

**CHAPTER 12 SUBDIVISION REGULATIONS**

**ORDINANCE 1205    RULES AND DEFINITIONS**

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### ORDINANCE 1205 RULES AND DEFINITIONS

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#### Section 1205.01: APPLICATION OF RULES.

Subd 1. The language contained in this Ordinance shall be interpreted in accordance with the following rules of construction as applicable:

- A. The singular includes the plural and the plural the singular.
- B. The present includes the past and future tenses, and the future tense includes the present tense.
- C. The masculine gender includes the feminine and the feminine gender includes the masculine.
- D. Whenever a word or term defined hereinafter appears in this Ordinance, its meaning shall be construed as set forth in such definition.
- E. In the event of conflicting provisions, the most restrictive provision shall apply.
- F. The word "shall" is always mandatory and not merely discretionary.
- G. In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirement for the promotion of health, safety, and welfare.

Section 1205.02: DEFINITIONS. For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given them solely for the purposes of implementation of this Ordinance:

Accessory Use or Accessory Structure. A use or structure in the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Alley. A public or private right-of-way which affords a secondary means of access to abutting property.

Applicant. The owner, the owner's agent, or any other person having legal control, ownership, and/or interest in the land for which the provisions of this Ordinance are being considered or reviewed.

Area Map. See Key Map.

Attorney or City Attorney. The person designated by the City Council to be the City Attorney for the City of Kimball.

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Block. An area of land within a plat, containing lots, that is entirely bounded by streets, or by a combination of streets, railroad right-of-way, the exterior boundary or boundaries of the subdivision, or the shoreline of the above with a river, stream or lake.

Best Management Practices (BMPs). Best management practices as described in the current Minnesota Pollution Control Agency's manual and other sources as approved by the City Council.

Boulevard. That portion of the street right-of-way between the curb line or edge of pavement and the property line.

Boundary Lines. Lines indicating the bounds or limits of any tract or parcel of land.

Boxes. All mailboxes, newspaper boxes, and advertising boxes wherein either mail is distributed, newspapers and magazines are distributed, or advertising is placed for the use of residents of the City.

Buffer Yard/Zone. A strip of land utilized to separate, screen or partially screen a use or property from another use or property or to shield or mitigate noise, lights; water quality or other impacts.

Buildable Land. Contiguous land area occurring within the property lines of a parcel or lot excluding wetlands, water courses, ponds, public waters below the ordinary high water mark, and easements for pipelines and utility transmission lines.

Building. A structure having a roof supported by columns or walls. When separated by division walls without openings, each portion of the building shall be deemed a separate building.

Building Inspector. The person designated by the City Council to be the Building Inspector for the City of Kimball. An authorized representative of the City Council assigned to make any or all necessary inspections of the work performed and materials furnished by a developer.

Building Line. Also referred to as a setback line, the line beyond which property owners or others have no legal or vested right to extend a building or any part thereof without special permission and approval of the proper authorities.

Certificate of Survey. A document prepared by a registered engineer or registered land surveyor which precisely describes the area, dimensions, and location of a parcel or parcels of land.

City. The City of Kimball, Stearns County, Minnesota. City Council. The governing body of the City of Kimball.

City Planner. The planner employed or retained by the City of Kimball, unless otherwise stated.

Common Open Space. Any open space including parks, nature areas, playgrounds, trails, recreational buildings and structures owned in common by a group of property owners.

Comprehensive Plan. The City of Kimball Comprehensive Plan, as may be amended. The Comprehensive Plan adopted by the City Council, indicating the goals and policies, and interrelated plans for land use, transportation, public utilities, parks and recreation, and community facilities, which constitute the guide for future development in the City.

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Concept Plan. Written and graphic documents that indicate in a conceptual or minimally detailed form the proposed land uses, design, and overall impact on the subject tract and surrounding lands.

Consultants. Professionals hired by the City of Kimball, such as the City Attorney, City Engineer, Finance Advisor, Public Works Consultant.

Contour Map. A map on which irregularities of land surface are shown by lines connecting points of equal elevations. Contour interval is the vertical height between contour lines.

County. Stearns County, Minnesota.

Crosswalk. A right-of-way owned by the City or another governmental entity which furnishes access for pedestrians to cross a street to adjacent streets or properties.

