

CITY OF KEARNS

Ordinance No. 2024-05-01

Date: May 13, 2024

AN ORDINANCE OF THE KEARNS CITY COUNCIL READOPTING PORTIONS OF THE SALT LAKE CODE OF ORDINANCES AS PART OF THE KEARNS MUNICIPAL CODE

RECITALS

WHEREAS, the City of Kearns (“**Kearns**”) is a municipality and political subdivision of the State of Utah; and

WHEREAS, on January 1, 2017, Kearns incorporated as a metro township, a third form of municipal government along with cities and towns; and

WHEREAS, during the 2024 legislative session, the Utah Legislature passed H.B. 35, which converted the metro townships of Copperton, Emigration Canyon, Kearns, Magna, and White City into cities and towns based on their populations effective May 1, 2024; and

WHEREAS, previously, when Kearns was a metro township, 10-2a-414(3) of the Utah Code required Kearns to rely on each Salt Lake County ordinance in effect on the date of Kearns incorporation as a metro township in 2017 until such time as Kearns amended or replaced the ordinance; and

WHEREAS, since its incorporation as metro township, Kearns has been working to restate the Kearns Municipal Code by methodically amending and replacing the ordinances it inherited from Salt Lake County upon its incorporation in 2017, including Title 2 (Administration and Personnel), Title 18 (Subdivisions), and Title 19 (Zoning); and

WHEREAS, because this restatement process is ongoing, the Kearns Municipal Code still utilizes portions of the Salt Lake County Code Kearns inherited upon its incorporation in 2017, which means that some portions of the Kearns Municipal Code refer to “Salt Lake County” or the “County” instead of Kearns; and

WHEREAS, on May 1, 2024, H.B. 35 repealed Utah Code § 10-2a-414(3), raising questions as to whether Kearns can continue to rely on the remaining Salt Lake County code provisions found within the Kearns Municipal Code; and

WHEREAS, the Kearns City Council (“**Council**”) intends to complete a comprehensive recodification of the Kearns Municipal Code to reflect its reclassification as a city and to amend or replace the remaining Salt Lake County ordinances it inherited upon its incorporation in 2017; and

WHEREAS, until the Council recodifies the Kearns Municipal Code, it desires to readopt the remaining portions of the Salt Lake County Code Kearns inherited upon its incorporation in 2017 until such time that it can amend, repeal, or replace such provisions.

BE IT ORDAINED BY THE KEARNS CITY COUNCIL as follows:

1. Section 1.01.010 (Adoption) of the Kearns Municipal Code is repealed and replaced as follows:

1.01.010 Adoption

The legislative body of Kearns has adopted the provisions of the Salt Lake County Code of Ordinances, 1986 that were in effect on January 1, 2017, when Kearns first incorporated as a municipality, and such ordinances shall remain in full force and effect except for those Salt Lake County ordinances that the legislative body of Kearns has amended, repealed, or replaced after January 1, 2017. If a conflict arises between a Salt Lake County Ordinance or an ordinance the legislative body of Kearns adopted after January 1, 2017, the ordinance adopted by the legislative body of Kearns shall govern and control.

2. Section 1.04.010 (Definitions and Rules of Construction) of the Kearns Municipal Code is repealed and replaced as follows:

A. *In the construction of the ordinances set out in this Code, and all subsequent amended ordinances, the following definitions shall be observed, unless such construction would be inconsistent with the manifest intent of the council, or repugnant to the context of the ordinance.*

1. *“Administration” means administrative services that Kearns provides, including any administrative services that Kearns’s contractors or agents may provide.*
2. *“Administrative Law Judge” means a person appointed by the Mayor or the Mayor’s designee to preside over administrative hearings as provided in Kearns Code, Title 1 and Title 12. An Administrative Law Judge shall be an attorney licensed to practice law in the State of Utah and must not be an employee of Kearns.*
3. *“Administrative Hearing” means a hearing held pursuant to the procedures established by Title 1, Chapter 16, or Title 12.*
4. *“Animal services” means the animal services Kearns provides through its contractors and agents.*
5. *“Assessor” or “County Assessor” means the elected assessor of Salt Lake County, Utah.*
6. *“Attorney” or “City Attorney” means the Kearns City Attorney.*
7. *“County Auditor” means the means the person who serves as elected auditor of Salt Lake County, Utah.*
8. *“Board of health” means the Salt Lake County board of health.*
9. *“Business” means any enterprise carried on the purpose of gain, economic profit, or nonprofit for which a business license is required.*

