the dimensions indicated on the *Major Road Plan*.

05.01. Continuation of Existing Streets.

Existing streets shall be continued at the same or greater width, but in no case less than the required width.

05.02. Street Connections.

Where proposed streets intersect existing streets, the developer must make the connection at his expense and meet all street design requirements set forth in these regulations. Where proposed streets connect with a city or state highway, the developer shall obtain authorization from the city or state highway department granting approval of the design of the proposed road connection.

05.03. Street Elevations.

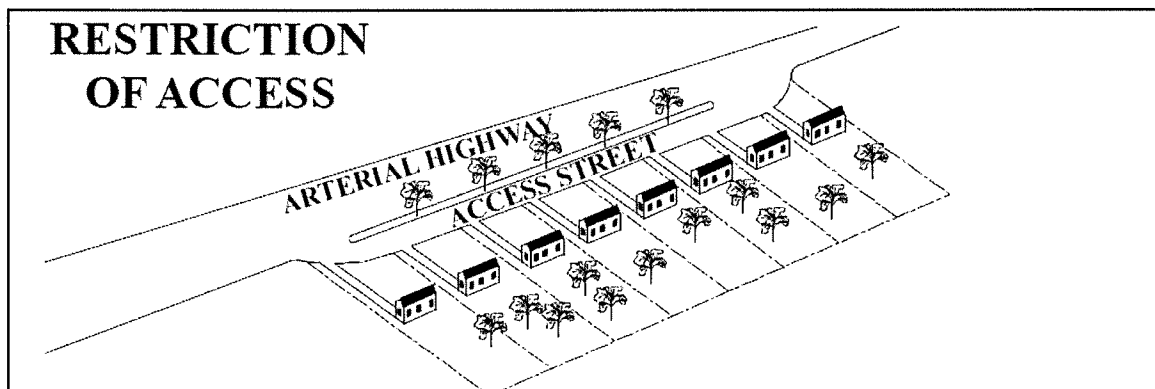
The planning commission may require profiles and elevations of streets in areas subject to flood. Fill may be used for streets provided such fill does not increase flood heights. Drainage openings shall be designed to not restrict the flow of water and increase flood heights. The minimum street elevation shall be no lower than the 100-year flood elevation.

05.04. Street Names.

Upon approval of the Preliminary Plat, the proposed street names for a subdivision shall require the approval of the Enhanced 911 (E-911) Emergency Services and the Board of Mayor and Aldermen. Streets that are in obvious alignment with existing streets shall be given the name of the existing street.

05.05. Restriction of Access.

When a tract fronts on an arterial or highway, the planning commission may require such lots to be provided with frontage on a marginal access street or may require reverse frontage lots.



05.06. Alleys.

Alleys may be required at the rear of all lots used for multi-family, commercial, or industrial developments, but shall not be provided in one- and two-family residential developments unless the subdivider provides evidence satisfactory to the planning commission of the need for alleys.

05.07. Private Streets and Reserve Strips.

There shall be no private streets platted in any subdivision. There shall be no reserve strips controlling access to streets, except where the control of such strips is definitely placed with the city under conditions approved by the planning commission.

05.08. Easements.

Easements having a minimum width of twenty (20) feet shall be provided, with a distribution of ten (10) feet on each property line or where deemed necessary for utility lines and underground mains and cables. Easements of the same or greater width shall be required along the lines of, or across, lots where necessary for the extension of existing or planned utilities.

Where a subdivision is traversed by a watercourse, drainage-way, channel, or stream, there shall be provided a storm water or drainage easement of adequate width.

05.09. Street Right-of Way Widths.

The right-of-way width shall be the distance across a street from property line to property line. Minimum street right-of-way widths shall be as follows:

- | | | |
|----|------------------------------|-----------------------------------|
| 1. | Arterials..... | 100 feet
or as may be required |
| 2. | Collector Streets..... | 80 feet |
| 3. | Local Streets..... | 50 feet |
| 4. | Marginal Access Streets..... | 50 feet |
| 5. | Alleys..... | 20 feet |
| 6. | Cul-de-sacs..... | 50 feet |

Cul-de-sacs or dead-end streets shall not be greater in length than seven hundred (700) feet. They shall be provided at the closed end with a turn-around having a property line radius of at least fifty (50) feet with an outside pavement radius of at least forty (40) feet (thirty [30] feet where shoulders are used).

- | | | |
|----|----------------------------|---------|
| 7. | Temporary Cul-de-sacs..... | 50 feet |
|----|----------------------------|---------|

Where the opinion of the planning commission it is desirable to provide for street access to adjoining property, proposed streets shall be extended by dedicating to the boundary of such property. Such dead-end streets shall be provided with a temporary turn-around approved by the planning commission. Adequate rights-of-way shall be dedicated to connect with any temporary dead-end street adjoining the subdivision.

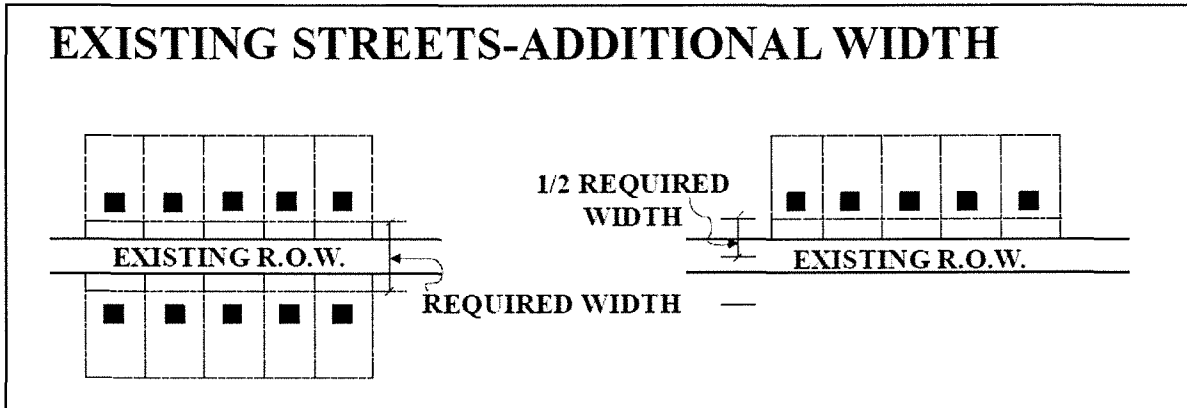
05.10. Additional Width on Existing Streets.

Subdivisions that abut existing streets shall dedicate additional right-of-way to meet the minimum street requirements as follows:

1. The entire right-of-way shall be dedicated where any part of the subdivision is on both sides of the existing street.
2. Where the subdivision is located on one side of an existing street, the amount of dedicated right-of-way shall be dedicated:
 - (A) If the land across the roadway from the proposed subdivision has not been subdivided or developed, the subdivider is only required to dedicate one-half of the required right-of-way, measured from the centerline of the existing roadway.

(B) If the land across the roadway has been subdivided or developed, the subdivider is required to provide enough additional right-of-way on his side of the roadway to bring the total right-of-way to the required width in no case shall the right-of-way be less than forty (40) feet.

3. In cases where the rights-of-way in excess of fifty (50) feet are required, additional widths shall be reserved, and when used, just compensation therefore shall be paid by the condemning authority.



05.11. Minimum Pavement Widths.

The required pavement widths will vary with the character of the building development and the amount of traffic encountered.

Minimum surface widths shall be as follows:

- 1. Arterial Streets as may be required
- 2. Collector Streets 24 feet
- 3. Local Streets 20 feet
- 4. Marginal Access Streets 20 feet
- 5. Minor Residential Streets 20 feet
- 6. Cul-de-sacs (permanent and temporary) 18 feet

The closed end of the cul-de-sac shall have a turn-around with a property line radius of at least fifty (50) feet with an outside pavement radius of at least forty (40) feet (thirty [30] feet where shoulders are used).

Each subdivision plat will be reviewed on a case-by-case basis. The planning commission reserves the right to increase the minimum surface width if through its plat review the planning commission finds the type of development proposed warrants a larger minimum surface width.

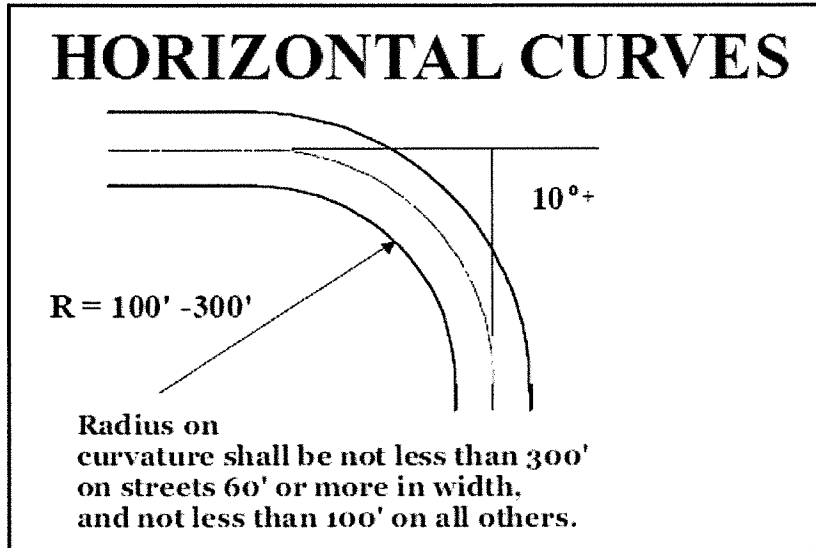
05.12. Street Grades.

Streets shall be planned to conform to existing topographic conditions. Grade may exceed twelve (12) percent for a distance up to four hundred (400) feet, but may not exceed fifteen (15) percent. Minimum street grade shall be 0.5 percent (this includes the lateral grade across the pavement to allow for an adequate 'crown' for drainage purposes).

05.13. Horizontal Curves.

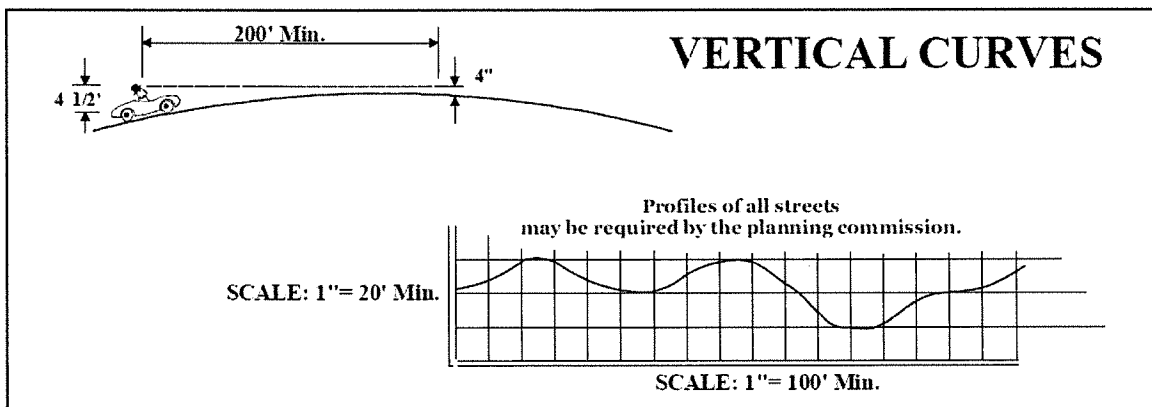
Where a deflection angle of more than ten (10) degrees in the alignment of a street occurs, the street shall have a centerline radius of not less than the following.

- | | | |
|----|------------------------|----------|
| 1. | Arterials..... | 300 feet |
| 2. | Collectors | 200 feet |
| 3. | All Other Streets..... | 100 feet |



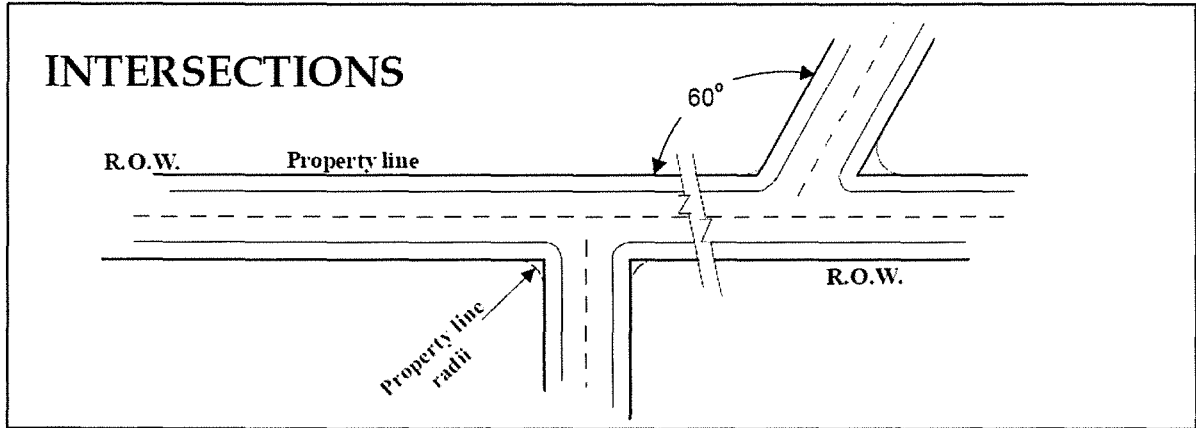
05.14. Vertical Curves.

Every change in grade shall be connected by a vertical curve constructed so as to afford a minimum sight distance of two hundred (200) feet. Sight distance shall be measured from four and one-half (4 1/2) feet above the pavement, to an object four (4) inches high on the pavement. Profiles of all streets, showing natural and finished grades drawn to a scale of not less than one (1) inch equals one hundred (100) feet horizontally and one (1) inch equals twenty (20) feet vertically, may be required.