Cul-de-sac. (See Street)

Deposit. The deposition of funds in an account maintained by the City specifically for the purpose of ensuring fulfillment of certain obligations pursuant to this Ordinance.

Design Standards. The specifications to landowners or subdividers for the preparation of plats, both preliminary and final, indicating among other things the optimum, minimum, or maximum dimensions of such items as rights-of-way, lots, blocks, streets, sidewalks, trails, and utilities.

Developer. A person who submits an application for the purpose of land subdivision as defined herein. The developer may be the owner or authorized agent of the owner of the land to be subdivided.

Development. The act of building structures and installing site improvements.

Development Agreement. A written agreement between the City and a developer, drafted by the City Attorney in conjunction with the approval by the City Council of a subdivision.

Development Rights. The number of individual dwelling units that can be located on a parcel of land as established through the Zoning Ordinance and Comprehensive Plan.

Double Frontage Lots. See Lot.

Drainage Course. A water course or indenture for the transmission of surface water.

Easement. A grant by a property owner for the use of land for the purpose of constructing and maintaining drives, utilities, and the like, including, but not limited to, wetlands, ponding areas, sanitary sewers, water mains, electric lines, telephone lines, storm sewers or storm drainageways, gas lines, sidewalks, and trails.

Engineer or City Engineer. The person designated by the City Council to be the City Engineer for the City of Kimball.

Filter Strip. A linear strip of land along a lake, wetland, river, creek, or stormwater ponding area where vegetation is established and maintained as a means to slow the velocity of stormwater drainage and to filter sediment and pollutants from the stormwater.

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Final Plat. A drawing or map of a subdivision meeting all of the requirements of the City and in such form as required by the County for the purpose of recording.

Financial Guarantee. A financial security posted with the City with the approval of a final plat, guaranteeing compliance with the approved final plat, construction plans, and conditions of approval set forth by the City Council.

Frontage. The width of a lot or building site measured on the line separating it from a public street right-of-way.

Ghost Plat. A subdivision or re-subdivision concept plan illustrating possible future lot layout, street networks, and utility systems for oversized lots, outlots, or undeveloped land adjoining a preliminary plat.

Grade, Percentage of. The rise or fall of a street in feet and tenths of a foot for each 100 feet of horizontal distance measured at the center line of the street, or similar ratio of land elevations measured against an established baseline.

High Water Level. The water level in a watercourse which could be predicted to occur as a result of the 100 year, 24 hour rainfall event using U.S. Department of Agriculture Soil Conservation Service methodology, as approved by the City Council. In addition, developers shall model the 500 year, 24 hour rainfall event, if determined necessary by the City Engineer.

Improvement, Public. Any project designed and constructed by the City.

Individual Sewage Treatment System (ISTS). A septic tank, drainfield, or other sewage treatment system approved for private, individual use by the Minnesota Pollution Control Agency.

Key Map (Area Map). A map drawn to a comparatively small scale which shows the area proposed to be platted and the areas surrounding it, to a given distance.

Land Disturbance. Any area in which movement of earth, alteration in topography, soil compaction, disruption of vegetation, change in soil chemistry, or any other change in the natural character of the land occurs as a result of the site preparation, grading, building construction, or any other construction activity.

Lot. A portion of a subdivision or other parcel of land intended for building development or for transfer of ownership. Lots may be classified as follows:

- (1) Lot, Base. Lots meeting all specifications in the Zoning District prior to being subdivided into a multifamily subdivision.
- (2) Lot, Corner. A lot situated at the intersection of 2 streets.
- (3) Lot, Double Frontage. An interior lot having frontage on 2 streets.
- (4) Lot, Interior. A lot other than a corner lot.

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Lot Depth. The mean horizontal distance between the front lot line and the rear lot line of a lot (the depth of a corner lot shall be measured from the lot line from which access is gained to the opposite or rear lot line).

Lot Frontage. The width of a lot abutting a public right-of-way from which access is gained.

Lot Width. The horizontal distance between the side lot lines measured at right angles to the lot depth, at the minimum front building setback line.

Metes and Bounds Description. A description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the bearings and distances of the lines forming the boundaries of the property or delineates a fractional portion of a section, lot, or area by described lines or portions thereof.