10. *“Business enterprise” means a sole proprietorship, partnership, association, joint venture, corporation, limited liability company, or other entity used in the carrying on of business.*
11. *“Clerk” means the person who serves as the recorder for Kearns.*
12. *“Code” means the ordinances of Kearns.*
13. *“Code Enforcement Official” means any person and the official’s designee authorized by Kearns to enforce civil compliance with code, policies, regulations, or applicable state code as provided in Title 12 or otherwise in the Code.*
14. *“Council” means the Kearns City Council.*
15. *“County” or “Salt Lake County” shall refer to Kearns except where the context would require otherwise.*
16. *“Disaster” means a sudden calamitous manmade, natural, or war-caused event bringing great damage, loss, or destruction.*
17. *“Deputy Mayor” or “mayor “Mayor Pro Tem” means that member of the Council who the Council has elected to serve in the Mayor’s absence.*
18. *“District attorney” means the elected attorney of Salt Lake County, Utah.*
19. *“Enforcement Action” or “action” means any action by Kearns to enforce compliance with any ordinance, policy, regulation, or applicable state statute, and includes a notice of violation, an administrative citation, departmental determination or board finding, and related order or corrective action. This term shall not include any criminal prosecution.*
20. *“Enforcement Official” means any person and the designee authorized by Kearns, including the planning director, zoning officers, police officers, building and engineering inspectors, animal control officers, human resource officers, and health department officials to enforce compliance with code, policies, regulations, or applicable state code.*
21. *“Fire department” means the department or entity authorized by Kearns to provide fire and emergency services to Kearns.*
22. *“General Rule” means that all words and phrases shall be construed and understood according to the common use and understanding of the language; the technical words and phrases; and such other words and phrases as may have acquired a particular meaning in law shall be construed and understood according to such particular meaning.*
23. *“Governing body” means the Council for legislative matters and the Mayor for executive matters.*
24. *“Health department” means the Salt Lake County health department.*
25. *“Hearing Officer” means any person assigned by Kearns to hear administrative appeals of enforcement actions or other actions taken by Kearns, including an Administrative Law Judge.*
26. *“Highway” or “public highway” means any public road, street, alley, lane, court, place, viaduct, tunnel, culvert, bridge, or other public way situated within Kearns, laid out or erected for public use, or dedicated or abandoned to the public, or made public in an action for the partition of real property, including the entire area within the right-of-way.*
27. *“Justice Court Services” means the justice court, municipal prosecution, and indigent defense services authorized for Kearns.*

28. *“Kearns” or “the municipality” means the City of Kearns, Utah.*
29. *“Knowingly” means intentionally or with intent, or willfully with respect to the nature of the conduct or the result of the conduct, when it is the conscious objective or desire to engage in the conduct or cause the result.*
30. *“Law” means applicable federal law, the United States Constitution, Utah Constitution, Utah Code, Salt Lake County ordinances, or the Code, and any rule or regulation promulgated thereunder.*
31. *“License” includes any certificate or license that Kearns may issue.*
32. *“License official” means the director of Kearns’s planning and development services division or the director’s designee.*
33. *“Local emergency” means the proclamation by the Mayor invoking special powers and the emergency operation plan as a result of a disaster, except the Mayor may not exercise powers to respond to a pandemic or an epidemic.*
34. *“May” means an action that is authorized or permissive.*
35. *“May not” means an action that is not authorized and is prohibited.*
36. *“Mayor” means the Mayor of Kearns.*
37. *“Metro township” means the City of Kearns.*
38. *“MSD” means the Greater Salt Lake Municipal Services District” that is the local district that operates pursuant to Title 17B-, Chapter 1, Section 101 et seq., Utah Code, and provides municipal services to Kearns.*
39. *“Municipality” means the City of Kearns as provided in Utah Code § 10-1-201.5.*
40. *“Municipal services district” means the MSD, which provides one or more of the services to its members, including administration, planning and development, animal services, municipal parks, public works operations and engineering, justice courts, and legal services as permitted by applicable law.*
41. *“Offense” means again act, action, or conduct prohibited by this Code or the failure to perform any acts required by this Code.*
42. *“Order” means any Kearns order including a stop work order, notice of non-compliance, clean-up order, abatement action, revocation or suspension of a license or permit, assessment of charges or costs, notice of zoning violation, seizure of any animal or property, Code enforcement order relating to the occupancy of any structure or building, any written disciplinary action, the assessment of any costs or non-criminal penalty, or any other action seeking the cessation of any business or operation.*
43. *“Owner” applied to a building or land, means and includes any part owner, joint owner, tenant in common, joint tenant or less of the whole or of any part of the building or land.*
44. *“Parks and recreation” means the land and activities in Kearns that are serviced by Salt Lake County Parks through the Municipal Services District.*
45. *“Person” means any natural person, firm, joint venture, joint stock company, partnership, association, club, company, corporation, bodies politic, business trust, organization, or the manager, lessee, agent, officer, or employee of any of them, or any individual, partnership, association, corporation, or group of individuals, however styled or designated, and any other entity that is recognized by law as the subject of rights or duties, or who represents or is the agent of such person.*