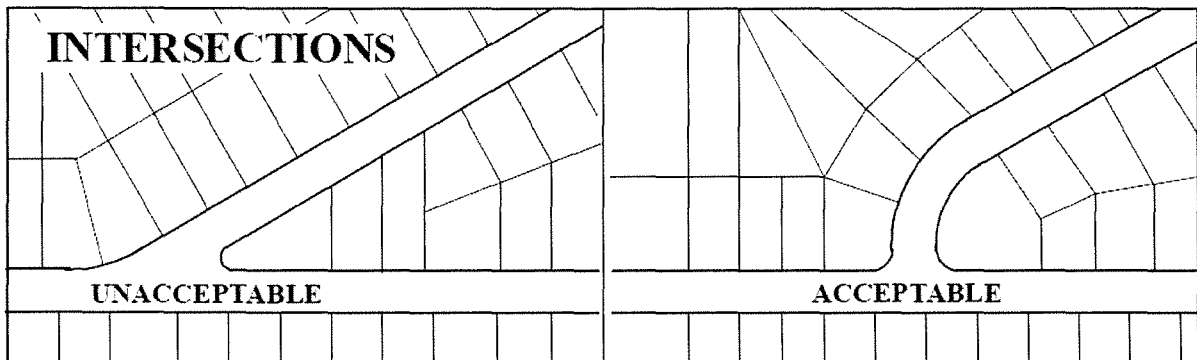


05.15. Intersections.

Street intersections shall be as nearly at right angles as is possible, and no intersections shall be at an angle of less than sixty (60) degrees.

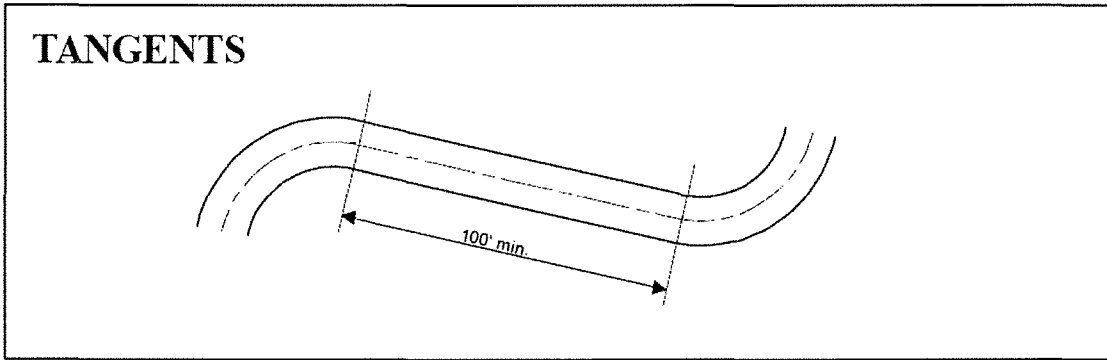


Curb radii at street intersections shall not be less than twenty (20) feet, and where the angle of a street intersection is less than seventy-five (75) degrees, the planning commission may require a greater curb radius.



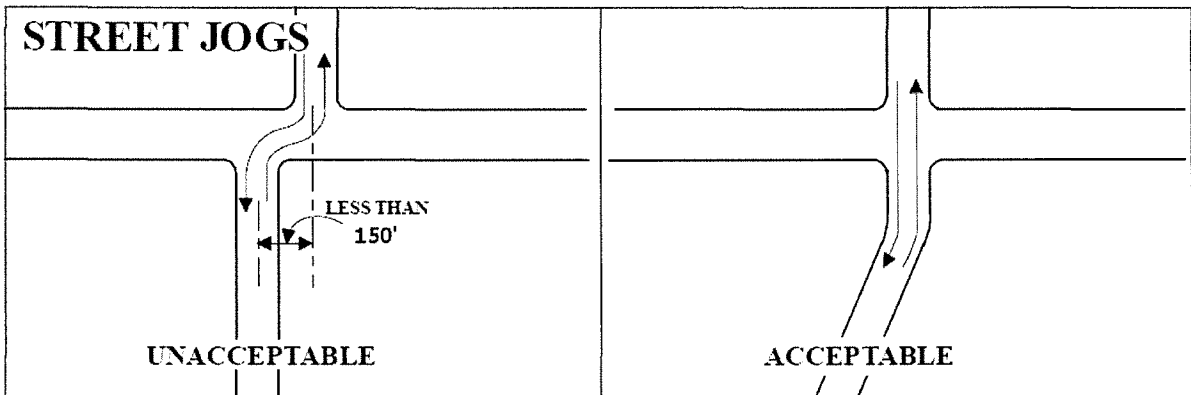
05.16. Tangents.

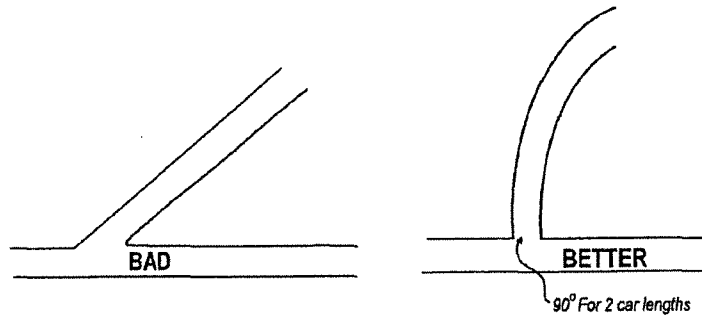
Between reverse curves, there shall be a tangent having a length of not less than one hundred (100) feet when used with minimum radius.



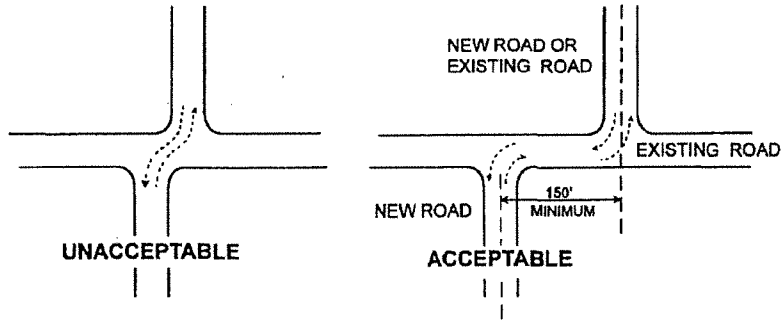
05.17. Street Jogs.

Street jogs with centerline offsets of less than one hundred fifty (150) feet shall not be allowed.





INTERSECTIONS



STREET JOGS

CHAPTER 6

PRELIMINARY PLATTING REQUIREMENTS

Section:

06.00. Pre-Application Review

06.01. Preliminary Plat Approval

06.02. Use of Preliminary Plat and Expiration.

06.03. Timely Action and Automatic Approval.

06.04. Preliminary Plat Specifications

06.05. Certificate of Approval

06.00. Pre-Application Review.

The subdivider is urged to consult early and with the chairman of the Kimball Municipal Planning Commission and its staff and with the Marion County Health Department. The subdivider may submit sketch plans and data showing existing conditions within the site and its vicinity and the proposed layout and development of the subdivision. No fee shall be charged for the pre-application review and no formal application shall be required.

At this stage, the subdivider should consult with any lending institutions participating in the financing of his proposed development. The subdivider should contact the Federal Housing Administration (FHA) or the Farmers Home Administration (FmHA) regarding mortgage insurance on houses that may be built in the proposed subdivision. It is important that the subdivider submit a sketch plat to the county health department prior to the meeting when he will ask the planning commission for preliminary approval.

06.01. Preliminary Plat Approval.

The following procedures are required in order to obtain approval of a preliminary plat.

06.01.01. Application for Preliminary Plat Approval. The subdivider shall inform the staff of the planning commission of a request for preliminary plat approval. This contact should be made allowing a reasonable amount of time for the planning commission to review the information provided on the plat. Preliminary plats shall be submitted to the planning commission's staff for review at least ten (10) business days prior to a regularly scheduled meeting. **In no case shall the planning commission review a preliminary plat which notification is given on the date of the regularly scheduled meeting.**

The subdivider shall distribute one copy of the preliminary plat to each of the following individuals or agencies for their review and records: 1) planning commission; 2) public utility department; 3) county health department; 4) city road commissioner; and 5) staff planner.

06.01.02. Review of Preliminary Plat. The planning commission shall check the plat for conformance to these regulations. The planning commission shall give approval or disapproval

of the preliminary plat. A notation of the action shall be made in the minutes of the meeting. The minutes shall contain the reasons for disapproval or the conditions for approval. At least one (1) copy shall be returned to the subdivider or his agent, and two (2) copies will be retained by the Town for the planning commission's/staff planner's records.

In accordance with Tennessee Code Annotated 13-4-304 the planning commission shall approve or disapprove the preliminary plat within sixty (60) days after the plat is presented at a planning commission meeting.

06.02. Use of Preliminary Plat and Expiration.

Preliminary plat approval only indicates approval of the layout as a guide to the preparation of the final plat. Preliminary plat approval shall expire after a period of one (1) year unless an extension of time is applied for by the subdivider or his representative and approved by the planning commission. **Approval of the preliminary plat does not constitute approval of the final plat. In accordance with Tennessee Code Annotated 13-4-310, tentative approval of the preliminary plat begins a three (3) year vesting period in which the applicant is permitted to operate under the locally adopted development standards in place at the time of approval. However, the applicant shall report to the planning commission annually on progress made during this time, and shall be required to have the preliminary plat renewed each year during the vesting period. Failing to have a preliminary plat approval renewed annually during the vesting period shall require future actions on this development to comply with locally adopted development standards in place at that time. If the applicant obtains local government approval of a final plat, secures necessary permits, and commences site preparation within the vesting period, then the vesting period shall be extended an additional two (2) years to commence construction from the date of the expiration of the three (3) year period.**

06.03. Timely Action and Automatic Approval.

The planning commission shall act upon the preliminary plat within sixty (60) days (or as required by T.C.A. 13-4-304) of the plat's presentation at an official meeting. If the plat is not acted upon within the sixty (60) day period, it will be deemed automatically approved.

06.04. Preliminary Plat Specifications

The following specifications are required on the preliminary plat.

06.04.01. Scale. The preliminary plat shall be legibly drawn at a scale not smaller than one hundred (100) feet equals one (1) inch.

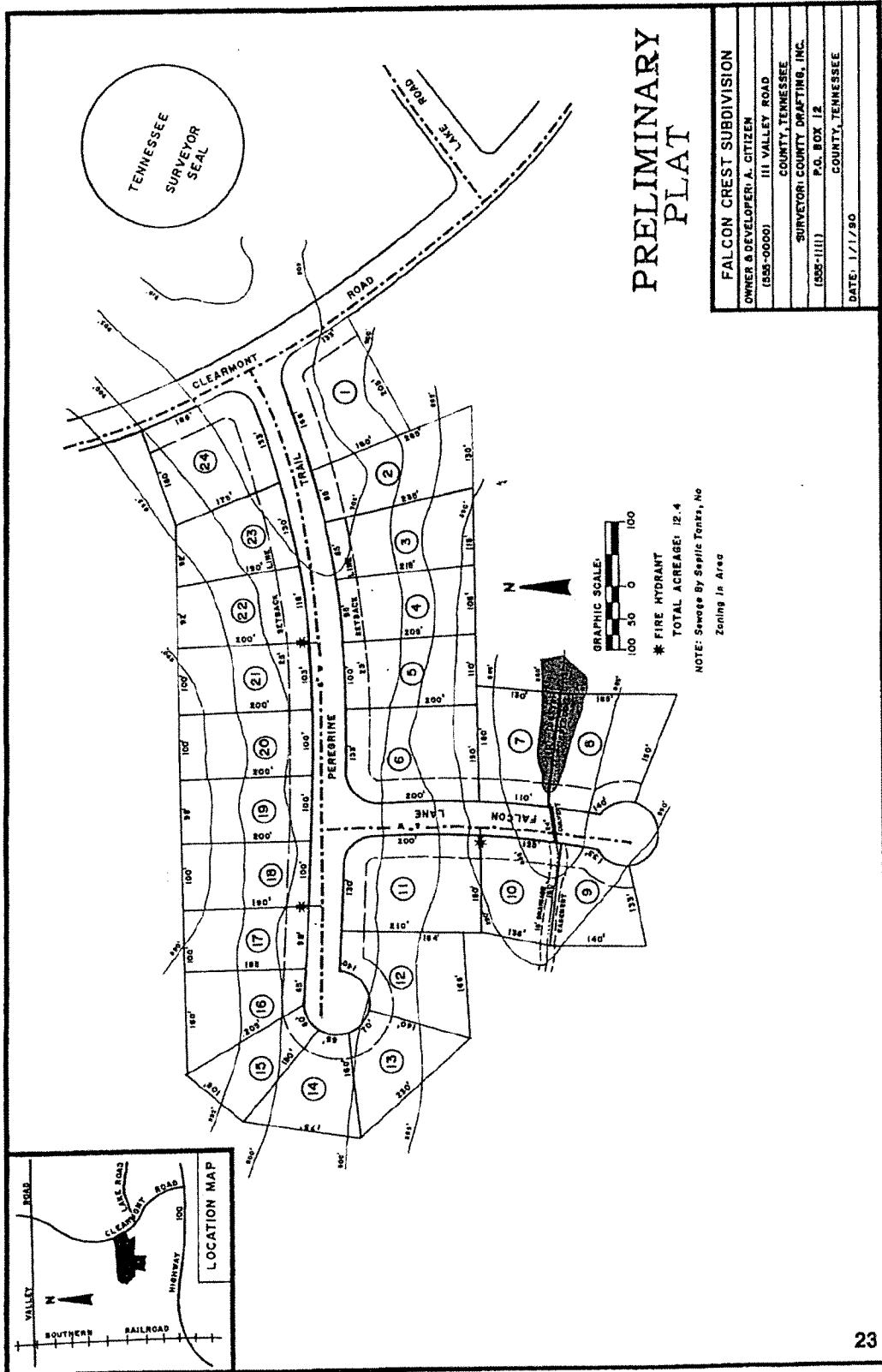
06.04.02. Sheet Size. Sheet size shall be eighteen (18) by twenty-four (24) inches from trim lines, with a two (2) inch binding edge on the long side. If the complete plat cannot be shown on one sheet of this size, it may be shown on more than one sheet with an index map on a separate sheet of the same size.

06.04.03. Ground Elevations. Contours shall be shown at vertical intervals of not more than five (5) feet, except when waived by the planning commission or the Marion County Department of Public Health and Environment.

06.04.04. Information to be Provided on the Preliminary Plat. The preliminary plat shall contain the following information.

