

## Attachment 1

### KEARNS CITY COUNCIL

ORDINANCE NO. 2024-06-02<sup>1</sup>

DATE: June 10, 2024

### AN ORDINANCE OF THE KEARNS CITY COUNCIL AMENDING ZONING PROVISIONS ON USES IN THE PUBLIC FACILITIES (PF) AND PUBLIC INSTITUTIONS (PI) ZONES

#### RECITALS

**WHEREAS**, the City of Kearns adopted a zoning ordinance pursuant to Utah Code Ann. Subsection 10-9a-102(2) and has authority to amend said zoning ordinance when it determines it is necessary; and

**WHEREAS**, the City of Kearns is a municipality and has authority to regulate land use standards in general pursuant to Utah Code Ann. Subsection 10-9a-104 (1); and

**WHEREAS**, the Council deems it necessary to amend its ordinances in order to allow for recreational facilities and accessory offices in the PF and PI Zones to reduce non-conforming uses in the community and further the goals of the adopted General Plan, including “Preserve and enhance recreational amenities and access to parks and open space.”

NOW, THEREFORE, BE IT ORDAINED BY THE KEARNS CITY COUNCIL AS FOLLOWS:

1. Section 19.38.030 is amended and read as attached hereto as **Exhibit A**. The amendments made Therein are designated by underlining the new words, with words being deleted designated by brackets with a line drawn through said words.

2. Severability. If a court of competent jurisdiction determines that any part of this Ordinance is unconstitutional or invalid, then such portion of this Ordinance, or specific application of this Ordinance, shall be severed from the remainder, which shall continue in full force and effect.

3. Effective Date. This Ordinance will take effect immediately upon posting and publication as required by law.

*[Execution on following page]*

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<sup>1</sup> File No.OAM2024-001167

ADOPTED AND APPROVED at a duly called meeting of the Kearns City Council on this 10<sup>th</sup> day of June 2024.

CITY OF KEARNS



By: Kelly Bush, Mayor

ATTEST:

APPROVED AS TO FORM:



City Recorder



City Attorney

Voting:

Council Member Bush voting	<u>Y</u>
Council Member Butterfield voting	<u>Y</u>
Council Member Peterson voting	<u>Y</u>
Council Member Schaeffer voting	<u>Y</u>
Council Member Snow voting	<u>Y</u>

*(Complete as Applicable)*

Date ordinance summary was published on the Utah Public Notice Website per Utah Code

§10-3-711: June 11, 2024

Effective date of ordinance: June 11, 2024

SUMMARY OF  
KEARNS CITY  
ORDINANCE NO. 2024-06-02

On JUNE 10, 2024, the Kearns City Council enacted Ordinance No. 2024-06-02, amending Section 19.38.030 of the Kearns zoning ordinance to allow for recreational facilities and accessory offices in the PF and PI Zones in order to reduce non-conforming uses in the community and to further the implementation of the Kearns General Plan.


CITY OF KEARNS

  
\_\_\_\_\_  
By: Kelly Bush, Mayor

ATTEST:

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Recorder

  
\_\_\_\_\_  
City Attorney

Voting:	
Council Member Bush voting	<u>Y</u>
Council Member Butterfield voting	<u>Y</u>
Council Member Peterson voting	<u>Y</u>
Council Member Schaeffer voting	<u>Y</u>
Council Member Snow voting	<u>Y</u>

A complete copy of Ordinance No. 2024-06-02 is available in the office of the Greater Salt Lake Municipal Services District, 2001 South State Street, N3-600, Salt Lake City, Utah.

**Meeting Body:** City of Kearns Council

**Meeting Date:** June 10, 2024

**Planner:** Kayla Mauldin, Senior Long Range Planner

**Project Name and File Number:** Amendment to Kearns Zoning Ordinance, Chapter 19.38 Public Facilities and Institutions Zones (OAM2024-001167)

**Project Type:**

- Amend Text Ordinance

**Areas Affected:** Kearns properties located within the PF or PI Zones

**Key Findings:**

- A few uses within the PF and PI Zones were made nonconforming when the Zoning Ordinance was amended in 2023. The proposed amendments located in Attachment 1 make additional uses permitted in the PF and/or PI Zones.