Minimum Subdivision Design Standards. The guidelines, principles, and specifications for the preparation of subdivision plans indicating, among other things, the minimum and maximum dimensions of the various elements set forth in the preliminary and final plat.

Minor Subdivision. Any subdivision containing no more than 2 lots fronting on an existing street which does not require any new street or the creation of any public improvements, and does not adversely affect the remainder of the parcel or adjoining property, and is not in conflict with any provisions of the Comprehensive Plan, Zoning Ordinance, Official Map or this Ordinance. This includes one-in-forty lot splits which do not meet the criteria in Minnesota Statutes § 462.358, Subd. 4, as may be amended.

Natural Water Way. A natural passageway in the surface of the earth, allowing water to flow from one point to another,

Normal Water Level. A level of water in a watercourse when the watercourse is not in the process of receiving or discharging storm water runoff. The normal water level will typically be the outlet elevation of a pond, lake or other standing water body.

Ordinary High-Water Level. Ordinary High-Water Level means the boundary of water basins, watercourses, public waters, and public waters wetlands. The Ordinary High-Water Level is an elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly the point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the Ordinary High-Water Level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the Ordinary High-Water Level is the operating elevation of the normal summer pool.

Outlot. A parcel of land shown on a subdivision plat as an outlot, and designated alphanumerically (for example - Outlot A). Outlots are used to designate one of the following: 1) land that is part of the subdivision but is to be final platted into lots and blocks at a later date; or 2) land that is to be used for a specific purpose as designated in a development agreement or other agreement between the City and the developer.

Owner. An individual, firm, association, syndicate, partnership, corporation, trust, or any other legal entity holding an equitable or legal ownership interest in the land sought to be subdivided.

Parks. Public land and open spaces in the City dedicated or reserved for recreational purposes.

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Pedestrian and/or Bicycle Trail. An easement or land dedication given to the City for the purpose of providing walking and/or bicycling areas to City residents. The trails shall provide recreational opportunity and also access to parks, natural areas, and public land in accordance with the Comprehensive Plan.

Pedestrian Way. A public right-of-way or private easement across a block or within a block to provide access for pedestrians, such as sidewalks and trails, and which may be used for the installation of utility lines.

Person. Any individual or legal entity.

Planned Unit Development (PUD). A type of development characterized by high design standards with a unified site design for a number of dwelling units or dwelling sites on a parcel, or a commercial or industrial development which contains two or more principal buildings. The units or buildings may be for sale, rent, or lease, and may also involve clustering of the units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units.

Planning Commission. The Kimball Planning Commission, except when otherwise designated.

Plat. The drawing or map of a subdivision prepared for filing of record pursuant to Minnesota Statute 505, as may be amended.

Plat, Common Interest Community (CIC). A common interest community plat pursuant to Minnesota Statutes 515B.2-, as may be amended. "CIC" means contiguous or noncontiguous real estate within Minnesota that is subject to an instrument which obligates persons owning a separately described parcel of the real estate, or occupying a part of the real estate pursuant to a proprietary lease, by reason of their ownership or occupancy, to pay for (i) real estate taxes levied against; (ii) issuance premiums payable with respect to; (iii) maintenance of; or (iv) construction, maintenance, repair or replacement of improvements located on one or more parcels or parts of the real estate other than the parcel or part that the person owns or occupies. Real estate subject to a master association, regardless of when the master association was formed, shall not collectively constitute a separate common interest community unless so stated in the master declaration recorded against the real estate.

Plat, Final. The final map or drawings and accompanying material described in Section 8 (Final Plat) of this Ordinance on which the developer's plan or subdivision is presented to the City Council for approval and which, if approved, will be submitted to the Office of the Stearns County Recorder or Registrar of Titles for filing.

Plat, Preliminary. The preliminary map or drawings and accompanying material described in Section 7 (Preliminary Plat) of this Ordinance indicating the proposed layout of the subdivision to be submitted to the City for their consideration for compliance with the Comprehensive Plan, Zoning Ordinance, the Official Map, and this Ordinance along with the required supporting data.

Playgrounds. Public land and open spaces in the City dedicated or reserved for recreation purposes. (See also Parks).

