

ARTICLE 2 ZONING DEFINITIONS

11-201. DEFINITIONS

For the purpose of this Ordinance, the following words and terms as used herein are defined to mean the following:

Words used in the present tense include the future; words in the singular number include the plural; and words in the plural include the singular; the word “building” includes the word “structure”; the word “shall” or the word “must” is mandatory and not directory; the term “used for” includes the meaning “designed for” or “intended for”.

1. “Accessory Building”: A subordinate building having a use customarily incident to and located on the lot occupied by the main building, or having a use customarily incident to the main use of the property. A building housing an accessory use is considered an integral part of the main building when it has any part of a wall in common with the main building or is under an extension of the main roof, and designed as an integral part of the main building.
2. “Accessory Use”: A use of a building or land which is customarily incidental to and located on the same lot or premises as the main use of the property.
3. “Activity”: The performance of a function or operation which constitutes a use of the land.
4. “Adult Entertainment Use”: An establishment consisting of, including, or having the characteristics of any or all of the following:
 - a. Adult Bookstore – An establishment having as a substantial or significant portion of its stock-in-trade books, magazines, publications, tapes, or films that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to sexual activities or anatomical genital areas.
 - b. Adult Cabaret – (a)An establishment devoted to adult entertainment, either with or without a liquor license, presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to sexual activities or anatomical genital areas; (b) a cabaret that features topless dancers, go-go dancers, strippers, male or female impersonators, or similar entertainers for observation by patrons.
 - c. Adult Mini Motion Picture Theater – An enclosed building with a capacity for less than fifty persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to sexual activities or anatomical genital areas.
 - d. Adult Motion Picture Theater - An enclosed building with a capacity for more than fifty persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to sexual activities or anatomical genital areas.
5. “Agriculture”: The employment of the land for the purpose of obtaining a profit in money by the raising, harvesting, and selling of crops and by the grazing, feeding, breeding, management, and sale of livestock, poultry, fur-bearing animals, or honey bees, and by dairying and the sale of dairy products.
6. “Alley”: A minor way which is used primarily for utility services and vehicular service access to the back or side of properties otherwise abutting on or adjacent to a street; affording only a secondary means of access to abutting property.
7. “Alteration”: Any addition, removal, extension or change in the location of any exterior wall of a main building or accessory building.
8. “Animal Feeding Operation”: (Formerly Feedlot) A lot, yard, corral, building or other area in which livestock are confined, primarily for the purposes of feeding and growth prior to slaughter or the sale of

products derived from such animals. The term does not include areas which are used for the raising of crops or other vegetation, and upon which livestock are allowed to graze.

9. "Animal Unit": For purposes of this ordinance, an animal unit is the term used to describe the relationship of various animals that are being held or fed. Slaughter steers and heifers are assigned the base unit of 1.0. The following multipliers are used in determining animal units:

Category	Animal Units
Slaughter steers and heifers	1.0
Cow-Calf	1.3
Dairy cattle	1.4
Horse	0.75
Swine	0.4
Sheep	0.4
All fowl	0.05

10. "Apartment": A room or a suite of rooms within an apartment house arranged, intended or designed for a place of residence of a single family or group of individuals living together as a single housekeeping unit.

11. "Apartment House": A building arranged, intended, or designed for residence of more than two families.

12. "Apartment Hotel": An apartment house which furnishes for the use of its tenants services ordinarily furnished by hotels, but the privileges of which are not primarily available to the public.

13. "Basement": A story below the first story as defined under "Story", counted as a story for height regulations if subdivided and used for dwelling purposes other than by a janitor or watchman employed on the premises.

14. "Block": A piece or parcel of land entirely surrounded by public highways or streets, other than alleys. In cases where the platting is incomplete or disconnected, the Zoning Administrator shall determine the outline of the block.

15. "Boarding House or Lodging House": A building other than a hotel, occupied as a single-housekeeping unit, where lodging or meals are provided for five or more persons for compensation, pursuant to previous arrangements, but not for the public or transients.

16. "Building": An enclosed structure, anchored to permanent foundation, and having exterior or party walls and a roof, designed for the shelter of persons, animals or property. When divided by other than common or contiguous walls, each portion or section of such building shall be regarded as a separate building except that two buildings connected by a breezeway shall be deemed one building.