1. Name of subdivision.
2. Name and address of owner of record, subdivider, and surveyor.
3. North point, graphic or bar scale, and date plat was designed.
4. Vicinity map showing location and acreage of subdivision.
5. Exact boundary lines of the tract by bearings and distances.
6. Names of all adjoining property owners and/or subdivisions.
7. Existing streets, buildings, railroads, culverts, utilities and easements on and adjacent to the tract, as well as natural features such as sink holes, watercourses, and rock outcroppings.
8. Proposed design including streets and alleys with proposed street names, lot lines with dimensions, easements, land to be reserved or dedicated for public uses.
9. Consecutive lot numbers.
10. Plans of all proposed utility layouts and easements showing connections to the existing or any proposed utility systems.
11. Minimum building front yard setback lines.
12. The present zoning classification on the land to be subdivided and on the adjoining land.
13. Contour lines at least for every five (5) foot change in elevation.
14. Street centerline profiles
15. Street cross-sections profiles or drainage purposes.
16. If any portion of the land being subdivided is subject to flood, the following criteria shall be met:
 - (A) The flood plain limits shall be shown.
 - (B) Public utilities and facilities shall be constructed so as to minimize flood damage.
 - (C) Adequate drainage shall be provided.
 - (D) The developer of a subdivision greater than fifty (50) lots or five (5) acres shall develop base flood elevation data for the subdivision.

PRELIMINARY PLAT



PRELIMINARY PLAT

FALCON CREST SUBDIVISION
OWNER & DEVELOPER: A. CITIZEN
(255-0000)
111 VALLEY ROAD
COUNTY, TENNESSEE
SURVEYOR: COUNTY DRAFTING, INC.
(255-1111)
P.O. BOX 12
COUNTY, TENNESSEE
DATE: 1/1/90

* FIRE HYDRANT
 TOTAL ACRES: 12.4
 Zoning in Area

NOTE: Sewage By Septic Tanks, No Zoning in Area

CHAPTER 7

IMPROVEMENTS PREREQUISITE TO FINAL PLAT APPROVAL

Section:

07.00. Improvements

07.01. Monuments

07.02. Grading

07.03. Installation of Utilities

07.04. Street or Road Base

07.05. Surface Pavement

07.06. Storm Drainage

07.07. Water Service

07.08. Sewage Disposal

07.09. Street Signs

07.10. Guarantee In Lieu of Completed Improvements

07.00. Improvements.

Prior to the approval of a final plat, the subdivider shall be required to install the improvements set forth in sections 07.01. through 07.08. of these regulations.

07.01. Monuments.

Concrete monuments four (4) inches in diameter or four (4) inches square, three (3) feet long, with a flat top, shall be set at all road corners and at all points where the road lines intersect the exterior boundaries of the subdivision. The top of the monument shall have an indented cross to properly identify the location and shall be set one (1) inch above the finished grade.

Concrete monuments shall be set with reference to section lines, recognized geological marks, or other acceptable surveying techniques.

All other lot corners shall be marked with iron pin not less than three-fourth (3/4) inch in diameter and twenty-four (24) inches long and driven so as to be one (1) inch above the finished grade. Lot corners fronting on public roads shall be marked with numbered wooden lot stakes.

07.02. Grading.

All streets, roads, and alleys shall be graded to the required cross section. Where roads are constructed under or adjacent to existing electric transmission lines, the fifteen (15) foot easement from any transmission line structure and all grading for the road shall be done in a manner which will not disturb the structure or result in erosion endangering the structure. In the case of electric transmission lines, the clearance from the road to the nearest conductor shall meet the requirements of the National Safety Code.

1. **Preparation.** The entire right-of-way areas shall be first cleared of all stumps, roots, brush, and other objectionable materials.
2. **Cuts.** All tree stumps, boulders, and other obstructions shall be removed to a depth of two (2) feet below the sub-grade. Rock, when encountered, shall be scarified to a depth of twelve (12) inches below the sub-grade. This provision applies to the roadway and not necessarily to the entire right-of-way width.
3. **Fill.** All suitable material from roadway cuts may be used in the construction of fills, approaches, or at other places as needed. Excess materials, including organic materials, soft clays, etc., shall be removed from the development site. The fill shall be spread in layers not to exceed twelve (12) inches loose and compacted by a sheep's foot roller. Utility trenches and other places not accessible to a roller shall be mechanically tamped.
4. **Specifications.** Cut and fill slopes shall be no steeper than one (1) foot vertical for every two (2) feet horizontal unless extra measures are taken to assure that the slope is stabilized to prevent soil erosion.

07.03. Installation of Utilities.

After grading is completed and approved and before any base is applied, all utilities shall be installed completely and approved throughout the subdivision.

For a subdivision identified in a flood hazard area, the utilities must be constructed to minimize flood damage.

07.04. Street or Road Base.

After preparation of the sub-grade, the roadbed shall be surfaced with material of no lower classification than crushed rock, stone, or gravel. The size of the crushed rock or stone shall be that generally known as "crusher run stone" from two and one-half (2 1/2) inches down, including dust. Spreading of the stone shall be done uniformly over the area to be covered by means of appropriate spreading devices and shall not be dumped in piles. After spreading the stone shall be rolled until thoroughly compacted. The compacted thickness of the stone roadway shall be no less than six (6) inches.

07.05. Surface Pavement.

All streets shall be paved using asphalt concrete (hot mix). Asphaltic concrete surface shall be constructed with asphaltic concrete compacted to two (2) inches with not less than an average weight of two hundred (200) pounds per square yard.

07.06. Storm Drainage.

An adequate drainage system including open ditches, pipes, culverts, intersectional drains, drop inlets, bridges, etc., shall be provided for the proper drainage of all surface water. All storm drainage contained in pipes or culverts under roadway shall have endwalls, headwalls, or rip rap with concrete apron wall where necessary to prevent erosion. Where open trench or swales are used, the grades exceeding eight (8) percent up and two (2) percent down shall be paved with three thousand (3,000) p.s.i. Portland cement concrete.

Cross drains should be provided to accommodate all natural water flow and shall be of sufficient length to permit full width roadway and the required slopes. The size openings to case shall be built on straight line and grade and shall be determined by any acceptable engineering formula, but in no case shall be less than fifteen (15) inches. Cross drains shall be laid on a firm base, but not in rock. Pipes shall be laid with the spigot end pointing in the direction of the flow and with the ends fitted and matched to provide tight joints and a smooth uniform invert. They shall be placed at a sufficient depth below the roadbed to avoid dangerous pressure of impact, and in no case shall the top of the pipe be less than (1) foot below the roadbed.

07.07. Water Service and Fire Hydrants.

Water mains and appurtenances, properly connected to the appropriate public water system and approved by that water system, shall be constructed in each subdivision. The water service provided must be adequate both for the domestic use and fire protection of all lots, and the pipe size shall be at least six (6) inches in diameter. Construction of waterlines appurtenances and specifications of all materials shall be subject to the inspection and approval of the public water system and must meet the flow and pressure requirements to accommodate all fire hydrants. The cost of installing the required water supply system, including the connection to the existing water supply, and including but not limited to the cost of pipe, valves, fittings, trenching, backfilling, and other services shall be at the cost of the subdivider/developer.

Fire Hydrants shall be installed in all subdivisions whenever the subdivider/developer extends a main waterline to serve two or more subdivided lots. Hydrants shall be attached to a minimum of a six (6) inch water line. If the pressure in the line is unable to deliver adequate flow, then it shall be tagged as such to ensure that pumper trucks will not connect directly to the fire hydrant and collapse the water line; however, water from the hydrant can still be used to fill reservoirs. When necessary, the developer shall have an agreement with the local utility for the installation and/or service of fire hydrants.

The following requirements shall govern the placement of fire hydrants within or in proximity to all subdivisions of property requiring the installation of hydrants:

1. Fire hydrants shall be located at a place that is clearly visible from the road and can be easily accessed by firefighters and other fire equipment used to connect to the hydrant.
2. No lot shall be more than five-hundred (500) feet (measured along the road) from a fire hydrant. Fire hydrants should not be more than one thousand (1,000) feet apart in order to maintain a good fire insurance rating and safety level. However, the distance between fire hydrants may exceed one-thousand (1,000) feet provided lots abutting the roadway are still within five-hundred (500) feet of a fire hydrant.
3. The Kimball Municipal Planning Commission can require additional fire hydrants in cases where topography and/or larger lots make it more difficult for adequate fire protection. Prior to making a decision the Planning Commission should consult with the Kimball Fire Department and local water utility.

The location and types of valves and fire hydrants, the amount of soil cover over the pipes and other features of the installation shall conform to accepted standards of good practice for water systems and must meet the approval of the local water system provider, Kimball Fire Department, and the Kimball Planning Commission.

07.08. Sewage Disposal.

When a proposed subdivision utilizes a public sanitary sewer main, sanitary sewers shall be installed to serve all the lots within the subdivision. The specifications of all materials and the manner in which all lines and appurtenances are laid shall meet the inspection and approval of the public sewerage system involved.

Where a subdivision is located beyond the service limits of a public sewage disposal system, the lots shall be served by individual sewage disposal systems. Lot sizes shall be adequate for the installation of the proposed individual systems. All such systems shall have the approval, in writing, of the Marion County Health Department.

07.09. Street Signs.

Street signs of a type approved by the Planning Commission shall be installed by the developer at the intersection of all streets within the subdivision and at the point existing streets are intersected by the streets of the subdivision.

07.10. Guarantee In Lieu of Completed Improvements.

No final subdivision plat shall be approved by the Planning Commission or accepted for record by the county register of deeds until one of the following conditions has been met:

- a. All required improvements have been constructed in a satisfactory manner and approved by the various authorities for

which certificates are required. These improvements include the extension of water and/or sewer lines and the construction of a roads and storm drainage.

OR

- b. The Planning Commission has accepted a surety bond, letter of credit, or certified check that is for a period of twelve (12) months or less in an amount equal to one hundred and fifty (150) percent of the estimated cost of installation of the required improvements, whereby improvements may be made and utilities installed without cost to the Town or other responsible utility system in the event of default by the subdivider. The Town Attorney will be responsible for the execution of the surety instrument, which will be held in a secure place at Kimball Town Hall. At the end of the twelve (12) month period (or time specified in the surety instrument approved by the Planning Commission), the Planning Commission shall have issued a written decision specifying what should be done with the surety instrument based on the status of the improvements for which it was issued. Upon a ruling by the Planning Commission, the Town Attorney will be charged with the responsibility of either releasing or collecting the surety instrument on behalf of the Town.

NOTE: The Planning Commission shall set the amount of the surety instrument based upon the cost of improvements estimated by the Kimball Street Supervisor or the appropriate utility official or other authority designated by the Planning Commission.

07.11. Procedure for Executing and Enforcing Surety Instruments.

Once a final subdivision plat is submitted to the Planning Commission for approval, the developer/subdivider shall have also submitted a surety bond, letter of credit, or a certified check in an amount equal to one-hundred-fifty (150%) percent of the estimated cost of installing and constructing the required improvements. The developer/subdivider then has twelve (12) months to complete the required improvements. The appropriate signed certificates on the plat should recognize that a surety instrument has been secured, and it must state the amount that it will cover. The surety instrument serves as a contract between the developer/subdivider and the Town of Kimball, thus ensuring that the required improvements will be completed in a timely manner and at no cost to taxpayers.

A. Procedure for Completed Improvements

1. If the required improvements are completed within twelve (12) months, then the developer/subdivider shall formally request in writing that the Planning Commission release the surety instrument after an inspection has been performed by the appropriate authority who can certify completion.
2. A letter must also be obtained from the appropriate utility or town official stating that the required improvements have been completed in an acceptable manner and that no further or immediate costs are anticipated as a result of the completion of a particular project.

3. The Planning Commission may require a letter from a certified engineer if there is question about operation or design of the completed infrastructure.
4. The Planning Commission shall certify that all of the required improvements have been installed or constructed in an acceptable manner based on good engineering principles and adherence to state and local regulations. Once satisfied, the Planning Commission shall instruct the Town Attorney in writing to release the surety instrument.
5. In the case of roads, the developer/subdivider shall request that the Kimball Board of Mayor and Alderman accept the road as a public street. Otherwise, the maintenance of the road falls to the developer/subdivider.

B. Procedure for Calling in a Surety Instrument for Incomplete Improvements

1. Ninety (90) days prior to the expiration of the surety instrument, the Planning Commission shall send a certified letter to the developer/subdivider and the issuer of the surety instrument notifying them of the deadline for completing the required improvements. If the required improvements are not completed, then the Planning Commission shall begin the process of collecting payment guaranteed in the approved surety instrument beginning thirty (30) days prior to the end of the twelve (12) month period. It should be noted that the end of the twelve (12) month period does not make the surety bond, letter of credit, or certified check invalid; rather it allows the Planning Commission to collect it to fund the completion of the required improvements. The Planning Commission may call in the surety instrument at anytime following the twelve (12) month period. An extension of up to twelve (12) months may, in some cases, be granted by the Planning Commission, but a renewed surety bond, letter of credit, or certified check shall be of a sufficient amount to cover the remaining improvements. The renewed surety instrument must also specify the extended timeframe granted by the Planning Commission.
2. The developer/subdivider and the issuer of the surety bond, letter of credit, or certified check shall be notified at least seven (7) days prior to the hearing in which the Planning Commission will vote to call in the surety instrument.
3. Within thirty (30) days prior to the end of the twelve (12) month period, the Planning Commission shall conduct a hearing either at a special called meeting or a regularly scheduled meeting to vote on calling in the surety instrument if the required improvements are incomplete. A certified letter shall be sent to the developer/subdivider and the issuer of the surety instrument with notification of the Planning Commission's decision.
4. The Planning Commission shall send a letter to the Town Attorney requesting that the surety instrument be dispensed to the Town to cover the cost of completing the required improvements. If improvements are completed in a satisfactory manner, then the Planning Commission shall instruct the Town Attorney to release the surety instrument.

07.12. Acceptance of Street by Board of Mayor and Aldermen.

Streets shall be accepted by the Town of Kimball for operation and maintenance through the following procedure:

1. Construction is complete.
2. The road inspector conducts a final inspection and determines the street meets the design guidelines specified herein, and further certifies that the street will function properly and has adequate drainage designed to prevent excess water from adversely affecting other streets or adjacent property owners.
3. The Kimball Municipal Planning Commission has released any surety instrument that was issued to ensure completion of the street.
4. The road inspector recommends in writing that the street be accepted by the Town for regular operation and maintenance.
5. The Town Board approves by ordinance the acceptance of the street.

