

KEARNS CITY COUNCIL

ORDINANCE NO. 2024-06-03¹

DATE: June 10, 2024

**AN ORDINANCE OF THE KEARNS CITY COUNCIL
AMENDING MISCELLANEOUS PROVISIONS IN SUBDIVISION
AND ZONING ORDINANCES (TITLES 18 AND 19)**

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 improve land use ordinance usability, responsiveness to community needs, and compliance with Utah State Code.

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

1. Titles 18 and 19 are amended and read as attached hereto as **Attachments 1 and 2.**
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]

¹ File No. OAM2024-00140

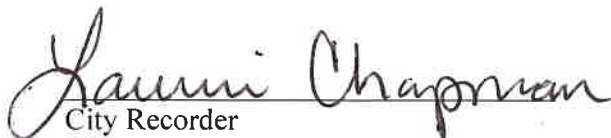
ADOPTED AND APPROVED at a duly called meeting of the Kearns City Council on this 10th day of June 2024.

CITY OF KEARNS


By: Kelly Bush, Mayor

ATTEST:

APPROVED AS TO FORM:


City Recorder



City Attorney

Voting:

Council Member Bush voting
Council Member Butterfield voting
Council Member Peterson voting
Council Member Schaeffer voting
Council Member Snow voting

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(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. 2024-06-03

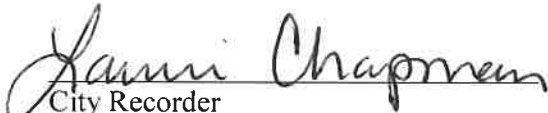
On June 10, 2024, the Kearns City Council enacted Ordinance No. 2024-06-03, amending Titles 18 and 19 of Kearns Municipal Code to remove references to "Kearns Metro Township", update the definition of "Bed and Breakfasts", clarify standards related to Storage and Salvage Yards, and remove inconsistencies in setback standards related to PUDs.


KEARNS CITY COUNCIL


By: Kelly Bush, Mayor

ATTEST:

APPROVED AS TO FORM:


City Recorder


City Attorney

Voting:

Council Member Bush voting
Council Member Butterfield voting
Council Member Peterson voting
Council Member Schaeffer voting
Council Member Snow voting

5/5/24

Attachment 1

Title 18 Miscellaneous Changes

The following amendments to Kearns Municipal Code Title 18 are proposed. Standards in Title 18 that are not presented in this document will not be effected by the proposed amendments.

18.04.040 Development Agreements

- A. The developer/property owner and the municipality may choose to enter into a development agreement that outlines the duties, responsibilities, obligations, commitments and promises of the developer/property owner and the commitments of the municipality.
- B. A development agreement does not exempt a developer/property owner from complying with this Title or any part of the Development Code unless such an exemption is clearly contained within the executed development agreement and the Council has approved the development agreement after the planning commission has held a public hearing and provided a recommendation.
- C. If a development agreement restricts an applicant 's rights under clearly established state law, the municipality shall disclose in writing to the applicant the rights of the applicant the development agreement restricts.
 - 1. It is the policy of ~~Kearns Metro Township~~the City of Kearns that if the municipality fails to disclose a restricted right in accordance with State Code, the entirety of the development agreement shall be considered null and void. The developer and municipality may choose to enter into a new agreement.
- D. The development agreement shall be recorded by the municipality in the Salt Lake County Recorder's Office. Recordation by the municipality may only take place after all of the necessary signatures are obtained, all approvals given, and all bonds and fees posted. The development agreement must be recorded prior to the recording of the final plat. The ~~Kearns Metro~~City of Kearns Council may approve a development agreement as a legislative action. Consideration of a development agreement is separate from any consideration of a preliminary or final subdivision application or plat.
- E. Any development agreement entered into by a developer/property owner and ~~Kearns Metro Township~~the City of Kearns shall comply with the provisions identified in Utah Code §10-9a-532.

18.10.040 Final Plat Required Information

The final plat shall be prepared by a professional land surveyor licensed in Utah on a sheet of approved reproducible Mylar and made with approved waterproof black ink. The plat shall be oriented so that the top of the sheet is either north or east, whichever accommodates the drawing best. All text shall be a minimum of one-tenth inch in size. The plat shall contain all information required on the preliminary plat with the exception of contours and construction information, utilities (except existing and proposed fire hydrants), structures and fences (unless called monuments).

A. Description and Delineation. The final plat shall show:

1. The approved name of the subdivision;
2. North arrow and graphic scale. The minimum scale is 1"=100';
3. A legend defining all lines and symbols used on the plat;
4. Lot addresses, and approved street names and numbers;
5. The plat drawing shall agree with the boundary description;
6. Accurate angular and lineal dimensions for all lines, angles and curves used to describe boundaries, streets, alleys, easements, areas to be reserved for public use and other important features. Boundaries, lots and streets shown as solid lines, with outside subdivision boundary lines indicated as a heavier, more substantial line than lot, street and easement lines. Easements shown as dashed lines;
7. The lengths of lot lines and boundary lines shown as decimals of a foot with a precision of 0.00'; Bearings and angles will be shown as Deg/Min/Sec with a precision of 0°00'00". Additional precision may be necessary to meet closure requirements;
8. Bearings and distance to provide a mathematical closure of 0.01' on exterior subdivision boundary and 0.02' or less, on all lots and centerline of streets;
9. Basis of bearing between two or more public land survey monuments or between identified monuments in a recorded subdivision or street dedication plat;
10. Survey ties to public land survey monuments, and where applicable, to identified monuments in a recorded subdivision or street dedication plat, showing measured and record, if different;
11. The accurate location of all survey monuments and fire hydrants to be installed shown by the appropriate symbol. All United States, state, county or other official benchmarks, survey monuments or triangulation stations in or adjacent to the property, shall be preserved in precise position and in compliance with Utah Code, §17-23-14 and Salt Lake County Ordinance, Chapter 14.17;
12. The clearly labeled point of beginning;
13. The sum of the lot distances along the exterior of the plat shall equal the subdivision boundary distance;
14. Existing and proposed streets within two-hundred feet (200') of the proposed subdivision boundary. Dimension street width and identified street ownership;