17. "Child Care Center": A facility which is or should be licensed by the Nebraska Department of Health and Human Services under the authority of Sections 71-1908 through 71-1918, Revised Statutes of Nebraska, as provided and defined under Title 474 of the Nebraska Administrative Code, Chapter 6, Section 002.

18. "Child Care Home": A private home providing care (for children) for compensation. No person shall operate a Child Care Home for four (4) or more children without being licensed by the Nebraska Department of Health and Human Services under the authority of Sections 71-1908 through 71-1918, Revised Statutes of Nebraska.

19. "Club, Private": A building or premises used for social, recreational, dining or philanthropic purposes, the normal use of which is limited to specific members, patrons or otherwise listed and enumerated persons

20. "Condominium": The individual fee ownership of a defined space or dwelling unit within a multi-unit structure.

21. "Contributing Floor Area": The total floor area designed for tenant occupancy and exclusive use; including basements, mezzanines, and upper floors, if any, but excluding stairways, restrooms and mechanical equipment rooms, expressed in square feet measured from the centerline of joint partitions, and from the exterior surface of outside walls.
22. "Court": An open, unoccupied space, other than a yard, bounded on three or more sides by exterior walls of a building and lot lines on which walls are allowable.
23. "Curb Level": The mean level of the curb in front of the lot, or in case of a corner lot, along that abutting street where the mean curb level is the highest.
24. "Deck:" An open area, without a permanent roof, usually attached to or part of and with direct access to or from a building.
25. "Drive-In Establishment": Any restaurant, financial institution or product vending enterprise where the patron does not enter and remain within a building during the transaction of his business. Food vending establishments where the food is not normally consumed within a building, or where facilities are provided for eating outside a building, shall be included in this definition
26. "Dwelling": A building or portion thereof, designed exclusively for permanent residential occupancy, including one-family, two-family and multiple dwellings, boarding and lodging houses, apartment houses and apartment hotels, and manufactured houses but not hotels, motels, mobile homes, house trailers or recreational vehicles.
27. "Dwelling, One-Family": A detached building, arranged, intended, or designed for occupancy by one family.
28. "Dwelling, Two-Family": A building arranged, intended or designed for occupancy by two families.
29. "Dwelling, Multiple": A building or portion thereof, arranged, intended or designed for occupancy by three or more families, including apartments houses, row houses, townhouses and apartment hotels.
30. "Facility": A facility is a structure, open area, or other physical contrivance or object.
31. "Family": Throughout this ordinance the word family when applied to any R-1 zoned area shall be defined as follows:
- One (1) or more persons who are related by blood, adoption, or marriage, except persons placed with persons in a home licensed by the State Department of Health and Human Services, living together and occupying a single housekeeping unit with single kitchen facilities, or not more than five (5) unrelated persons living together by joint agreement and occupying a single housekeeping unit with single kitchen facilities.
32. "Farm/Ranch": An area of land containing at least ten contiguous acres which are used for agriculture.
33. "Floor Area": The total of the horizontal area of all floors including basements and cellars, below the roof and within the surfaces of the main walls of principal or accessory buildings or the center lines of party walls separating such buildings or the center lines of party walls separating such buildings or portions thereof, or within lines drawn parallel to and two feet within the roof line of any building or portion thereof without walls.
34. "Garage, Private": An accessory building which is used primarily for the storage of motor vehicles by the tenants of the building or buildings on the premises.
35. "Garage, Repair": A building or portion thereof, designed or used for the care or repair of motor vehicles, which is operated for commercial purposes.

36. "Garage, Commercial": A building or portion thereof, designed or used for storage, sale, or hiring of motor vehicles for commercial purposes.

37. "Garage, Community": A building or portion thereof, used in lieu of private garages within a block or portion of a block.

38. "Garage, Storage": A building or portion thereof, except those defined as a private, a repair, or a community garage providing storage for more than four (4) motor vehicles.

39. "Grade": The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or when the property line is more than 5 feet from the building, between the building and a line 5 feet from the building

40. "Group Home": A facility licensed by the State of Nebraska in which at least four but not more than eight persons not including resident Clerks or house parents, who are unrelated by blood, marriage, or adoption reside while receiving therapy, training or counseling for the purposes of adaptation to living with, or rehabilitation from cerebral palsy, autism, or mental retardation." (LB 525, 1980)

41. "Height of Building or Structures": The vertical distance measured from the highest of the following three levels:

- a. From the street curb level.
- b. From the established or mean street grade in case the curb has not been constructed.
- c. From the average finished ground level adjoining the building if it sets back from the street line; to the level of the highest point of the roof beams of flat roofs or inclining not more than one inch (1-in) to the foot, or to the mean height level of the top of the main plates and highest ridge for other roofs.