46. *“Personal property” means and includes money, goods, chattels, things in action, and evidences of debt.*
47. *“Plan” or general plan means the Kearns General Plan.*
48. *“Planning and development” means the services provided to Kearns by the MSD.*
49. *“Police Department” means the department or entity authorized to provide law enforcement and police services to Kearns.*
50. *“Policy and Procedures” means a written statement formally adopted by the Council providing for the implementation of ordinances, powers and duties for Kearns’s governance and administration.*
51. *“Property” means and includes real and personal property.*
52. *“Property Owner” means the record owner of real property as shown on the records of the Salt Lake County Recorder.*
53. *“Public Works” means Kearns’s operations and engineering services.*
54. *“Real property” means the means and includes lands, tenements, and hereditaments.*
55. *“Recorder” means the person who serves as the Recorder of Kearns.*
56. *“Responsible Person” or “responsible party” means the person determined by Kearns who is responsible for causing, maintaining, or remedying a violation of the Kearns Code, policies, regulations, or applicable state codes. The term “responsible person” shall include a property owner, agent, tenant, lessee, occupant, business owner, business manager or employee, architect, builder, contractor, or other person who individually or together with another person is responsible for the violation of any provision of the Kearns Code, policies, regulations, or applicable state codes.*
57. *“Shall” means an action that is required or mandatory.*
58. *“Sheriff” means the Salt Lake County Sheriff.*
59. *“State” means the state of Utah.*
60. *“Street” includes alleys, lanes courts, boulevards, public ways, public squares, public places, sidewalks, gutters and culverts, crosswalks, and intersections.*
61. *“Surveyor” means the person who serves as the surveyor for Kearns.*
62. *“Tenant” or “occupant,” applied to a building or land, means and includes any person who occupies the whole or any part of such building, either alone or with others.*
63. *“Treasurer” means the person who serves as the treasurer for Kearns.*
64. *“Year” means a calendar year unless specified otherwise.*
65. *“Will” means an action that is required or mandatory.*

3. Effective Date. This Ordinance is assigned Ordinance No. 2024-05-01 and shall take effect as soon as it shall be published or posted as required by law, deposited, and recorded in the office of the City Recorder.

[Execution on following page]

ADOPTED AND APPROVED at a duly called meeting of the Kearns City Council on this 13th day of May 2024.


CITY OF KEARNS


By: Kelly Bush, Mayor

ATTEST:


City Recorder

APPROVED AS TO FORM:


City Attorney

VOTING:

Council Member Bush voting	<u>Yea</u>
Council Member Butterfield voting	<u>Yea</u>
Council Member Peterson voting	<u>Yea</u>
Council Member Schaeffer voting	<u>Yea</u>
Council Member Snow voting	<u>Yea</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
CITY OF KEARNS
ORDINANCE NO. 2024-05-01

On May 13, 2024, the Kearns City Council enacted Ordinance No. 2024-05-01, following the adoption of H.B. 35 and the repeal of Utah Code § 10-2a-414(3) to re-adopt the remaining portions of the Salt Lake County Code of Ordinances that Kearns inherited upon its incorporation on January 1, 2017, and that are found within the Kearns Municipal Code until the Kearns City Council amends, repeals, or replaces such ordinances.

CITY OF KEARNS




By: Kelly Bush, Mayor

ATTEST:

APPROVED AS TO FORM:



City Recorder



City Attorney

Voting:

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

A complete copy of Ordinance No. 2024-05-01 is available in the office of the Kearns City Recorder, 2001 South State Street, N2-700, Salt Lake City, Utah.