**Staff Recommendation:** Planning staff recommends that the Council adopt Chapter 19.38 amendments, with or without revisions.



GREATER SALT LAKE  
**Municipal Services  
District**

**SUMMARY**

On June 10th, 2024, planning staff will present amendments to Kearns Zoning Ordinance, Chapter 19.38 – Public Facilities and Institutions Zones, to the Council for consideration. A public hearing in front of the Planning Commission took place on June 3<sup>rd</sup>, 2024, and the Planning Commission has recommended that the Council adopt the amendments as drafted.

In 2023, Kearns adopted comprehensive revisions to Titles 18 and 19. When the comprehensive amendment occurred, a few uses within the PF and PI Zones were unintentionally made non-conforming. The proposed amendments located in Attachment 1 (Exhibit A) make additional uses permitted in the PF and/or PI Zones. Regular amendments to ordinances help to keep Kearns Municipal Code user-friendly, responsive to community needs, and compliant with Utah State Code.

The following amendments are being proposed:

- “Commercial Recreation” becomes a permitted use in the PF Zone.
- “Recreation Facility – Private, Public, or Commercial” becomes a permitted use in the PF Zone.
- “Offices, related to primary use” is added as a new permitted accessory use in both the PF and PI Zones.

**ATTACHMENTS**

The following attachments are included as supplementary materials to the end of this staff report:

- Adopting Ordinance and Proposed Amendments to City of Kearns Zoning Ordinance, Chapter 19.38 – Public Facilities and Institutions Zones.

## **BACKGROUND**

### Purpose of Proposed Amendments:

The Public Facilities (PF) and Public Institutions (PI) Zones accommodate public or quasi-public uses in Kearns. Properties in these zones host educational facilities, athletic fields, civic spaces, recreational facilities, and other related uses. Refer to Attachment 2 for a map of properties zoned PI and PF.

When Kearns adopted comprehensive revisions to its Zoning Ordinance in 2023, a few of the uses within the PF and PI Zones were inadvertently made non-conforming. A non-conforming use is a use that, "lawfully occupied a building or land at the time the ordinance codified in this Title became effective and which does not conform with the use regulations of the zone in which it is located" (Kearns Code 19.04.020). By Ordinance, non-conforming uses are allowed to continue in perpetuity, but there are restrictions regarding the expansion / enlargement of such uses or the structures that they occupy.

Kearns highly values its existing public and quasi-public institutions and facilities, and therefore wants to protect their ability to operate, expand, and remain sustainable in the long-term. The proposed amendments found in Attachment 1 make "Commercial Recreation", "Recreation Facilities", and "Offices" (accessory) permitted uses in both the PF and PI Zones. This makes existing non-conforming uses, including those located within the Utah Olympic Oval, permitted by right in the zones that they occupy. These amendments are intended to address the immediate needs of the community. Planning Staff anticipates returning to the Planning Commission and Council in the future to discuss long-range, strategic changes to the PF and PI Zones.

### Amendment Timeline:

The proposed amendments were introduced for the first time at the Planning Commission meeting on June 3rd, 2024. Planning staff's presentation of the proposed amendments was followed by a public hearing. There were no members of the public in attendance. After the public hearing, the Planning Commission made a recommendation that the Council adopt the ordinance amendments as drafted. The Council is expected to consider the proposed amendments at their June 10<sup>th</sup> meeting.

In the future, planning staff may bring Chapter 19.38 back to the Planning Commission and Council as a discussion item. Properties within the PF and PI Zones include the Olympic Oval, Kearns Oquirrh Park Fitness Center, and Oquirrh Hills Elementary School. The amendments proposed in Attachment 1 are intended to address the immediate issue of the non-conforming uses created by the 2023 ordinance amendments.

### State Code Requirements:

State Code Section 10-9a-501:503 outlines the process for amending municipal land use ordinances. The Planning Commission is responsible for holding a public hearing to consider any proposed land use ordinance or amendment. The hearing must be noticed consistent with State Code §10-9a-205. A hearing was held on June 3<sup>rd</sup>, 2024, and no comments were submitted by the public.