42. "Height of Yard or Court": The vertical distance from the lowest level of such yard or court to the highest point of any boundary wall.

43. "Home Occupation": Any occupation, activity, or accessory use of a non-residential nature conducted in a dwelling unit by a member or members of the immediate family residing therein and not employing more than one person not a resident of the dwelling. Such use must be clearly incidental and secondary to the use of the dwelling purposes.

44. "Hotel": A building occupied or used as a more or less temporary abiding place of individuals or groups of individuals who are lodged, with or without meals, and in which there are more than twelve sleeping rooms and no provisions for cooking in individual rooms.

45. "Junkyard": Any area where waste, discarded or salvaged, is bought, sold, exchanged, baled, or packed, disassembled, or handled, including the dismantling or "wrecking" of automobiles or other vehicles or machinery, house wrecking yards, used lumber yards and places or yards of storage of structural steel materials and equipment; but not including areas where such uses are conducted entirely within a completely enclosed building.

46. "Junk, Waste, or Scrap Materials": Old, used, second-hand, worn, or discarded manufactured materials including but not limited, to scrap iron and other metals, paper and related products, rags, rubber tires and other automotive parts, and glass bottles.

47. "Landfill/Municipal Solid Waste Disposal Area": A Landfill or Municipal Solid Waste Disposal Area shall mean a publicly or privately owned discrete area of land or excavation that receives household waste, alone or in combination with other types of wastes such as commercial solid waste, industrial waste, nonhazardous sludge, or conditionally exempt small quantity generator waste, and which is not a land application unit, surface impoundment, injection well, or waste pile. For the purposes of these regulations, the term "landfill" may be used interchangeably with this term. These facilities must be authorized by the Nebraska Department of Environmental Quality under Title 132 – Integrated Solid Waste Management Regulations.

48. "Landing:" An area at the top or bottom of a one or more steps, or placed intermittently within a series of steps in such size and dimension as may be required by a building code.
49. "Landscaping": Includes but is not limited to trees, shrubs, ground covers, perennials, annuals, and other materials such as mulch, rocks, waterfalls, sculpture, art walls, fences underground irrigation system and street furniture.
50. "Loading Space, Off-Street": Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.
51. "Lot": A parcel of land occupied or to be occupied by one main building, or unit group of buildings, and the accessory buildings or uses customarily incident thereto, including such open spaces as are required under this Ordinance, and having its principal frontage upon a public street or approved place. A lot as used herein may consist of one or more platted lots, or tract or tracts, as conveyed, or parts thereof.
52. "Lot, Corner": A lot abutting upon two or more streets, at their intersection. A corner lot shall be deemed to front on that street on which it has its least dimension, unless otherwise specified by the Building Inspector.
53. "Lot Coverage": The portion of a lot that is occupied by buildings or structures, including accessory buildings and structures but not including driveways and uncovered patios at ground level.
54. "Lot, Interior": A lot whose side lines do not abut upon any street.
55. "Lot, Through": An interior lot having frontage on two streets.
56. "Lot in Separate Ownership at the time of the Passage of this Ordinance": A lot the boundary lines of which along their entire length touched lands under other ownership as shown by plat or deed recorded in the office of the Register of Deeds of Kimball County on or before the date of the adoption of this Ordinance.
57. "Lot Line": The lines bounding a lot as defined herein.
58. "Lot Line, Front": The boundary between a lot and the street on which it fronts.
59. "Lot Line, Rear": The boundary line which is opposite and most distance from the front street line; except that in the case of uncertainty the Building Inspector shall determine the rear line.
60. "Lot Line, Side": Any lot boundary not a front or rear line thereof. A side line may be party line, a line bordering on an alley or place or a side street line.
61. "Lot Depth": The mean horizontal distance from the front street line to the rear line.
62. "Lot Width": The horizontal distance between side lines, measured at the front building line.
63. "Mobile Home": A movable or portable structure constructed to be towed on its own chassis, connected to utilities, and designed with or without a permanent foundation for year-round living. It may consist of one or more units that can be telescoped when towed and expanded later for additional capacity, or of two or more units, separately tow-able but designed to be joined into one integral unit. (LB 91-1976)
64. "Mobile Home Park": Any single, planned contiguous development, lot, area, piece, parcel or plot of ground, park or site of at least five (5) acres in area wherein ten (10) or more lots have been designated and improved, the purpose of which shall be residential mobile home. A house trailer space or mobile home space means a plot of ground within a Mobile Home Park designed for the accommodation of one mobile home, complete with a pad, all utility hookups, and sufficient off street parking.