CHAPTER 8

FINAL PLATTING REQUIREMENTS

Section:

08.00. Application for Final Plat Approval

08.01. Review of Final Plat

08.02. Recording of Final Plat

08.03. Final Plat

08.04. Final Plat Specifications

08.05. Certificates of Approval

08.00. Application for Final Plat Approval.

The subdivider may, within one year from the date of preliminary plat approval, request review and approval a final plat. Minor subdivisions may proceed to this phase without the submission of a preliminary plat. Final plats shall be submitted for review to the planning commission's staff at least ten (10) business days prior to a regularly scheduled planning commission meeting. *In no case shall the planning commission review a final plat which notification is given on the date of the regularly scheduled meeting.*

The subdivider shall distribute the final plat to each of the following individuals or agencies for their review and records: 1) one copy to the county register of deeds; 2) one copy for the planning commission; 3) one copy for the planning staff; 4

Approval of a final plat as provided herein constitutes a final development plan as set forth in Tennessee Code Annotated 13-4-310. On the date the Planning Commission votes to approve the final plat, two (2) years will be added to the original vesting period of three (3) years which began upon the date of approval of the preliminary plat. This is a total of five (5) years. If all of the necessary permits have been obtained and construction commences within the five (5) year period, then an additional vesting period of five (5) years will be added to the development project for a total of ten (10) years. For multi-phase developments, an additional five (5) years is added to the vesting period for each phase with a maximum total vesting period of fifteen (15) years. The provisions of Tennessee Code Annotated 13-4-310 shall supersede any inconsistencies listed in these regulations. Vesting means that the subdivision regulations in place when the original plan was presented are still in force regardless of any local regulations amendments or changes.

08.01. Review of Final Plat.

The planning commission shall check the final plat for conformance with the approved preliminary plat and with the rules and regulations of this document. Thereafter, the planning commission shall approve or disapprove the final plat. A notation of the action of the planning commission shall be made on the six (6) copies of the final plat, including a statement of the reasons for disapproval, if the plat is disapproved. In accordance with Tennessee Code Annotated 13-4-304(a) the commission shall approve or disapprove a plat within sixty (60) days after the initial consideration of the plat by the commission meeting in a regularly scheduled session, unless at the end of the sixty-day period there is a holiday or an unexpected interceding event that would close municipal or county offices and thus affect the normal computation of the sixty-day period, in which case the plat shall be approved or disapproved after the interrupted sixty-day period at the next regularly scheduled meeting of the commission; otherwise the plat shall be deemed approved and a certificate to that effect shall be issued by the commission on demand. However, the applicant may waive this requirement and consent to an extension of time.

08.02. Recording of Final Plat.

Upon approval of a final plat, the subdivider shall return the signed plat to Kimball Town Hall for it to be recorded in the Office of the Marion County Register of Deeds. The property owner shall pay the Town of Kimball for the cost of recording the plat prior to being recorded. A copy of the recorded plat may be picked up from Town Hall at a later date.

08.03. Final Plat.

The final plat is a legal instrument suitable for recording. It contains information needed to prepare deeds and also contains signed statements certifying that required improvements have been made. The final plat will contain the following information and certifications.

08.04. Final Plat Specifications.

The final plat shall conform to the preliminary plat, previously approved, and shall show:

1. Date, name, and location of subdivision, graphic scale, and true north point,
2. Location and sketch map showing site in relation to area,
3. The names and locations of adjoining subdivisions and streets, and the location and ownership of adjoining un-subdivided property,
4. All dimensions to the nearest one-hundredth (100th) of a foot and angles to the nearest minute,
5. The lines of all streets and roads, alley lines, lot lines, building setback lines, and lots numbered in numerical order,
6. Sufficient data to determine readily and reproduce on the ground the location, bearing, and length of every street line, lot line, boundary line,

block line, and building line, whether curved or straight; this shall include the radius, central angle, and tangent distance for the centerline of curved streets and curved property lines that are not the boundary of curved streets. Where the subdivision does not require a public street but private driveways connect to city or state highways, the subdivider shall provide documentation of approval from city or state road officials that the driveway connection conforms to city or state regulations,

7. Location, dimensions, and purposes of any easements and any areas to be reserved or dedicated for public uses,
8. Accurate location, material, and description of existing and proposed monuments and markers,
9. If any portion of the land being subdivided is subject to flood, as defined in these regulations, the following criteria shall be met:
 - (A) The flood plain limits shall be shown.
 - (B) Public utilities and facilities shall be constructed so as to minimize flood damage.
 - (C) Adequate drainage shall be provided.
 - (D) The developer of a subdivision greater than fifty (50) lots or five (5) acres shall develop base flood elevation data for the subdivision.
10. Contour lines **only** if so specified by the planning commission.
"As built" plans and profiles of all streets, sewers, waterlines, and storm drains shall be furnished to the city upon completion of the project.
11. If the property contains an existing subsurface sewage disposal system, the approximate location of the SSD and field lines shall be shown on the plat. The SSD and all field lines shall be contained within the lot for which it serves.
12. Existing streets, buildings, railroads, culverts, utilities and easements on and adjacent to the tract, as well as natural features such as sink holes, watercourses, and rock outcroppings.

Existing Septic System Certificate

The existing septic system is located as shown on the plat (lot(s) _____). The location includes the septic tank and all field lines. To the best of my knowledge, the septic system is in proper working order on this date and the septic system(s) is/are contained within the boundary of the individual lot. I understand that my lot has not been verified for a duplicate septic system by TDEC (state environmentalist/health department).

_____ Date _____ Owner

Certificate of Approval of Water System.

I hereby certify that each lot shown is either: 1) large enough and has adequate soils for both a private well and an individual septic system;

_____ DATE _____ COUNTY HEALTH DEPARTMENT

OR

2) is served by public water system extensions designed and installed in accordance to applicable local and state regulations;

_____ DATE _____ LOCAL WATER UTILITY

OR

3) an adequate [surety bond, letter of credit, or certified check] has been posted to cover such water system extensions.

_____ DATE _____ PLANNING COMMISSION SECRETARY

Certificate of Approval of Streets and Drainage System.

I hereby certify that the streets and drainage facilities shown on this plat have been installed in an acceptable manner in accordance to required specifications or that an adequate bond has been posted.

DATE Kimball Public Works

Certificate of Approval by Electric Power Utility.

I hereby certify that this subdivision plat shows adequate easements for needed electric power lines.

DATE ELECTRIC POWER OFFICIAL

Certificate of Approval by Gas Utility. (If applicable.)

I hereby certify that this subdivision plat shows adequate easements for available natural gas lines.

DATE NATURAL GAS COMPANY

Certificate by Planning Commission of Approval for Recording.

I hereby certify that the subdivision plat shown hereon has been found to comply with the **Subdivision Regulations of Kimball, Tennessee**, with the exceptions of such variances, if any, as may be noted on this plat; and that all required improvements have either been completed or covered by an approved bond large enough to complete the required improvements in case of default; and that this plat has been approved for recording in the Office of the Marion County Register.

DATE PLANNING COMMISSION SECRETARY

CERTIFICATION OF E-911 APPROVAL (ADDED 7/15/03)

I hereby certify that I have reviewed this plat and find that it conforms to the county's E-911 requirements.

_____, 20____
DATE

E-911 BOARD REPRESENTATIVE

CORRECTIVE/REVISED FINAL PLAT CERTIFICATE (added 11/14/06)

I hereby certify that the subdivision plat shown hereon is classified as a Corrective/Revised Final Plat, and has been reviewed by the Staff Planner, and has been found to comply with the Subdivision Regulations of Kimball, Tennessee.

Date

Building Inspector

**MARION COUNTY DIVISION OF GROUNDWATER PROTECTION
CERTIFICATE OF SEWAGE DISPOSAL (added 11/14/06)**

Approval is hereby granted for Lots _____, defined as, _____ Marion County, Tennessee, as being suitable for Subsurface Sewage Disposal (SSD) systems, with the listed or attached restrictions. Each buyer and developer should be made aware of these restrictions and understand that failure to follow them may result in disapproval of their individual SSD system by this office.

Restrictions: List Restrictions Here.

Prior to any construction of a structure, mobile or permanent, the plans for the exact house/structure must be approved and a SSD system permit issued by the Division of Ground Water Protection. Water taps, water lines, underground utilities and driveways on **new systems** should be located at the side of property lines unless otherwise noted. Any cutting, filling or alterations of the soil conditions may void this approval.

The following statement applies to lots that have "See Restrictions" placed within the boundaries of the lot(s) on the plat. The statement is "This lot has not been evaluated, pursuant to this plat review, for an SSD system and plat approval does not constitute apparel of this lot or the existing SSD system." The "See Restrictions" statement applies to lot(s) _____ defined as _____ Marion County, Tennessee.

Date

Environmental Specialist
Division of Groundwater Protection

08.06. Minor Subdivision – Plat Procedure. (amended 11/14/06)

A. Minor Subdivision A – Plat Procedure

Whenever a proposed subdivision contains four (4) or less lots and does not require the construction or installation of new streets, utilities or other improvements, the following procedures for review and approval of the subdivision shall apply. The subdivider may, if he desires, submit only a final plat in securing plat approval provided that the plat submitted complies with all the requirements of the final plat. However, if any corrections or modifications are needed, the Planning Commission shall disapprove the plat and require that it be resubmitted for approval. Submission of a preliminary plat is **optional** unless topographical or other features justify submission as determined by the Planning Commission. If required, the preliminary plat must meet all standards contained in Chapter 6 of the Kimball Municipal Subdivision Regulations.

Preliminary Plat Specifications (OPTIONAL)

See Section 6.04 of these regulations for the Preliminary Plat Specifications.

Final Plat Specifications (REQUIRED)

See Section 8.04 of these regulations for the Final Plat Specifications.

B. Minor Subdivision B (Simple Land Split) – Plat Procedure

For divisions of land into no more than two (2) lots and not requiring the construction or installation of new streets, utilities or other improvements, approval may be endorsed in writing on the plat by the secretary of the Planning Commission, without the approval of the Planning Commission, provided that upon review and certification by planning staff of the Planning Commission that the subdivision complies with the Subdivision Regulations. Plats should be submitted to Town Hall or the Staff Planner for review. The Minor Subdivision B (Simple Land Split) Certificate will be endorsed by Town Staff to insure that the plat has been reviewed by the Staff Planner.

NOTE: Minor Subdivision B (Simple Land Split) plats will be reviewed in a timely manner. Two (2) copies of the plat should be submitted for review and six (6) copies of the final version should be submitted for signatures in compliance with Chapter 8.

Minor Subdivision B (Simple Land Split) Certificate

I hereby certify that the subdivision plat shown hereon includes no more than two (2) lots, and has been reviewed by the Staff Planner, and has been found to comply with the Subdivision Regulations of Kimball, Tennessee, and no variances from the Subdivision Regulations or no improvements are required.

Date

Building Inspector

Review Procedure for Corrective and/or Revised Final Plats

The purpose is to facilitate the re-recording of existing plats with minor shifting of lot lines and refer to Section 8.05 Corrective/Revised Final Plat Certificate.

- A. Qualifications for Corrective and/or Revised Final Plats
 - 1. Minor shifting of lot lines among two lots.
 - 2. Corrective/Revised Final Plats shall not include plats that contain new roads, utilities (i.e. water and sewer) and variance requests from the Kimball Subdivision Regulations.

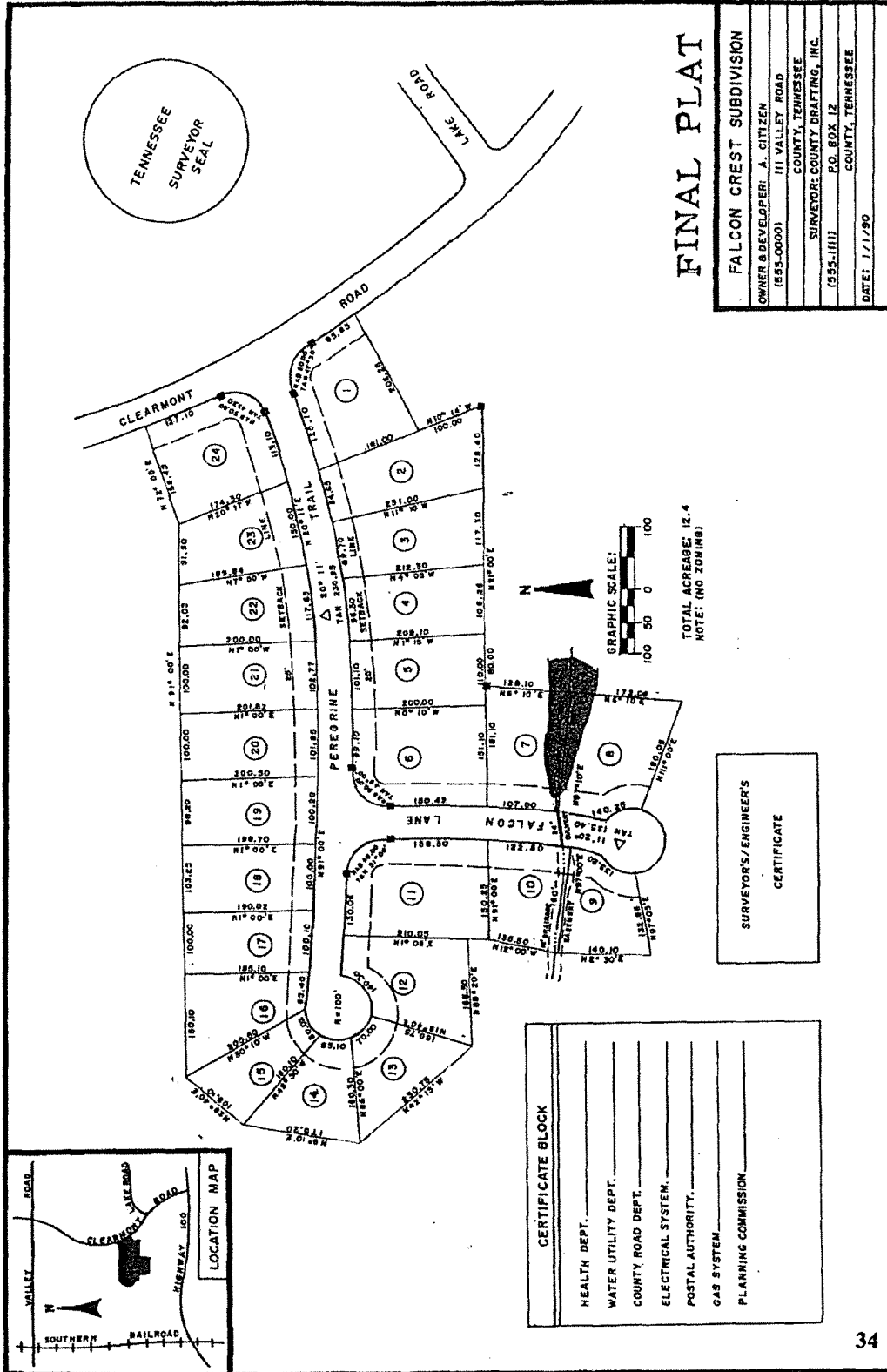
- B. Corrective Plat and/or Revised Final Plat Procedure
 - 1. The corrective and/or revised plat shall be submitted for review and approval in accordance with the final plat requirements as stated within Chapter 8 of these regulations.
 - 2. The plat must be drawn to the size and format requirements as stated within Chapter 8 of these regulations.
 - 3. The plat shall be drafted so that good, clear, legible prints, copies, or negatives can be made.