Utah Code 10-9a-511 controls a municipality's ability to regulate non-conforming uses.

### Decision-Making Authority:

The Kearns Council, as the municipality's legislative body, has the final authority to make a decision regarding the proposed ordinance amendments, after receiving a recommendation from the Planning Commission. On June 10<sup>th</sup>, the Council may:

- Adopt Chapter 19.38 amendments as drafted;
- Adopt Chapter 19.38 amendments with revisions; or
- Not adopt amendments to Chapter 19.38.

## **ORDINANCE CONTENT**

### Proposed Amendments:

Three amendments are proposed in order to reduce non-conformities in the PF and PI Zones. Proposed amendments include:

1. Changing "Commercial Recreation" from a prohibited to a permitted use in the PF Zone;
2. Changing "Recreation Facility – Private, Public, or Commercial" from a prohibited to a permitted use in the PF Zone;
3. Adding "Office - General, related to a primary use" as a new permitted use in both the PF and PI Zones.

The full amended language can be read in Attachment 1. The definitions of the affected uses are provided in Table 1.

Table 1: Associated definitions – proposed Kearns Code Chapter 19.38 amendments.

Use / Term	Definition (Kearns Code Chapter 19.04)	Related Amendment
Commercial Recreation	recreational facilities operated as a business and open to the general public for a fee, such as golf driving ranges and baseball batting ranges	In the Table of Uses, "Commercial Recreation" is changed from a prohibited (X) to a permitted (P) use in the PF Zone.
Recreation Facility - Commercial	a centrally or otherwise appropriately located place designed and equipped for the conduct of sports, informal recreation and/or leisure-time activities operated as a business on private or public property and open to the public for a fee	In the Table of Uses, "Recreation Facility - Commercial", "Recreation Facility – Private", and
Recreation Facility - Private	a centrally or otherwise appropriately located place designed and equipped for the conduct of sports, informal recreation and/or leisure-time activities operated on private property and not open to the public, including recreation facilities owned by a homeowners' or property owners' association for private use	"Recreation Facility – Public" are grouped together under the term, "Recreation Facility – Private, Public, or Commercial". This use category is changed from a prohibited (X) to a permitted (P) use in the PF Zone.
Recreation Facility - Public	a centrally or otherwise appropriately located place designed and equipped for the conduct of sports, informal recreation and/or leisure-time activities operated by a public agency and open to the public with or without a fee	
Office - General	a building offering executive, administrative, professional, or clerical services, or a portion of a building wherein services are performed involving predominately operations with limited client visits and limited traffic generated by employees and/or clients	In the Table of Uses, "Office-General" is added as a new accessory use, permitted (P) in both the PF and PI Zones.
Accessory Use	a use clearly incidental and subordinate to the existing primary use and customarily related to the primary use and located on the same lot or in the same building as the primary use	"Office-General" is listed as a new accessory use in the Table of Uses.
Non-Conforming Use	a use which lawfully occupied a building or land at the time the ordinance codified in this Title became effective and which does not conform with the use regulations of the zone in which it is located	Proposed amendments are recommended in order to reduce non-conformities in the PF and PI Zones.

## STAFF ANALYSIS

### Compatibility with Existing Plans and Ordinances:

The proposed amendments are minor and do not conflict with the vision of the adopted General Plan. Kearns' zoning districts were developed based primarily on the character areas (future land uses) determined in the General Plan. However, PF and PI Zones are spread throughout the identified character areas.

The Land Use Chapter of the General Plan includes the goal, "Preserve and enhance recreational amenities and access to parks and open space". The proposed amendments help provide for the sustainable, long-term operation of existing recreational facilities. Amendments may be presented to the Planning Commission and Council in the future to better align the PF and PI Zones with the vision of certain Character Areas within the City of Kearns (including the Recreation Hub).

### Consistency with State Code Requirements:

The proposed amendments maintain conformity with State Code. State Code controls a municipality's ability to regulate non-conforming uses. The City of Kearns does place some restrictions on the ability of non-conforming uses to expand. Modifying the list of permitted uses for the PF and PI Zones helps reduce non-conforming uses.