65. "Modular/Manufactured Housing Unit":
- a. A factory-built structure which is to be used as a place for human habitation which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development; or
 - b. A modular housing unit as defined in Section 71-1557 bearing the seal of the Department of Health. The term "manufactured home" shall not include a mobile home.
66. "Motel": A building containing one or more sleeping rooms to be rented on a daily basis, primarily to the motoring public, together with parking area, recreation space, vending machines, but not including restaurants, clubs, or other retail sales.
67. "Motor Hotel": A building containing twenty-five (25) or more sleeping rooms for the traveling public, and including restaurant facilities, and other accessory uses.
68. "Net Metering": A utility policy for customers in which a property owner utilizes one or a combination of alternative energy sources including Wind, Solar, Geothermal, Biomass, or Methane, to generate a portion or all of their electrical energy needs for their home or business. If the property owner is able to generate more power than needed for the home or business, the local utility company is required by Nebraska Law to purchase the "extra" or excess electrical power from the property owner.
69. "Nursing Home": Any structure used or occupied by persons recovering from illness or suffering from infirmities of old age.
70. "Non-Conforming Use, Building or Yard": A use, building or yard, which does not, by reason of design, use or dimensions, conform to the regulations of the district in which it is situated. It is a legal non-conforming use if established prior to the passage of this Ordinance.
71. "Parking Space, Off-Street": For the purposes of this ordinance, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room.
72. "Parking Lot": An area consisting of three or more vehicle parking spaces together and access to a street or alley and permitting ingress and egress for a vehicle, provided that there shall be no storage of vehicles for the purpose of sale or resale in any residential district.
73. "Parking Lot Improvements": Includes any upgrades, alterations, additions, or reconstruction made to an off-street parking lot including drainage, curbing, digging, compacting, installation of additional parking spaces, lighting or landscaping.
74. "Parking Lot Maintenance": The upkeep and maintenance of any off-street parking lot including scraping, repacking, bringing in more gravel or rock, chip-sealing, and landscaping. May also include overlaying, sealing, painting, or sweeping of hard surfaced lots.
75. "Patio or Terrace:" A level, landscaped and/or surfaced area directly adjacent to a principal building at or within three feet of the finished grade and not covered by a permanent roof.
76. "Personal Storage Facility." Any non-commercial building or structure used for the storage of vehicles, boats, trailers, or any other property that is owned by the same owner of such structure.
77. "Personal Workshop." Any non-commercial building or structure that is used to make or repair items for personal recreation and wherein such items are not sold to other persons.
78. "Place": An open, unoccupied space other than a street or alley permanently established or dedicated as the principal means of access to property abutting thereon.

79. "Porch:" A roofed open area, which may be screened, usually attached to or part of and with direct access to or from a building. A porch becomes a room when the enclosed space is heated or air-conditioned and when the percentage of window to wall area is less than 50 percent.

80. "Principal Activity": An activity which fulfills a primary function of an establishment, institution, household, or other entity.

81. "Principal Building": A main building or other facility which is designed for or occupied by a principal activity.

82. "Private Storage Unit": Leased or rented facilities for the storage of personal property, such as cars, boats, campers, other recreational equipment, furniture, or other personal property, by individuals. Storage of commercial or industrial raw materials, commodities, or products is not permitted nor is storage of salvage items or junk, or any type of hazardous material.

83. "Office Buildings": A building designed for or used as the offices of professional, commercial, industrial, religious, institutional, public or semi-public persons or organizations, provided no goods, wares or merchandise shall be prepared or sold on any premises except that a portion of an office building may be occupied and used as a drug store, barber shop, cosmetologist shop, cigar stand or newsstand, when such uses are located entirely within the building with no entrance from the street.

84. "Recreational Vehicle": A vehicular type structure, primarily designed as temporary living quarters for travel, recreational, camping, or vacation use, which either has its own motive power or is mounted on or drawn by another vehicle which is self-propelled. The term recreational vehicle shall include travel trailer, camping trailer, truck camper, and motor home.