- C. Corrective Plat and/or Revised Final Plat Requirements

The following are required for Corrective and/or Revised Plats in addition to the minimum requirements found in Chapter 8, Section 8.04 for Final Plats.

- 1. Subdivision name that reflects the change, (e.g. re- subdivision of lots 25 through 29 and lots 43 and 44, Highland Estates).
 - 2. Purpose statement that tells the exact purpose of the plat and/or change (e.g. Purpose of Plat: to abandon and show new property lines between lots 25 through 29, and to abandon the drainage easement and relocate it as shown on lots 43 and 44. See Marion County Register of Deed Book, pg. for previous recording and for other notes and restrictions).
 - 3. Plat labeled as Corrective Plat and/or Revised in addition to being labeled as a Final Plat.
- D. Required Certificates of Approval for Corrective Plat and/or Revised Final Plat Requirements
 - Certificate of Ownership and Dedication
 - Certificate of Registered Surveyor
 - Certification of E-911 Approval
 - Certificate by the Planning Commission of Approval for Recording
 - Corrective/Revised Final Plat Certificate
 - Marion County Division of Groundwater Protection Certificate of Sewage Disposal

FINAL PLAT



FINAL PLAT

FALCON CREST SUBDIVISION	
OWNER & DEVELOPER: A. CITIZEN	
(E95-0000)	111 VALLEY ROAD
	COUNTY, TENNESSEE
SURVEYOR: COUNTY DRAFTING, INC.	
(955-1111)	P.O. BOX 12
	COUNTY, TENNESSEE
DATE: 1/1/90	

TOTAL ACRES: 12.4
NOTE: (NO ZONING)

CERTIFICATE BLOCK

HEALTH DEPT. _____

WATER UTILITY DEPT. _____

COUNTY ROAD DEPT. _____

ELECTRICAL SYSTEM. _____

POSTAL AUTHORITY. _____

GAS SYSTEM _____

PLANNING COMMISSION _____

SURVEYOR'S/ENGINEER'S
CERTIFICATE

CHAPTER 9
LEGAL PROVISIONS

Section:

09.00. Variances

09.01. Amendments

09.02. Appeals

09.03. Separability

09.04. Conflict with Other Regulations

09.05. Adoption and Effective Date

09.00. Variances.

Variances may be granted where the planning commission decides that there are topographical or other conditions peculiar to the site and a departure from these regulations will not destroy their intent. Any variance thus authorized shall be stated in writing in the minutes of the planning commission with the reasoning on which the departure is justified set forth.

Conditions and Criteria by Which Variances may be Granted

1. Exceptional narrowness, shallowness, or shape of an existing piece of property prior to subdivision taking place.
2. Topographical conditions or other extraordinary and exceptional situations and conditions that would hinder normal development.
3. Special flood hazard areas that either preclude or limit development.
4. Any other requirement of the subdivision regulations that would result in peculiar and exceptional practical difficulties or undue hardship to the property owner for which a variance from the strict application of these regulations could be granted without a substantial detriment to the public good or intent of the regulations.

09.01. Amendments.

These regulations may be amended from time to time by the planning commission, who shall hold a public hearing thereon, notice of the time and place of which shall be published in a newspaper of general circulation in the city.

09.02. Appeals.

Appeal is granted from the final action of the planning commission to the Chancery Court, but only for the wrongful withholding of approval by its arbitrary, capricious and/or discriminatory conduct or acts.

09.03. Separability.

Should any section or provisions of these regulations be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the regulations as a whole or part thereof which is not specifically declared to be invalid or unconstitutional.

09.04. Conflict with Other Regulations.

Whenever there is a discrepancy between minimum standards or dimensions noted herein and those contained in zoning regulations, building codes, or other official regulations, the highest or most restrictive standard shall apply.

09.05. Adoption and Effective Date.

Before adoption of these subdivision regulations, a public hearing was held on _____. Notice of such hearing was announced in the *Kimball Tribune*, a newspaper of general circulation within the area of planning jurisdiction, on _____.

These regulations shall be in full force and effect from and after their adoption and effective date.

Adopted: _____

Effective: _____

Chairman

Secretary

APPENDIX

ORDINANCE NUMBER 216

**AN ORDINANCE TO AMEND THE OFFICIAL ZONING ORDINANCE TO
MAINTAIN ELIGIBILITY IN THE NATIONAL FLOOD INSURANCE PROGRAM
FOR THE TOWN OF KIMBALL, TENNESSEE.**

- WHEREAS,** Tennessee Code Annotated (TCA) Section 13-7-201 through 210 delegates the responsibility to local government units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry; and
- WHEREAS,** TCA Section 13-7-204 authorizes amendments to a zoning map or ordinance; and
- WHEREAS,** in accordance with TCA Section 13-7-203 Subsection (a) the Kimball Municipal Planning Commission approved and recommended the zoning amendment herein described to the Board of Mayor and Alderman; and
- WHEREAS,** in accordance with TCA Section 13-7-203 Subsection (a), a public hearing was held prior to the final reading of this ordinance to amend the Official Zoning Ordinance of the Town of Kimball, Tennessee.

NOW, THEREFORE, BE IT ORDAINED BY the Board of Mayor and Alderman of Kimball, Tennessee, in accordance with those powers granted to it by the State of Tennessee that the Official Zoning Ordinance of Kimball, Tennessee be amended as follows:

Section 1: That the attached Municipal Floodplain Zoning Ordinance replaces the Municipal Floodplain Zoning Ordinance found in Title 14, Chapter 8 of the Kimball Zoning Ordinance.

See attached Municipal Floodplain Zoning Ordinance.

ORDINANCE NO. 216

MUNICIPAL FLOODPLAIN ZONING ORDINANCE

AN ORDINANCE ADOPTED FOR THE PURPOSE OF AMENDING THE TOWN OF KIMBALL, TENNESSEE MUNICIPAL ZONING ORDINANCE REGULATING DEVELOPMENT WITHIN THE CORPORATE LIMITS OF KIMBALL, TENNESSEE, TO MINIMIZE DANGER TO LIFE AND PROPERTY DUE TO FLOODING, AND TO MAINTAIN ELIGIBILITY FOR PARTICIPATION IN THE NATIONAL FLOOD INSURANCE PROGRAM.

ARTICLE I. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

Section A. Statutory Authorization

The Legislature of the State of Tennessee has in Sections 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:

Section B. Findings of Fact

1. 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.
2. 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.
3. 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.

Section C. 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:

1. Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;

2. Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
4. Control filling, grading, dredging and other development which may increase flood damage or erosion;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

Section D. Objectives

The objectives of this Ordinance are:

1. To protect human life, health, safety and property;
2. To minimize expenditure of public funds for costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. 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;
6. To help maintain a stable tax base by providing for the sound use and development of floodprone areas to minimize blight in flood areas;
7. To ensure that potential homebuyers are notified that property is in a floodprone area;
8. To maintain eligibility for participation in the NFIP.

ARTICLE II. 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.

"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:

1. Accessory structures shall only be used for parking of vehicles and storage.
2. Accessory structures shall be designed to have low flood damage potential.
3. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

4. Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures.
5. Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of floodwaters.

"Addition (to an existing building)" means any walled and roofed expansion to the perimeter or height of a building.

"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.

"Area of Shallow Flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent or greater annual chance of flooding to an average depth of one to three feet 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.

"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.

"Area of Special Flood Hazard" see **"Special Flood Hazard Area"**.

"Base Flood" means the flood having a one percent chance of being equaled or exceeded in any given year. This term is also referred to as the 100-year flood or the one (1)-percent annual chance flood.

"Basement" means any portion of a building having its floor subgrade (below ground level) on all sides.

"Building" see **"Structure"**.

"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.

"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.

"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.

"Erosion" means the process of the gradual wearing away of land masses. This peril is not "per se" covered under the Program.

"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.

"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.

"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.

"Existing Structures" see **"Existing Construction"**.

"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).

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

"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 or greater chance of occurrence in any given year.

"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.

"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.

"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.

"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.

"Floodplain" or "Floodprone Area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

"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.

"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.

"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.

"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.

"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.

"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.

"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.

"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.

"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.

"Highest Adjacent Grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

"Historic Structure" means any structure that is:

1. 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;

2. 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;
3. 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
4. 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:
 - a. By the approved Tennessee program as determined by the Secretary of the Interior or
 - b. Directly by the Secretary of the Interior.

"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.

"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.

"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.

"Manufactured Home" means a structure, transportable in one 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".

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by FEMA.

"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.

"National Geodetic Vertical Datum (NGVD)" means, as corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

"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.

"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.

"North American Vertical Datum (NAVD)" means, as corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain.

"100-year Flood" see **"Base Flood"**.

"Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.

"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.

"Recreational Vehicle" means a vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck;
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"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.

"Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

"Special Flood Hazard Area" is the land in the floodplain within a community subject to a one percent 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.

"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.

"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 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.

"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.

"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.

"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.

"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 (1) the appraised value of the structure prior to the start of the initial improvement, or (2) in the case of substantial damage, the value of the structure prior to the damage occurring.

The term does not, however, include either: (1) 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; (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

"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.

"Variance" is a grant of relief from the requirements of this Ordinance.

"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.

"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.

ARTICLE III. GENERAL PROVISIONS

Section A. Application

This Ordinance shall apply to all areas within the incorporated area of the Town of Kimball, Tennessee.

Section B. 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.

Section C. Requirement for Development Permit

A development permit shall be required in conformity with this Ordinance prior to the commencement of any development activities.

Section D. 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.

Section E. 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.

Section F. Interpretation

In the interpretation and application of this Ordinance, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body and; (3) deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

Section G. 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.

Section H. 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.

ARTICLE IV. ADMINISTRATION

Section A. Designation of Ordinance Administrator

The Building Inspector is hereby appointed as the Administrator to implement the provisions of this Ordinance.

Section B. 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:

1. Application stage
 - a. 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.
 - b. 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.
 - c. 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 Article V, Sections A and B.
 - d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
2. 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.

Section C. Duties and Responsibilities of the Administrator

Duties of the Administrator shall include, but not be limited to, the following:

1. 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.
2. 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.
3. 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.
4. 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.
5. Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

6. 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 Article IV, Section B.
7. 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 Article IV, Section B.
8. When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with Article IV, Section B.
9. 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.
10. 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.
11. 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.

ARTICLE V. PROVISIONS FOR FLOOD HAZARD REDUCTION

Section A. General Standards

In all areas of special flood hazard, the following provisions are required:

1. New construction and substantial improvements shall be anchored to prevent flotation, collapse and lateral movement of the structure;
2. 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.
3. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
4. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;

5. 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;
6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
7. 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;
8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
9. 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;
10. 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;
11. 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;
12. All subdivision proposals and other proposed new development proposals shall meet the standards of Article V, Section B;
13. 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;
14. 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.

Section B. Specific Standards

In all Areas of Special Flood Hazard, the following provisions, in addition to those set forth in Article V, Section A, are required:

1. **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 (1) foot 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 (3) feet above the highest adjacent grade (as defined in Article II). 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"

2. 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 (1) foot 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 (3) feet above the highest adjacent grade (as defined in Article II). 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 Article IV, Section B.

3. 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.

a. 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.

- 1) 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;

- 2) The bottom of all openings shall be no higher than one (1) foot above the finished grade;
 - 3) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- b. The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.
 - c. 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 Article V, Section B.

4. Standards for Manufactured Homes and Recreational Vehicles

- a. All manufactured homes placed, or substantially improved, on: (1) individual lots or parcels, (2) in expansions to existing manufactured home parks or subdivisions, or (3) in new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.
- b. All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:
 - 1) 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 (1) foot above the level of the Base Flood Elevation or
 - 2) 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 (3) feet in height above the highest adjacent grade (as defined in Article II).
- c. Any manufactured home, which has incurred “substantial damage” as the result of a flood, must meet the standards of Article V, Sections A and B.
- d. All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- e. All recreational vehicles placed in an identified Special Flood Hazard Area must either:
 - 1) Be on the site for fewer than 180 consecutive days;
 - 2) 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;

- 3) The recreational vehicle must meet all the requirements for new construction.

5. 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.

- a. All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.
- b. 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.
- c. All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- d. 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 50 lots or 5 acres, whichever is the lesser, include within such proposals Base Flood Elevation data (See Article V, Section E).

Section C. Standards for Special Flood Hazard Areas with Established Base Flood Elevations and With Floodways Designated

Located within the Special Flood Hazard Areas established in Article III, Section B, 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:

1. 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.
2. New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Article V, Sections A and B.

Section D. 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 Article III, Section B, where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

1. 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 (1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
2. New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Article V, Sections A and B.

Section E. Standards for Streams without Established Base Flood Elevations and Floodways (A Zones)

Located within the Special Flood Hazard Areas established in Article III, Section B, where streams exist, but no base flood data has been provided and where a Floodway has not been delineated, the following provisions shall apply:

1. 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 2 below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of Article V, Sections A and B.
2. Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals Base Flood Elevation data.
3. 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 (3) feet above the highest adjacent grade (as defined in Article II). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in Article IV, Section B. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of Article V, Section B.
4. 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 (1) foot 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.

5. New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Article V, Sections A and B. Within approximate A Zones, require that those subsections of Article V Section B dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

Section F. Standards For Areas of Shallow Flooding (AO and AH Zones)

Located within the Special Flood Hazard Areas established in Article III, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet 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 Article V, Sections A and B, apply:

1. All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one (1) foot above as many feet as the depth number specified on the FIRM's, 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 (3) feet 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 Article V, Section B.
2. 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 (1) foot 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 (3) feet 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 Article IV, Section B.
3. Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

Section G. Standards For Areas Protected by Flood Protection System (A-99 Zones)

Located within the Areas of Special Flood Hazard established in Article III, Section B, 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 Article IV and Article V shall apply.