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Principal Use or Structure. The primary or main use of land or buildings as distinguished from subordinate, incidental, or accessory uses or structures.

Protective Covenants/Restrictive Covenants. Contracts made between private parties as to the manner in which land may be used, with the view to protecting and preserving the physical and economic integrity of any given areas which are recorded in the Office of the Stearns County Recorder or the Registrar of Titles. Protective covenants are enforced only by the landowners involved and not by the City or other public agency.

Registered Land Survey. A survey map of registered land designed to simplify a complicated metes and bounds description, designating the same into a tract or tracts of Registered Land Survey Number.

Registered Land Surveyor. A land surveyor licensed and registered in the State of Minnesota.

Restrictive Covenants. See Protective Covenants.

Re-subdivision. A change in an approved or recorded subdivision plat if such change affects any street layout on such map or area reserved for public use, or any lot line or if it affects any map, or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

Right-of-Way. A land corridor occupied or intended to be occupied by a street, pedestrian way, water main, sanitary or storm sewer main, or for another use specifically permitted by the City. The usage of the term right-of-way for land platting purposes shall mean that every right-of-way established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Right-of-way intended for streets, pedestrian ways, water main, sanitary sewers, storm drains, or any other use involving maintenance by a public agency shall be dedicated to public use by the recording of the plat on which such right-of-way is established.

Road Right-of-Way Width. The horizontal distance between the outside edges of a road right-of-way.

Roadway. A land corridor designated for vehicular usage, including the traveled portion of the corridor and curbs, catch basins, culverts and stormwater pipes, or adjacent ditches and slopes, maintained for drainage purposes.

Setback. The minimum horizontal distance between the foundation wall of a structure and the property line, ordinary high-water mark of a wetland or stormwater pond nearest thereto; within Shoreland Districts, it shall also mean the minimum horizontal distance between a structure and an ordinary high-water level, sewage treatment system, top of bluff, road, highway, property line, or other facility.

Shoreland. Land located within the following distances from public waters: 1000 feet from the ordinary high-water level of a lake, pond, or flowage, and 300 feet from a river or stream or the landward extent of a floodplain on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner of Natural Resources.



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Street. A public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, court, way, trail, or however otherwise designated. Private, ingress and egress easements shall not be considered streets. The following are types of streets:

- (1) Principal Arterials. Principal arterials include interstate freeways and other major roadways that provide long distance connections. Connections with other roads are very limited and typically are in the form of ramps to prevent the stoppage of traffic. Interchanges are generally spaced between three and six miles in developing areas and between six and twelve miles in rural or agricultural areas. I-94 and TH 12 are two principal arterials under the jurisdiction of MN/DOT that serve the City, although they are not located within its municipal boundaries.
- (2) Minor Arterials. Minor arterial roadways provide mobility for shorter distances than principal arterials and interconnect arterial roadways with regional business concentrations. They often supplement principal arterials. Access from other roads is limited, with the spacing of intersections generally at one to two-mile intervals. State Highway 55 and State Highway 15 are minor arterials.
- (3) Major Collectors. Major collectors provide mobility between rural communities on an intra-county basis and provide land access in rural areas. These roads consist of county roads and county state aid highways, and may include some state highways. County Rd 44 and CSAH 63 are the two major collector roadways that serve the City.
- (4) Minor Collectors. Minor collectors connect rural areas to major collectors and minor arterials. These roads serve to funnel traffic from local streets onto major collector or arterial roads for longer trips. County Rd 44, CSAH 63 and County Rd 150, a County road, are the only minor collectors running through the City.
- (5) Local Streets. All other roadways in the City are under the jurisdiction of the City and are classified as local streets. Local streets are designed to provide access to individual properties rather than emphasize long distance or direct travel; and speed limits are kept low to ensure safety. As such, the initial construction of local streets often occurs as part of subdivision development and is the responsibility of the developer.
- (6) Cul-de-sac. A minor street with only one outlet and having a safe and convenient turn around.
- (7) Service Street (Frontage Road). A frontage or backage road, marginal access street, or otherwise designated minor street which is parallel and adjacent to an arterial or collector street and which provides access to abutting properties and protection from through traffic.

Street Width. The portion of a street right-of-way improved for vehicular travel.