### Anticipated Impacts:

The proposed amendments impact the PF and PI Zones only. In total, 167.4 acres are zoned PF in Kearns (composing approximately 7.2% of Kearns' total land area). There are 210.8 acres zoned for PI (approximately 9.1% of Kearns' total land area). PF and PI Zones combined cover 378.2 acres within the City of Kearns.

The proposed amendments are not intended to introduce new uses to these zones, but to protect existing uses which had been made non-conforming by 2023 ordinance amendments. Existing recreational facilities within the PF Zone include the Olympic Oval, Kearns Oquirrh Park Fitness Center, Kearns Senior Center, and Kearns Recreation Center.

## STAFF RECOMMENDATION

MSD Planning Staff finds that the proposed amendments:

1. Support the vision of the Kearns General Plan;
2. Maintain conformity with Utah State Code; and
3. Reduce the number of non-conforming uses within the PF and PI Zones.

Given the above findings, staff recommends the following action:

**Adopt Kearns Code Chapter 19.38 amendments, as drafted in Attachment 1, with or without revisions.**



## **NEXT STEPS**

Once adopted by the Council, the ordinance amendments will take effect immediately upon posting and publication. The proposed ordinance amendments are text amendments ONLY, and do not include any revision to Kearns' official zoning maps. At a future date, planning staff anticipates proposing additional amendments to the PF and PI Zones to address key sites identified in the Kearns General Plan. The amendments introduced in June are intended only to address immediate needs: protecting the long-term viability of existing recreational spaces by reclassifying them as permitted uses instead of non-conforming uses.

# Exhibit A

## Chapter 19.38 Public Facilities and Institutions Zones.

### 19.38.010 -Purpose Of Provisions

Public Facilities and Institutions Zones are established to provide public or quasi-public uses.

- A. Public Facilities Zone (PF): The purpose of the PF zone is to provide areas for facilities owned by public and quasi-public entities which utilize relatively large areas of land. This zone is intended to provide immediate recognition of such areas on the official zoning map.
- B. Public Institutions Zone (PI): The purpose of the PI zone is to provide areas for educational institutions, municipal uses, and athletic facilities, whether publicly or privately owned, that host organized team sports. These uses utilize relatively large areas of land and are established for the health and betterment of the community at large. This zone is intended to provide immediate recognition of such areas on the official zoning map.

### 19.38.020 Scope

The provisions of this Chapter shall apply to any real property located in a PF or PI Zones as shown on the official zoning map. No building, structure or real property may be used, and no building or structure may be hereafter erected, structurally or substantially altered, or enlarged except as set forth in this Chapter. Such requirements shall not be construed to prohibit or limit other applicable provisions of this Title, this code, or other laws.

### 19.38.030 Schedule of Permitted Uses

- A. Schedule of Permitted Uses. The specific uses listed in the following schedule are permitted in the zones as indicated, subject to the general provisions, special conditions, additional restrictions, and exceptions set forth in this Title.
- B. Procedure for Multiple Uses (Combination of Uses). If a development proposal involves a combination of uses other than accessory uses as identified in Table 19.38.030, the more restrictive provisions of this Title shall apply. For example, if a portion of a development is subject to conditional use (“C”) approval and the other portion is subject only to permitted use (“P”) review, the entire development shall be reviewed and approved by the conditional use process.
- C. Abbreviations. The abbreviations used in the schedule mean:
  - 1. P = Permitted Use. This use is allowed in the zone but may be subject to additional restrictions and approval processes as provided in this Title.

2. C = Conditional Use. This use is conditional because of the unique characteristics or potential impacts on the municipality, surrounding neighbors, or adjacent uses, incompatibility in some areas of the zone, or compatibility only if special provisions or conditions are required to mitigate the detrimental impacts of the use. The Planning Commission is the land use authority for uses with this designation.
3. X = Prohibited Use. This use is prohibited in this zone. Any use not specifically identified in Table 19.38.030 is prohibited in this zone.