Section H. 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:

1. 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 (1) foot at any point within the locality.
2. 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 Articles IV and V.

ARTICLE VI. VARIANCE PROCEDURES

Section A. Municipal Board of Zoning Appeals

1. 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.

2. 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.

3. 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 \$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 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.

4. Powers

The Municipal Board of Zoning Appeals shall have the following powers:

a. 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.

b. Variance Procedures

In the case of a request for a variance the following shall apply:

- 1) 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.
- 2) 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.
- 3) 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:
 - a) The danger that materials may be swept onto other property to the injury of others;
 - b) The danger to life and property due to flooding or erosion;
 - c) The susceptibility of the proposed facility and its contents to flood damage;
 - d) The importance of the services provided by the proposed facility to the community;
 - e) The necessity of the facility to a waterfront location, in the case of a functionally dependent use;

- f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - g) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - h) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - i) 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;
 - j) 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.
- 4) 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.
 - 5) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

Section B. Conditions for Variances

- 1. Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in Article VI, Section A.
- 2. 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.
- 3. 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 \$25 for \$100) coverage, and that such construction below the Base Flood Elevation increases risks to life and property.
- 4. The Administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request.

ARTICLE VII. LEGAL STATUS PROVISIONS

Section A. 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.

Section B. 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.

Section C. Effective Date

This Ordinance shall become effective immediately after its passage, in accordance with the Charter of the Town of Kimball, Tennessee, and the public welfare demanding it.

Approved and adopted by the Town of Kimball, Tennessee, Mayor and Alderman.

October 6, 2011
Date

/s/ David Jackson
Mayor of Kimball, Tennessee

Attest: /s/ Tonia May
City Recorder

October 6, 2011
Date of Public Hearing

1st Reading September 1, 2011

2nd Reading October 6, 2011

CHECKLIST FOR PRELIMINARY PLAT CONSIDERATION

NAME OF SUBDIVISION: _____

LOCATION: _____

OWNER OF RECORD: _____

Address _____ Tel. _____

SUBDIVIDER: _____

Address _____ Tel. _____

SURVEYOR: _____

Address _____ Tel. _____

DATE SUBMITTED FOR PRELIMINARY APPROVAL: _____

CHECKLIST:

- ___ 3 copies submitted 15 days prior to meeting.
- ___ Name of Subdivision.
- ___ Drawn to scale of not less than one inch equals one-hundred feet.
- ___ Name and address of owner of record, subdivider, and surveyor.
- ___ North point, graphic scale, and date.
- ___ Vicinity map showing location and acreage of subdivision.
- ___ Boundary lines by bearing and distances.
- ___ Names of adjoining property owners and/or subdivision(s).
- ___ Location of all existing physical features on land and nearby properties.
- ___ Names, locations, and dimensions of proposed streets, alleys, easements, parks and reservations, lot lines, etc.
- ___ Lot numbers.

- _____ Plans of proposed utility layouts showing connections to existing or proposed utility systems.
- _____ Minimum building front yard setback line.
- _____ Cross-section and centerline street profiles at suitable scales as may be required by street superintendent and/or planning commission.
- _____ Conforms to general requirements and minimum standards of design.
- _____ Preliminary approval for individual septic systems is granted by the Marion County Health Department.

CHECKLIST FOR FINAL PLAT CONSIDERATION

NAME OF SUBDIVISION: _____

LOCATION: _____

CIVIL DISTRICT: _____ ZONING DISTRICT: _____

OWNER OF RECORD: _____

Address _____ Tel. _____

DATE PRELIMINARY APPROVAL GRANTED: _____

DATE SUBMITTED FOR FINAL APPROVAL: _____

CHECKLIST:

- ___ Submitted within one year from date of preliminary approval.
- ___ 3 copies submitted 15 days prior to planning commission meeting.
- ___ Name of subdivision.
- ___ Drawn to a scale of 1 inch equals 100 feet on sheets not larger than 16 1/2 inches by 22 inches.
- ___ Name and address of owner of record, subdivider, and surveyor.
- ___ North point, graphic scale, and date.
- ___ Bearings of property lines, and sufficient engineering data to locate all lines including radii, angles, and tangent distances.
- ___ Reservations, easements, or other non-residential areas.
- ___ Dimensions to nearest 10th of a foot and angles to nearest minute.
- ___ Lot lines, alleys, and building setback lines.
- ___ Location and description of monuments.
- ___ Names and locations of adjacent properties.
- ___ Lines, names, and widths of all streets and roads.
- ___ Lots numbered in numerical order and blocks lettered alphabetically.
- ___ Location sketch map with floodable areas outlined.
- ___ Certificate of ownership and dedication.
- ___ Certificate of approval of water and sewerage systems and streets.
- ___ Certificate of engineer or surveyor.
- ___ Proposed deed restrictions if not a zoned area.
- ___ Conforms to general requirements and minimum standards of design.
- ___ Required physical improvements have been made or bond posted in the amount of \$ _____.

SUBDIVISION REGULATIONS

for

The Town of Kimball, Tennessee

Prepared by the

Kimball Municipal Planning Commission

February 1996

(As amended through June 16, 2020)

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Subdivision Regulations

for

The Town of Kimball, Tennessee

**Originally Adopted - February 1996
Readopted with Changes – June 16, 2020**

RESOLUTION # 2020-01PC

A RESOLUTION TO AMEND THE SUBDIVISION REGULATIONS TO UPDATE AND CHANGE VARIOUS SECTIONS OF THE DOCUMENT AS DETAILED IN THIS RESOLUTION AND TO READOPT THE REGULATIONS IN THEIR ENTIRETY IN THE TOWN OF KIMBALL, TENNESSEE

WHEREAS, pursuant to Tennessee Code Annotated Section 13-4-303, the Town of Kimball has adopted subdivision regulations for the purpose of promoting the health, safety, convenience, order, prosperity, and general welfare of the citizens of Kimball, Tennessee; and

WHEREAS, pursuant to Tennessee Code Annotated Section 13-4-303, the Kimball Municipal Planning Commission desires to amend the adopted Subdivision Regulations; and

WHEREAS, pursuant to Tennessee Code Annotated 13-4-303(c) a public hearing was held before this body, pursuant to a notice published in a local newspaper in advance of the hearing;

NOW, THEREFORE, BE IT RESOLVED by the Kimball Municipal Planning Commission that the Subdivision Regulations for Kimball, Tennessee be amended as described herein:

NOW THEREFORE, BE IT RESOLVED that on this day, the Kimball Municipal Planning Commission hereby adopts the resolution amending the Subdivision Regulations, the public welfare requiring it. Amendments shall become effective immediately upon approval.

Mark H. O'Leary
Chairman, Kimball Municipal
Planning Commission

Margaret B. King
Secretary, Kimball Municipal
Planning Commission

06-16-2020
Date

6-16-2020
Date

Public Hearing Date: June 16, 2020

NOW THEREFORE, BE IT RESOLVED that on this day, the Kimball Municipal Planning Commission hereby adopts the resolution amending the Subdivision Regulations, the public welfare requiring it. Amendments shall become effective immediately upon approval.

Mark H. O'Leary
Chairman, Kimball Municipal
Planning Commission

Margaret B. King
Secretary, Kimball Municipal
Planning Commission

06-16-2020
Date

6-16-2020
Date

Public Hearing Date: June 16, 2020

RESOLUTION NUMBER 2020-02

RESOLUTION TO ESTABLISH AN UPDATED OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN, DEVISE RULES AND REGULATIONS, AND TO PROVIDE FOR A SAFETY DIRECTOR AND THE IMPLEMENTATION OF SUCH PROGRAM PLAN

WHEREAS, in compliance with Public Chapter 561 of the General Assembly of the State of Tennessee for the year 1972, the Town of Kimball, Tennessee hereby updates the Occupational Safety and Health Program Plan for our employees.

WHEREAS, due to various changes in subsequent years, it has become necessary to amend the program plan to comply with more recent state requirements.

NOW, THEREFORE,

SECTION 1. BE IT RESOLVED BY THE Board of Mayor and Aldermen of the Town of Kimball, Tennessee, that there be and is hereby amended as follows:

TITLE:

This section shall be known as "The Occupational Safety and Health Program Plan" for the employees of the Town of Kimball, Tennessee.

PURPOSE:

The Town in electing to update the established Program Plan will maintain an effective and comprehensive Occupational Safety and Health Program Plan for its employees and shall:

- 1) Provide a safe and healthful place and condition of employment that includes:
 - a) Top Management Commitment and Employee Involvement.
 - b) Continually analyze the worksite to identify all hazards and potential hazards.
 - c) Develop and maintain methods for preventing or controlling the existing or potential hazards; and
 - d) Train managers, supervisors, and employees to understand and deal with worksite hazards.
- 2) Acquire, maintain, and require the use of safety equipment, personal protective equipment and devices reasonably necessary to protect employees.
- 3) Record, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- 4) Consult with the Commissioner of Labor and Workforce Development with regard to the adequacy of the form and content of records.
- 5) Consult with the Commissioner of Labor and Workforce Development, as appropriate, regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be achieved under a standard promulgated by the State.
- 6) Provide reasonable opportunity for the participation of employees in the effectuation of the objectives of this

Program Plan, including the opportunity to make anonymous complaints concerning conditions or practices injurious to employee safety and health.

7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards and provide for education and notification of all employees of the existence of this Program Plan.

COVERAGE:

The provisions of the Occupational Safety and Health Program Plan for the employees of the Town of Kimball, Tennessee shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent.

STANDARDS AUTHORIZED:

The Occupational Safety and Health standards adopted by the Town of Kimball, Tennessee are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with Section 6 of the Tennessee Occupational Safety and Health Act of 1972 (T.C.A. Title 50, Chapter 3).

VARIANCES FROM STANDARDS AUTHORIZED:

Upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, we may request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, VARIANCES FROM OCCUPATIONAL SAFETY AND HEALTH STANDARDS, CHAPTER 0800-01-02, as authorized by T.C.A., Title 50. Prior to requesting such temporary variance, we will notify or serve notice to our employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board shall be deemed sufficient notice to employees.

ADMINISTRATION:

For the purposes of this resolution, Vice Mayor of the Town of Kimball, Tennessee is designated as the Safety Director of Occupational Safety and Health to perform duties and to exercise powers assigned to plan, develop, and administer this Program Plan. The Safety Director shall develop a plan of operation for the Program Plan in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, SAFETY AND HEALTH PROVISIONS FOR THE PUBLIC SECTOR, CHAPTER 0800-01-05, as authorized by T.C.A., Title 50.

FUNDING THE PROGRAM PLAN:

Sufficient funds for administering and staffing the Program Plan pursuant to this resolution shall be made available as authorized by the Town of Kimball, Tennessee.

SEVERABILITY:

SECTION 2. BE IT FURTHER RESOLVED that if any section, sub-section, sentence, clause, phrase, or portion of this resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

AMENDMENTS, ETC:

SECTION 3. BE IT FURTHER RESOLVED that this resolution shall take effect from and after the date it shall have been passed, properly signed, certified, and has met all other legal requirements, and as otherwise provided by law, the general

welfare of the Town of Kimball, Tennessee requiring it.

Dated this 2nd day of July 2020.

Town of Kimball, Tennessee

By: Rex Pesnell
Rex Pesnell, Mayor

ATTESTED:

Tonia May
Tonia May, Town Recorder

Approved as to Form:

William L. Gouger
William L. Gouger, Town Attorney

Passed on this 2nd day of July 2020

PLAN OF OPERATION FOR THE OCCUPATIONAL SAFETY AND HEALTH
PROGRAM PLAN FOR THE EMPLOYEES OF the Town of Kimball, Tennessee

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I. PURPOSE AND COVERAGE

The purpose of this plan is to provide guidelines and procedures for implementing the Occupational Safety and Health Program Plan for the employees of the Town of Kimball, Tennessee.

This plan is applicable to all employees, part-time or full-time, seasonal or permanent.

The Town of Kimball, Tennessee in electing to update and maintain an effective Occupational Safety and Health Program Plan for its employees,

- a. Provide a safe and healthful place and condition of employment.
- b. Require the use of safety equipment, personal protective equipment, and other devices where reasonably necessary to protect employees.
- c. Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, his designated representatives, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, including the Safety Director of the Division of Occupational Safety and Health, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- d. Consult with the Commissioner of Labor and Workforce Development or his designated representative with regard to the adequacy of the form and content of such records.
- e. Consult with the Commissioner of Labor and Workforce Development regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be resolved under an occupational safety and health standard promulgated by the State.
- f. Assist the Commissioner of Labor and Workforce Development or his monitoring activities to determine Program Plan effectiveness and compliance with the occupational safety and health standards.
- g. Make a report to the Commissioner of Labor and Workforce Development annually, or as may otherwise be required, including information on occupational accidents, injuries, and illnesses and accomplishments and progress made toward achieving the goals of the Occupational Safety and Health Program Plan.
- h. Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the objectives of this Program Plan, including the opportunity to make anonymous complaints concerning conditions or practices which may be injurious to employees' safety and health.

II. DEFINITIONS

For the purposes of this Program Plan, the following definitions apply:

- a. **COMMISSIONER OF LABOR and Workforce Development** means the chief executive officer of the Tennessee Department of Labor and Workforce Development. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the Commissioner of Labor and Workforce Development.
- b. **EMPLOYER** means the Town of Kimball, Tennessee and includes each administrative department, board, commission, division, or other agency of the Town of Kimball, Tennessee.
- c. **SAFETY DIRECTOR OF OCCUPATIONAL SAFETY AND HEALTH or SAFETY DIRECTOR** means the person designated by the establishing resolution, or executive order to perform duties or to exercise powers assigned so as to plan, develop, and administer the Occupational Safety and Health Program Plan for the employees of the Town of Kimball, Tennessee
- d. **INSPECTOR(S)** means the individual(s) appointed or designated by the Safety Director of Occupational Safety and Health to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, inspections shall

be conducted by the Safety Director of Occupational Safety and Health.