Subdivision. The creation of one or more lots under the provisions of this Ordinance or any division of an existing lot. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided. Subdivision shall not apply to the creation of cemetery lots or lots resulting from court orders.

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Surveyor. A land surveyor registered under state law.

Thoroughfare. (See Street; Arterial Street or Thoroughfare).

Tree. Any of the following types of trees, as each is defined herein:

- (1) Coniferous Tree. A woody plant which, at maturity, is at least 12 feet or more in height, having foliage on the outermost portion of the branches year-round.
- (2) Deciduous Tree. A woody plant which, at maturity, is at least 15 feet or more in height, having a defined crown, and which sheds leaves annually.
- (3) Overstory Tree. Large deciduous or evergreen trees such as oak, maple, pine, etc.

Unit Lot. A lot created from the subdivision of a two-family dwelling or a multi-family dwelling having different minimum lot size requirements than the conventional base lot within the zoning district.

Variance. A modification or variation of the provisions of this chapter as applicable to a specific piece of property. Modification of the allowable use within a district shall not be considered a variance.

Watercourse. Any natural or man-made passageway on the surface of the earth so situated and having such a topographical nature that surface water stands or flows through it from other areas. The term includes ponding areas, drainage channels, swales, waterways, creeks, rivers, lakes, streams, wetland areas, and any other open surface water flow which is the result of storm water or ground water discharge. This term does not include man-made piping systems commonly referred to as storm sewers.

Zoning Administrator. The person duly appointed by the City Council as the individual charged with the responsibility of administering and enforcing this Ordinance.

Zoning District. An area or areas within the City for which regulations and requirements governing use are uniform as defined by the Zoning Ordinance.

Zoning Ordinance. The City of Kimball Zoning Ordinance, as may be amended, controlling the use of land within the City.

### ***Flood Related Definitions***

Accessory Use or Accessory Structure. A use or structure in the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Equal Degree of Encroachment. A method of determining the location of encroachment lines so that the hydraulic capacity of flood plain lands on each side of a stream are reduced by an equal amount when calculating the increases in flood stages due to flood plain encroachments.

FEMA. Federal Emergency Management Agency.

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Flood. A temporary rise in stream flow or stage that results in inundation of the areas adjacent to the channel.

Flood Frequency. The average frequency, statistically determined, for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

Flood Fringe. That portion of the flood plain outside of the floodway. Flood Fringe is synonymous with the term "floodway fringe."

Flood Hazard Areas. The areas included in the Floodway and Flood Fringe as indicated on the Official Map, the Flood Insurance Study, or the Flood Insurance Rate Map.

Flood Insurance Rate Map. The most recent Flood Insurance Rate Map prepared by the Federal Emergency Management Agency for the City, and as applicable and allowed by law, the Flood Insurance Rate Map prepared by the Federal Emergency Management Agency for all areas within the City.

Flood Insurance Study. The most recent Flood Insurance Study prepared for the City by the Federal Emergency Management Agency and, as applicable and allowed by law, the Flood Insurance Study prepared by the Federal Emergency Management Agency for all areas within the City.

Floodproofing. A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding primarily for the reduction or elimination of flood damages to properties, water and sanitary facilities, structures, and contents of buildings in a flood hazard area in accordance with the Minnesota State Building Code.

Floodway. The channel of the watercourse and those portions of the adjoining flood plains which are reasonably required to carry and discharge the regional flood determined by the use of the 100-year flood profile and other supporting technical data in the Flood Insurance Study, or in any other officially adopted City flood study.

Obstruction. Any darn, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projection into any channel, watercourse, or regulatory flood hazard area which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the flow of water might carry the same downstream to the damage of life or property.

100-Year Flood. A flood which is representative of large regional floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval as determined by the use of the 100-year flood profile and other supporting technical data in the Flood Insurance Study, or in any other officially adopted City flood study.

Reach. A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would be typical of a Reach.

Regulatory Flood Protection Elevation. A point not less than one foot above the water surface profile associated with the 100-year flood as determined by the use of the 100-year flood profile

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and supporting technical data in the Flood Insurance Study plus any increase in flood heights attributable to encroachments on the flood plain. It is the elevation to which uses regulated by this chapter are required to be elevated or flood proofed.