<b>Table 19.38.030 – Uses Allowed in the PF and PI Zones.</b>		
<b>Use Categories</b>	<b>PF</b>	<b>PI</b>
<b>AGRICULTURAL:</b>		
No Agricultural Uses are permitted in the PF or PI Zones.		
<b>RESIDENTIAL USES:</b>		
No Residential Uses are permitted in the PF or PI Zones.		
<b>RETAIL AND SERVICES:</b>		
Child Care	P	P
<b>FOOD AND DRINK:</b>		
See “Accessory Uses”		
<b>RECREATIONAL:</b>		
Commercial Recreation	<u>P</u> [ <del>X</del> ]	P
Private, Non-Profit Recreational Grounds and Facilities	P	P
Reception Center	P	P
Recreation Facility - Private, Public, or Commercial	<u>P</u> [ <del>X</del> ]	P
Theaters and Concert Halls, Indoor	X	C
<b>LODGING:</b>		
No Lodging Uses are permitted in the PF or PI Zones.		
<b>INDUSTRIAL:</b>		
No Industrial Uses are permitted in the PF or PI Zones.		
<b>INSTITUTIONAL USES:</b>		
Church, Synagogue, Mosque, Temple, Cathedral, or Other Religious Buildings	P	P
Cemetery	C	X
Community Garden	P	P
Hospital	P	P
Micromobility Support Infrastructure	P	P
Private or Charter School	C	C
Public Parks	P	P

Public School	P	P
Public Use	P	P
Solar Energy System, Accessory	P	P
Wind Energy System, Accessory	P	P
Wireless Telecommunication Facility	P	P
<b>PLANNED UNIT DEVELOPMENTS:</b>		
No Planned Unit Development Uses are permitted in the PF or PI Zones.		
<b>SPECIALTY:</b>		
Park and Ride	P	X
<b>ACCESSORY USES:</b>		
Sidewalk Displays and Cafes	P	P
Food Truck / Mobile Restaurant / Food Cart	P	P
Mobile Store	P	P
Recreational Areas and Facilities	P	P
Solar Energy Systems	P	P
Swimming Pools and Hot Tubs	P	P
<u>Office - General, related to primary use</u>	<u>P</u>	<u>P</u>
Temporary Uses, subject to 19.44.	P	P

**19.38.040 Development Standards**

Any development in the PF and PI Zones shall comply with the development standards of Table 19.38.040 and all other applicable standards in this Title.

<b>Table 19.38.040: Development Standards.</b>		
<b>Standard</b>	<b>PF</b>	<b>PI</b>
Minimum Lot Size, in square feet (sq. ft.) <sup>A</sup>	10,000	217,800 (5 acres)
Minimum Frontage, in feet (ft.)	NA	
Minimum Lot Width, in feet (ft.)		
Maximum Lot Coverage of Primary and Accessory structures Combined, in square feet (sq.ft.)	40%	
Maximum Height, <i>Primary buildings</i> (in feet) <sup>B</sup>	35'	
Maximum Height, <i>Accessory structures</i> (in feet)	20'	

- A. Multiple parcels that are part of the same public facility “campus” may be combined in calculating the lot area.
- B. Public or Quasi-Public Buildings may be allowed additional height at a ratio of one (1) additional foot for every five (5) feet of additional setback above the minimum from the nearest adjoining residential use. In no case may the building height exceed sixty-five feet (65’).

**19.38.050 Required Yards and Setbacks**

Any development in the PF or PI Zones shall comply with the yard and setback standards shown in Table 19.38.050 and all other applicable standards in this Title.

Table 19.38.050: Yard and Setback Standards.		
Standard	PF	PI
Minimum Front Yard Setback, in feet (ft.)	25'	
Minimum Rear Yard Setback, in feet (ft.)	25'	
Minimum Side Yard Setback, in feet (ft.) - <i>Primary buildings</i>	20'	
Minimum Side Yard Setback, in feet (ft.) - <i>Accessory structures of 120 sq ft or less</i>	6'	
Minimum Side Yard Setback, in feet (ft.) - <i>Accessory structures Greater than 120 sq.ft.</i>	10'	

**19.38.060 Additional Standards**

It is the responsibility of the applicant to comply with all other standards of Title 19 and all other municipal ordinances.