- e. APPOINTING AUTHORITY means any official or group of officials of the employer having legally designated powers of appointment, employment, or removal there from for a specific department, board, commission, division, or other agency of this employer.
- f. EMPLOYEE means any person performing services for this employer and listed on the payroll of this employer, either as part-time, full-time, seasonal, or permanent. It also includes any persons normally classified as □volunteers□ provided such persons received remuneration of any kind for their services. This definition shall not include independent contractors, their agents, servants, and employees.
- g. PERSON means one or more individuals, partnerships, associations, corporations, business trusts, or legal representatives of any organized group of persons.
- h. STANDARD means an occupational safety and health standard promulgated by the Commissioner of Labor and Workforce Development in accordance with Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 which requires conditions or the adoption or the use of one or more practices, means, methods, operations, or processes or the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful conditions and places of employment.
- i. IMMINENT DANGER means any conditions or practices in any place of employment which are such that a hazard exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such hazard can be eliminated through normal compliance enforcement procedures.
- j. ESTABLISHMENT or WORKSITE means a single physical location under the control of this employer where business is conducted, services are rendered, or industrial type operations are performed.
- k. SERIOUS INJURY or HARM means that type of harm that would cause permanent or prolonged impairment of the body in that:
 - 1. A part of the body would be permanently removed (e.g., amputation of an arm, leg, finger(s); loss of an eye) or rendered functionally useless or substantially reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced), or
 - 2. A part of an internal body system would be inhibited in its normal performance or function to such a degree as to shorten life or cause reduction in physical or mental efficiency (e.g., lung impairment causing shortness of breath).

On the other hand, simple fractures, cuts, bruises, concussions, or similar injuries would not fit either of these categories and would not constitute serious physical harm.

- l. ACT or TOSH Act shall mean the Tennessee Occupational Safety and Health Act of 1972.
- m. GOVERNING BODY means the County Quarterly Court, Board of Aldermen, Board of Commissioners, City or Town Council, Board of Governors, etc., whichever may be applicable to the local government, government agency, or utility to which this plan applies.
- n. CHIEF EXECUTIVE OFFICER means the chief administrative official, County Judge, County Chairman, County Mayor, Mayor, City Manager, General Manager, etc., as may be applicable.

III. EMPLOYERS RIGHTS AND DUTIES

Rights and duties of the employer shall include, but are not limited to, the following provisions:

- a. Employer shall furnish to each employee conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.
- b. Employer shall comply with occupational safety and health standards and regulations promulgated pursuant to Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972.
- c. Employer shall refrain from and unreasonable restraint on the right of the Commissioner of Labor and Workforce Development to inspect the employers place(s) of business. Employer shall assist the Commissioner of Labor and Workforce Development in the performance of their monitoring duties by supplying or by making available information,

- personnel, or aids reasonably necessary to the effective conduct of the monitoring activity.
- d. Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearing on proposed standards, or by requesting the development of standards on a given issue under Section 6 of the Tennessee Occupational Safety and Health Act of 1972.
 - e. Employer is entitled to request an order granting a variance from an occupational safety and health standard.
 - f. Employer is entitled to protection of its legally privileged communication.
 - g. Employer shall inspect all worksites to ensure the provisions of this Program Plan are complied with and carried out.
 - h. Employer shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard and of corrective action being taken.
 - i. Employer shall notify all employees of their rights and duties under this Program Plan.

IV. EMPLOYEES RIGHTS AND DUTIES

Rights and duties of employees shall include, but are not limited to, the following provisions:

- a. Each employee shall comply with occupational safety and health act standards and all rules, regulations, and orders issued pursuant to this Program Plan and the Tennessee Occupational Safety and Health Act of 1972 which are applicable to his or her own actions and conduct.
- b. Each employee shall be notified by the placing of a notice upon bulletin boards, or other places of common passage, of any application for a permanent or temporary order granting the employer a variance from any provision of the TOSH Act or any standard or regulation promulgated under the Act.
- c. Each employee shall be given the opportunity to participate in any hearing which concerns an application by the employer for a variance from a standard or regulation promulgated under the Act.
- d. Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this Program Plan may file a petition with the Commissioner of Labor and Workforce Development or whoever is responsible for the promulgation of the standard or the granting of the variance.
- e. Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by any applicable standard shall be provided by the employer with information on any significant hazards to which they are or have been exposed, relevant symptoms, and proper conditions for safe use or exposure. Employees shall also be informed of corrective action being taken.
- f. Subject to regulations issued pursuant to this Program Plan, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the Safety Director or Inspector at the time of the physical inspection of the worksite.
- g. Any employee may bring to the attention of the Safety Director any violation or suspected violations of the standards or any other health or safety hazards.
- h. No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or relating to this Program Plan.
- i. Any employee who believes that he or she has been discriminated against or discharged in violation of subsection (h) of this section may file a complaint alleging such discrimination with the Safety Director. Such employee may also, within thirty (30) days after such violation occurs, file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.
- j. Nothing in this or any other provisions of this Program Plan shall be deemed to authorize or require any employee to undergo medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety or others or when a medical examination may be reasonably required for performance of a specific job.
- k. Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their supervisor or the Safety Director within twenty-four (24) hours after the occurrence.

V. ADMINISTRATION

- a. The Safety Director of Occupational Safety and Health is designated to perform duties or to exercise powers assigned so as to administer this Occupational Safety and Health Program Plan.
 1. The Safety Director may designate person or persons as he deems necessary to carry out his powers, duties, and responsibilities under this Program Plan.
 2. The Safety Director may delegate the power to make inspections, provided procedures employed are as effective as those employed by the Safety Director.
 3. The Safety Director shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this Program Plan.
 4. The Safety Director may request qualified technical personnel from any department or section of government to assist him in making compliance inspections, accident investigations, or as he may otherwise deem necessary and appropriate in order to carry out his duties under this Program Plan.
 5. The Safety Director shall prepare the report to the Commissioner of Labor and Workforce Development required by subsection (g) of Section 1 of this plan.
 6. The Safety Director shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where employees of this employer are employed. He shall make recommendations to correct any hazards or exposures observed. He shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.
 7. The Safety Director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.
 8. The Safety Director shall maintain or cause to be maintained records required under Section VIII of this plan.
 9. **The Safety Director shall, in the eventuality that there is a fatality or an accident resulting in the hospitalization of three or more employees, insure that the Commissioner of Labor and Workforce Development receives notification of the occurrence within eight (8) hours. All work-related inpatient hospitalizations, amputations, and loss of an eye must be reported to TOSHA within 24 hours.**
- b. The administrative or operational head of each department, division, board, or other agency of this employer shall be responsible for the implementation of this Occupational Safety and Health Program Plan within their respective areas.
 1. The administrative or operational head shall follow the directions of the Safety Director on all issues involving occupational safety and health of employees as set forth in this plan.
 2. The administrative or operational head shall comply with all abatement orders issued in accordance with the provisions of this plan or request a review of the order with the Safety Director within the abatement period.
 3. The administrative or operational head should make periodic safety surveys of the establishment under his jurisdiction to become aware of hazards or standards violations that may exist and make an attempt to immediately correct such hazards or violations.
 4. The administrative or operational head shall investigate all occupational accidents, injuries, or illnesses reported to him. He shall report such accidents, injuries, or illnesses to the Safety Director along with his findings and/or recommendations in accordance with APPENDIX IV of this plan.

VI. STANDARDS AUTHORIZED

The standards adopted under this Program Plan are the applicable standards developed and promulgated under Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972. Additional standards may be promulgated by the governing body of this employer as that body may deem necessary for the safety and health of employees. Note: 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; and the Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, CHAPTER 0800-01-1 through CHAPTER 0800-01-11 are the standards and rules invoked.

VII. VARIANCE PROCEDURE

The Safety Director may apply for a variance as a result of a complaint from an employee or of his knowledge of certain hazards or exposures. The Safety Director should definitely believe that a variance is needed before the application for a variance is submitted to the Commissioner of Labor and Workforce Development.

The procedure for applying for a variance to the adopted safety and health standards is as follows:

- a. The application for a variance shall be prepared in writing and shall contain:
 1. A specification of the standard or portion thereof from which the variance is sought.
 2. A detailed statement of the reason(s) why the employer is unable to comply with the standard supported by representations by qualified personnel having first-hand knowledge of the facts represented.
 3. A statement of the steps employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.
 4. A statement of when the employer expects to comply and what steps have or will be taken (with dates specified) to come into compliance with the standard.
 5. A certification that the employer has informed employees, their authorized representative(s), and/or interested parties by giving them a copy of the request, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employee notices are normally posted and by other appropriate means. The certification shall contain a description of the means actually used to inform employees and that employees have been informed of their right to petition the Commissioner of Labor and Workforce Development for a hearing.
- b. The application for a variance should be sent to the Commissioner of Labor and Workforce Development by registered or certified mail.
- c. The Commissioner of Labor and Workforce Development will review the application for a variance and may deny the request or issue an order granting the variance. An order granting a variance shall be issued only if it has been established that:
 1. The employer
 - i. Is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology.
 - ii. Has taken all available steps to safeguard employees against the hazard(s) covered by the standard.
 - iii. Has as effective Program Plan for coming into compliance with the standard as quickly as possible.
 2. The employee is engaged in an experimental Program Plan as described in subsection (b), section 13 of the Act.
- d. A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.
- e. Upon receipt of an application for an order granting a variance, the Commissioner to whom such application is addressed may issue an interim order granting such a variance for the purpose of permitting time for an orderly

consideration of such application. No such interim order may be effective for longer than one hundred eighty (180) days.

- f. The order or interim order granting a variance shall be posted at the worksite and employees notified of such order by the same means used to inform them of the application for said variance (see subsection (a)(5) of this section).

VIII. RECORDKEEPING AND REPORTING

Recording and reporting of all occupational accident, injuries, and illnesses shall be in accordance with instructions and on forms prescribed in the booklet. You can get a copy of the Forms for Recordkeeping from the internet. Go to www.osha.gov and click on Recordkeeping Forms located on the home page.

The position responsible for recordkeeping is shown on the SAFETY AND HEALTH ORGANIZATIONAL CHART, Appendix IV to this plan.

Details of how reports of occupational accidents, injuries, and illnesses will reach the recordkeeper are specified by ACCIDENT REPORTING PROCEDURES, Appendix IV to this plan. The Rule of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, OCCUPATIONAL SAFETY AND HEALTH RECORD-KEEPING AND REPORTING, CHAPTER 0800-01-03, as authorized by T.C.A., Title 50.

IX. EMPLOYEE COMPLAINT PROCEDURE

If any employee feels that he is assigned to work in conditions which might affect his health, safety, or general welfare at the present time or at any time in the future, he should report the condition to the Safety Director of Occupational Safety and Health.

- a. The complaint should be in the form of a letter and give details on the condition(s) and how the employee believes it affects or will affect his health, safety, or general welfare. The employee should sign the letter but need not do so if he wishes to remain anonymous (see subsection (h) of Section 1 of this plan).
- b. Upon receipt of the complaint letter, the Safety Director will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the Safety Director will answer the complaint in writing stating whether or not the complaint is deemed to be valid and if no, why not, what action has been or will be taken to correct or abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.
- c. If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period for correction is felt to be too long, he may forward a letter to the Chief Executive Officer or to the governing body explaining the condition(s) cited in his original complaint and why he believes the answer to be inappropriate or insufficient.
- d. The Chief Executive Officer or a representative of the governing body will evaluate the complaint and will begin to take action to correct or abate the condition(s) through arbitration or administrative sanctions or may find the complaint to be invalid. An answer will be sent to the complainant within ten (10) working days following receipt of the complaint or the next regularly scheduled meeting of the governing body following receipt of the complaint explaining decisions made and action taken or to be taken.
- e. After the above steps have been followed and the complainant is still not satisfied with the results, he may then file a complaint with the Commissioner of Labor and Workforce Development. Any complaint filed with the Commissioner of Labor and Workforce Development in such cases shall include copies of all related correspondence with the Safety Director and the Chief Executive Officer or the representative of the governing body.

- f. Copies of all complaint and answers thereto will be filed by the Safety Director who shall make them available to the Commissioner of Labor and Workforce Development or his designated representative upon request.

X. EDUCATION AND TRAINING

a. Safety Director and/or Compliance Inspector(s):

1. Arrangements will be made for the Safety Director and/or Compliance Inspector(s) to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies. A list of Seminars can be obtained.
2. Access will be made to reference materials such as 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; The Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, and other equipment/supplies, deemed necessary for use in conducting compliance inspections, conducting local training, wiring technical reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.

b. All Employees (including supervisory personnel):

A suitable safety and health training program for employees will be established. This program will, as a minimum:

1. Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employees work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury.
2. Instruct employees who are required to handle or use poisons, acids, caustics, toxicants, flammable liquids or gases, explosives, and other harmful substances in the proper handling procedures and use of such items and make them aware of the personal protective measures, person hygiene, etc., which may be required.
3. Instruct employees who may be exposed to environments where harmful plants or animals are present, of the hazards of the environment, how to best avoid injury or exposure, and the first aid procedures to be followed in the event of injury or exposure.
4. Instruct all employees of the common deadly hazards and how to avoid them, such as Falls; Equipment Turnover; Electrocuting; Struck by/Caught In; Trench Cave In; Heat Stress; and Drowning.
5. Instruct employees on hazards and dangers of confined or enclosed spaces.
 - i. Confined or enclosed space means space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, and open top spaces more than four feet (4) in depth such as pits, tubs, vaults, and vessels.
 - ii. Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.
 - iii. The immediate supervisor of any employee who must perform work in a confined or enclosed space shall be responsible for instructing employees on danger of hazards which may be present, precautions to be taken, and use of personal protective and emergency equipment, immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment.

XI. GENERAL INSPECTION PROCEDURES

It is the intention of the governing body and responsible officials to have an Occupational Safety and Health Program Plan

that will insure the welfare of employees. In order to be aware of hazards, periodic inspections must be performed. These inspections will enable the finding of hazards or unsafe conditions or operations that will need correction in order to maintain safe and healthful worksites. Inspections made on a pre-designated basis may not yield the desired results. Inspections will be conducted, therefore, on a random basis at intervals not to exceed thirty (30) calendar days.