85. "Recycling Center": A facility which accepts salvage material limited to paper, aluminum foil, containers made of glass, plastic, metal, aluminum, and paper; and similar household wastes. No hazardous material as defined by state and federal law is accepted. There is no wrecking or dismantling of salvage material and no salvage material is held outside a building.

86. "Signs": Any words, numerals, figures, devices, designs or trademarks by which information is made known to the public outside a building.

87. "Special Use": A special use is a use that would not be appropriate generally or without restriction throughout the zoning division or district but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare.

88. "Square Footage": Square footage shall be determined from the measurements on a plot plan or site plan which shall provide the dimensions of the structure or property. Such dimensions for purposes of determining square footage of structures shall be from the exterior surface of outside walls.

89. "Stable, Private": An accessory building for the keeping of horses, ponies, mules or cows, owned by occupants of the premises, and not kept for remuneration, hire or sale.

90. "Stable, Public": A stable other than a private or riding stable as defined herein.

91. "Stable, Riding": A structure in which horses, or ponies, used exclusively for pleasure riding or driving, or housed, boarded, or kept for remuneration, hire or sale.

92. "Story": A portion of a building between the surface of any floor and the surface of the floor next above it, provided that the following shall not be deemed a story:

- a. A basement or cellar if the finished floor level directly above is not more than six feet above the average adjoining elevation of finished grade.
- b. An attic or similar space under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such space.

93. "Street": A thoroughfare which affords principal means of access to property abutting thereon.

94. "Street Line": The dividing line between the dedicated street right-of-way and the abutting property line.
95. "Structure": Any facility which is constructed or erected, and which is located on the ground or is attached to something having location on the ground.
96. "Structural Alterations": Any alteration involving a change in or addition to the supporting members of a building, such as bearing walls, columns, beams or girders.
97. "Surface Material": Hard surface shall mean an all-weather surface consisting of asphalt, concrete, paving rock or brick. Gravel shall mean loose fragments of rock or pebbles. Dirt shall mean un-surfaced area free of vegetation.
98. "Temporary Housing Units": Include travel trailers, campers or self-contained motor homes not exceeding eight (8) feet in width, nor thirty-two (32) feet in length.
99. "Townhouse": One of a group or row of not less than two (2) nor more than twelve (12) attached, single family dwellings designed and built as a single structure facing upon a street in which the individual townhouse may or may not be owned separately. For the purpose of the side yard regulations, the structure containing the row or group of townhouses shall be considered as one building occupying a single lot.
100. "Use." Any activity, occupation, business, or operation carried on, or intended to be carried on, in a building or structure, or on a tract of land.
101. "Variance": Relief from a variation of the provisions of these regulations, other than Use Regulations, as applied to a specific piece of property, as distinct from rezoning, as further set out hereinafter in Powers and Duties of the Board of Adjustment.
102. "Vehicle": A machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners, or slides to transport persons or property, or pull machinery and shall include, without limitation, automobile, truck, trailer, motorcycle, tractor, buggy, or wagon.
103. "Wind Energy Conversion System (Commercial)": A wind energy conversion system under common or aggregated ownership or operating control that includes substations, MET towers, cables/wires and other building accessories, whose main purpose is to supply electricity to off-site customers.
104. "Wind Energy Conversion System (Small)": A wind energy conversion system which has a rated capacity of up to Twenty-Five (25) kilowatts and which is incidental and subordinated to another use of the same parcel. A system is considered a small wind energy system only if it supplies electrical power for site use, except that when a parcel on which the system is installed also received electrical power supplied by a utility company, access electrical power generated and not presently needed for onsite use may be sold back to the utility company. *(25 Kilowatt limit approved by the Kimball Planning Commission and City Council may be increased to a maximum of 100 Kilowatts with Nebraska State Legislature authorization by future amendment)*
105. "Yard": Open space that is unobstructed except as specifically permitted in this ordinance and that is located on the same lot as the principal building.
106. "Yard, Front": A yard the full width of the lot extending from the front line of the main building to the front line of the lot.
107. "Yard, Rear": A yard between the rear lot line and the rear line of the main building and the side lot lines.
108. "Yard, Side": A yard between the main building and the adjacent side line of the lot, and extending entirely from a front yard to the rear yard.