- a. In order to carry out the purposes of this Resolution, the Safety Director and/or Compliance Inspector(s), if appointed, is authorized:
 1. To enter at any reasonable time, any establishment, facility, or worksite where work is being performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the employer and;
 2. To inspect and investigate during regular working hours and at other reasonable times, within reasonable limits, and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any supervisor, operator, agent, or employee working therein.
- b. If an imminent danger situation is found, alleged, or otherwise brought to the attention of the Safety Director or Inspector during a routine inspection, he shall immediately inspect the imminent danger situation in accordance with Section XII of this plan before inspecting the remaining portions of the establishment, facility, or worksite.
- c. An administrative representative of the employer and a representative authorized by the employees shall be given an opportunity to consult with and/or to accompany the Safety Director or Inspector during the physical inspection of any worksite for the purpose of aiding such inspection.
- d. The right of accompaniment may be denied any person whose conduct interferes with a full and orderly inspection.
- e. The conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.
- f. Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigative techniques.
- g. Advance Notice of Inspections.
 1. Generally, advance notice of inspections will not be given as this precludes the opportunity to make minor or temporary adjustments in an attempt to create misleading impression of conditions in an establishment.
 2. There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection or investigation. When advance notice of inspection is given, employees or their authorized representative(s) will also be given notice of the inspection.
- h. The Safety Director need not personally make an inspection of each and every worksite once every thirty (30) days. He may delegate the responsibility for such inspections to supervisors or other personnel provided:
 1. Inspections conducted by supervisors or other personnel are at least as effective as those made by the Safety Director.
 2. Records are made of the inspections, any discrepancies found, and corrective actions taken. This information is forwarded to the Safety Director.
- i. The Safety Director shall maintain records of inspections to include identification of worksite inspected, date of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Those inspection records shall be subject to review by the Commissioner of Labor and Workforce Development or his authorized representative.

XII. IMMINENT DANGER PROCEDURES

- a. Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:
 1. The Safety Director shall immediately be informed of the alleged imminent danger situation and he shall immediately ascertain whether there is a reasonable basis for the allegation.
 2. If the alleged imminent danger situation is determined to have merit by the Safety Director, he shall make or cause to be made an immediate inspection of the alleged imminent danger location.
 3. As soon as it is concluded from such inspection that conditions or practices exist which constitutes an imminent danger, the Safety Director or Compliance Inspector shall attempt to have the danger corrected. All employees at the location shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.
 4. The administrative or operational head of the workplace in which the imminent danger exists, or his authorized representative, shall be responsible for determining the manner in which the imminent danger situation will be abated. This shall be done in cooperation with the Safety Director or Compliance Inspector and to the mutual satisfaction of all parties involved.
 5. The imminent danger shall be deemed abated if:
 - i. The imminence of the danger has been eliminated by removal of employees from the area of danger.
 - ii. Conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an unsafe condition or practice no longer exists.
 6. A written report shall be made by or to the Safety Director describing in detail the imminent danger and its abatement. This report will be maintained by the Safety Director in accordance with subsection (i) of Section XI of this plan.
- b. Refusal to Abate.
 1. Any refusal to abate an imminent danger situation shall be reported to the Safety Director and Chief Executive Officer immediately.
 2. The Safety Director and/or Chief Executive Officer shall take whatever action may be necessary to achieve abatement.

XIII. ABATEMENT ORDERS AND HEARINGS

- a. Whenever, as a result of an inspection or investigation, the Safety Director or Compliance Inspector(s) finds that a worksite is not in compliance with the standards, rules or regulations pursuant to this plan and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the Safety Director shall:
 1. Issue an abatement order to the head of the worksite.
 2. Post or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.
- b. Abatement orders shall contain the following information:
 1. The standard, rule, or regulation which was found to be violated.
 2. A description of the nature and location of the violation.

3. A description of what is required to abate or correct the violation.
 4. A reasonable period of time during which the violation must be abated or corrected.
- c. At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the Safety Director in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the Safety Director shall act promptly to hold a hearing with all interested and/or responsible parties in an effort to resolve any objections. Following such hearing, the Safety Director shall, within three (3) working days, issue an abatement order and such subsequent order shall be binding on all parties and shall be final.

XIV. PENALTIES

- a. No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with safety and health standards or any rules or regulations issued pursuant to this Program Plan.
- b. Any employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary action by the appointing authority. It shall be the duty of the appointing authority to administer discipline by taking action in one of the following ways as appropriate and warranted:
 1. Oral reprimand.
 2. Written reprimand.
 3. Suspension for three (3) or more working days.
 4. Termination of employment.

XV. CONFIDENTIALITY OF PRIVILEGED INFORMATION

All information obtained by or reported to the Safety Director pursuant to this plan of operation or the legislation (resolution, or executive order) enabling this Occupational Safety and Health Program Plan which contains or might reveal information which is otherwise privileged shall be considered confidential. Such information may be disclosed to other officials or employees concerned with carrying out this Program Plan or when relevant in any proceeding under this Program Plan. Such information may also be disclosed to the Commissioner of Labor and Workforce Development or their authorized representatives in carrying out their duties under the Tennessee Occupational Safety and Health Act of 1972.

XVI. DISCRIMINATION INVESTIGATIONS AND SANCTIONS

The Rule of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, DISCRIMINATION AGAINST EMPLOYEES EXERCISING RIGHTS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 0800-01-08, as authorized by T.C.A., Title 50. The agency agrees that any employee who believes they have been discriminated against or discharged in violation of Tenn. Code Ann § 50-3-409 can file a complaint with their agency/safety Safety Director within 30 days, after the alleged discrimination occurred. Also, the agency agrees the employee has a right to file their complaint with the Commissioner of Labor and Workforce Development within the same 30-day period. The Commissioner of Labor and Workforce Development may investigate such complaints, make recommendations, and/or issue a written notification of a violation.

XVII. COMPLIANCE WITH OTHER LAWS NOT EXCUSED

- a. Compliance with any other law, statute, resolution, or executive order, which regulates safety and health in employment and places of employment, shall not excuse the employer, the employee, or any other person from compliance with the provisions of this Program Plan.
- b. Compliance with any provisions of this Program Plan or any standard, rule, regulation, or order issued pursuant to this Program Plan shall not excuse the employer, the employee, or any other person from compliance with the law, statute, resolution, or executive order, as applicable, regulating and promoting safety and health unless such law, statute, resolution, or executive order, as applicable, is specifically repealed.

Jerry Dan Case
Occupational Safety and Health and Date

7-6-2020

Signature:
Safety Director,

**APPENDIX -I WORK LOCATIONS
(ORGANIZATIONAL CHART)**

Work Location - Name	Address	Contact Person	Phone #	# Employees
Kimball Town Hall	675 Main Street Kimball, TN 37347	Rex Pesnell	423-762-2811	2
Kimball Police Department	695 Main Street Kimball, TN 37347	Tim Allison	423-309-2006	9
Kimball Maintenance Department	653 Main Street Kimball, TN 37347	David Henley	423-598-0928	5
Kimball Fire Department	925 Main Street Kimball, TN 37347	Jeff Keef	423-718-4034	1
Kimball Park	414 Bob Lofty Drive Kimball, TN 37347	Billy King	423-356-1623	1
TOTAL				18

APPENDIX – II NOTICE TO ALL EMPLOYEES

NOTICE TO ALL EMPLOYEES OF THE TOWN OF KIMBALL, TENNESSEE

The Tennessee Occupational Safety and Health Act of 1972 provide job safety and health protection for Tennessee workers through the promotion of safe and healthful working conditions. Under a plan reviewed by the Tennessee Department of Labor and Workforce Development, this government, as an employer, is responsible for administering the Act to its employees. Safety and health standards are the same as State standards and jobsite inspections will be conducted to ensure compliance with the Act.

Employees shall be furnished conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Program Plan which are applicable to his or her own actions and conduct.

Each employee shall be notified by the placing upon bulletin boards or other places of common passage of any application for a temporary variance from any standard or regulation.

Each employee shall be given the opportunity to participate in any hearing which concerns an application for a variance from a standard.

Any employee who may be adversely affected by a standard or variance issued pursuant to this Program Plan may file a petition with the Safety Director or Mayor of the Town of Kimball.

Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by an applicable standard shall be notified by the employer and informed of such exposure and corrective action being taken.

Subject to regulations issued pursuant to this Program Plan, any employee or authorized representative(s) of employees shall be given the right to request an inspection.

No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceedings or inspection under, or relating to, this Program Plan.

Any employee who believes he or she has been discriminated against or discharged in violation of these sections may, within thirty (30) days after such violation occurs, have an opportunity to appear in a hearing before the Board of Mayor and Aldermen of the Town of Kimball, Tennessee for assistance in obtaining relief or to file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.

A copy of the Occupational Safety and Health Program Plan for the Employees of the Town of Kimball, Tennessee is available for inspection by any employee at Town Hall during regular office hours.

 7-5-2020

Signature: TOWN OF KIMBALL MAYOR AND DATE

APPENDIX - III PROGRAM PLAN BUDGET

STATEMENT OF FINANCIAL RESOURCE AVAILABILITY

Be assured that the Town of Kimball, Tennessee has sufficient financial resources available or will make sufficient financial resources available as may be required in order to administer and staff its Occupational Safety and Health Program Plan and to comply with standards.

APPENDIX – IV ACCIDENT REPORTING PROCEDURES

- (1-15) Employees shall report all accidents, injuries, or illnesses directly to the Safety Director as soon as possible, but not later than twenty-four (24) hours after the occurrence. Such reports may be verbal or in writing. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Safety Director and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The Safety Director will insure completion of required reports and records in accordance with Section VIII of the basic plan.
- (16-50) Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours after the occurrence. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Safety Director and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will investigate the accident or illness, complete an accident report, and forward the accident report to the Safety Director and/or record keeper within twenty-four (24) hours of the time the accident or injury occurred or the time of the first report of the illness.
- (51-250) Employees shall report all accidents, injuries, or illnesses to their supervisors as soon as possible, but not later than two (2) hours after the occurrence. The supervisor will provide the Safety Director and/or record keeper with the name of the injured or ill employee and a brief description of the accident or illness by telephone as soon as possible, but not later than four (4) hours, after the accident or injury occurred or the time of the first report of the illness. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Safety Director and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will then make a thorough investigation of the accident or illness (with the assistance of the Safety Director or Compliance Inspector, if necessary) and will complete a written report on the accident or illness and forward it to the Safety Director within seventy-two (72) hours after the accident, injury, or first report of illness and will provide one (1) copy of the written report to the recordkeeper.
- (251-Plus) Employees shall report all accidents, injuries, or illnesses to their supervisors as soon as possible, but not later than two (2) hours after their occurrence. The supervisor will provide the administrative head of the department with a verbal or telephone report of the accident as soon as possible, but not later than four (4) hours, after the accident. If the accident involves loss of consciousness, a fatality, broken bones, severed body member, or third degree burns, the Safety Director will be notified by telephone immediately and will be given the name of the injured, a description of the injury, and a brief description of how the accident occurred. The supervisor will then make a thorough investigation of the accident or illness (with the assistance of the Safety Director or Compliance Inspector, if necessary) and will complete a written report on the accident or illness and forward it to the Safety Director within seventy-two (72) hours after the accident, injury, or first report of illness and will provide one (1) copy of the written report to the record keeper.

Since Workers Compensation Form 6A or OSHA NO. 301 Form must be completed; all reports submitted in writing to the person responsible for recordkeeping shall include the following information as a minimum:

1. Accident location, if different from employer's mailing address and state whether accident occurred on premises owned or operated by employer.
2. Name, social security number, home address, age, sex, and occupation (regular job title) of injured or ill employee.
3. Title of the department or division in which the injured or ill employee is normally employed.
4. Specific description of what the employee was doing when injured.
5. Specific description of how the accident occurred.

6. A description of the injury or illness in detail and the part of the body affected.
7. Name of the object or substance which directly injured the employee.
8. Date and time of injury or diagnosis of illness.
9. Name and address of physician, if applicable.
10. If employee was hospitalized, name and address of hospital.
11. Date of report.

NOTE: A procedure such as one of those listed above or similar information is necessary to satisfy Item Number 4 listed under PROGRAM PLAN in Section V. ADMINISTRATION, Part b of the Tennessee Occupational Safety and Health Plan. This information may be submitted in flow chart form instead of in narrative form if desired. These procedures may be modified in any way to fit local situations as they have been prepared as a guide only.

The four (4) procedures listed above are based upon the size of the work force and relative complexity of the organization. The approximate size of the organization for which each procedure is suggested is indicated in parenthesis in the left hand margin at the beginning, i.e., (1-15), (16-50), (51-250), and (251 Plus), and the figures relate to the total number of employees including the Chief Executive Officer but excluding the governing body (County Court, City Council, Board of Directors, etc.).

Generally, the simpler an accident reporting procedure is, the more effective it is. Please select the one procedure listed above, or prepare a similar procedure or flow chart, which most nearly fits what will be the most effective for your local situation. Note also that the specific information listed for written reports applies to all three of the procedures listed for those organizations with sixteen (16) or more employees.



STATE OF TENNESSEE
DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
OCCUPATIONAL SAFETY AND HEALTH
220 French Landing Drive
Nashville, Tennessee 37243-1002
(615) 741-2793

June 22, 2020

Request for an updated Safety & Health Plan and Organizational Chart

Our records show that the Occupational Safety & Health Program Plan for **Kimball** was last updated in **March 2013**. We are requesting an update for one or all of the following reasons:

- Your program plan should be updated every **seven (7) years** or as changes in your organization occur (i.e. Executive Administrator, Safety Director, etc.).
- During a recent inspection, our inspectors documented that the employee census and/or work locations had changed since the last update.
- The existing S&H Plan does not include the recent changes to the reporting of hospitalizations, amputations, and losses of an eye (within 24 hours).

https://stateoftennessee.formstack.com/forms/tosha_injury_rpt

As such, we are requesting that you provide us an updated program plan.

Your current S&H Plan document and the organizational chart (i.e. work locations) are attached as well as a template for an updated resolution/ordinance that has been included to assist you in preparing a new document.

- Please review your current plan and organizational chart.
- Update your existing S&H Plan to include the recent changes to the reporting of hospitalizations, amputations, and losses of an eye (within 24 hours). Instructions are included (see attachment).
- Update your organizational chart (see instructions and example).

The purpose of the program plan is to provide guidelines and procedures for implementation of the Tennessee Occupational Safety and Health Act by all local government employers that have elected to develop their own Safety and Health Programs.

Also, according to TDL Rule 0800-1-5.06 (3), you ***must*** advise us of any changes in officials (i.e. Executive Administrator, Safety Director, etc.). We need to know the names, titles, business addresses, and phone numbers within thirty (30) days after such changes occur.

Thank you in advance for your prompt attention to this matter and for your continued support and efforts in assuring the safety and health of all your employees.

If there are any questions about this or the TN Department of Labor and Workforce Development's obligations or responsibilities in the Public Sector, please feel free to call me at 615-253-6672.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ashley Harris', written in a cursive style.

Ashley Harris, Manager of Public Sector Operations
Division of Occupational Safety and Health