15. Recording information of adjoining subdivisions. Ownership with parcel identification numbers of adjoining lots and parcels;
 16. The dimensioned relationship between existing and proposed utility easements with proposed lot lines. Include recording reference(s) of existing easements and provide a utility approval line for proposed easements;
 17. All curve data, including radii, internal angles, points and curvatures, tangent bearings and length of all arcs, identified at correct location or in a curve table;
 18. Centerline control on existing streets, matching the County 's record data. New street monuments will be installed per the Salt Lake County Surveyor 's monument permitting process as specified in Salt Lake County Ordinance, Chapter 14-17;
 19. The dedication to the municipality of all streets and highways included in the proposed subdivision. Where it is proposed that streets be constructed on property controlled by a public agent or utility company, approval for the location, improvement and maintenance of such streets shall be obtained from the public agency or utility company and entered on the final plat in a form approved by the municipal attorney;
 20. Subdivision monuments shall be installed prior to the improvement bond release by the subdivider 's engineer or land surveyor at such points designated on the final plat as approved by Planning and Development Services. Standard precast monuments, rings and lids shall be installed through the Salt Lake County Surveyor monument permitting process (Salt Lake County Ordinance, Chapter 14.17);
 21. Physical markers shall be placed at each outside boundary corner, in accordance with state statutes and industry standards; and verified to be in their correct location(s) according to the plat;
 22. Physical markers shall be placed at each lot corner in accordance with state statutes and industry standards; and
 23. Accurate outlines and legal descriptions of any areas to be dedicated or reserved for public use, with the purposes indicated thereon, and of any area to be reserved by deed or covenant for common uses of all property owners.
- B. Boundary Description. The boundary description shall include:
1. A caption with reference to current vesting deed(s), location by Quarter Section, Township & Range, Base & Meridian, and if applicable, existing lot(s) and subdivision(s);
 2. A survey tie to an existing Public Land Survey monument, or a recognized street or
 3. Subdivision monument;
 4. All necessary bearings, distances and curve data to complete the description and provide a mathematical closure of 0.01 ' (one hundredth) of a foot or less;
 5. Narrative (bound) calls to and along adjoining subdivisions, parcels, streets, and rights of way as necessary to define the intent of the description;

6. Recording reference to any additional easements required for property access where applicable; and
 7. Total development area in square feet (0.00) and acres (0.000).
- C. Standard Forms for the Following. ~~Kearns Metro Township~~ The City of Kearns may adopt a template establishing the expected format of the final plat, which shall at a minimum require:
1. A Professional Land Surveyor 's certificate of survey;
 2. The owner 's certificate of dedication;
 3. A notary public 's acknowledgement;
 4. The land use authority 's certificate of approval;
 5. The health department 's certificate of approval;
 6. Planning and Development Service 's certificate of approval;
 7. The municipal attorney 's certificate of approval;
 8. The municipal mayor 's certificate of approval, witnessed by the municipal clerk / recorder;
 9. The County Surveyor 's record of survey acknowledgment block; and
 10. A one and one-half by five-inch (1.5" x 5") space in the lower right-hand corner of the drawing for the Salt Lake County Recorder 's use.

18.18.050 Petition To Vacate A Public Street

- A. In lieu of vacating some or all of a public street through a plat or amended plat in accordance with Utah Code, a legislative body may approve a petition to vacate a public street in accordance with this Section.
- B. Application. A petition to vacate some or all of a public street or municipal utility easement shall include:
 - 1. The name and address of each owner of record of land that is:
 - a. Adjacent to the public street or municipal utility easement between the two nearest public street intersections; or
 - b. Accessed exclusively by or within three hundred feet (300 ') of the public street or municipal utility easement.
 - 2. Proof of written notice to operators of utilities and culinary water or sanitary sewer facilities located within the bounds of the public street or municipal utility easement sought to be vacated; and
 - 3. The signature of each owner due notice who consents to the vacation.
- C. Notice. If a petition is submitted containing a request to vacate some or all of a public street or municipal utility easement, the Kearns Council shall hold a public hearing, giving notice of the date, place, and time of the hearing as follows:
 - 1. At least ten (10) days before the public hearing, the legislative body shall ensure that notice is:
 - a. Mailed to the record owner of each parcel that is accessed by the public street or municipal utility easement;
 - b. Mailed to each affected entity;
 - c. Posted on or near the public street or municipal utility easement in a manner that is calculated to alert the public; and
 - d. Publish notice on the ~~Kearns Metro Township~~City of Kearns website and the Utah Public Notice Website until the public hearing concludes.

Attachment 2

Title 19 Miscellaneous Amendments

The following amendments to Kearns Municipal Code Title 19 are proposed. Standards in Title 19 that are not presented in this document will not be effected by the proposed amendments.

19.04.050 Landscaping Definitions

A. Landscaping terminology used in Title 19 is defined as follows:

1. “Active Recreation Area” means an area that is dedicated to active play where turf grass may be used as the playing surface. Examples of active recreation areas include sports fields, play areas, and other similar uses.
2. “Bubbler” means an irrigation head that delivers water to the root zone by “flooding” the planted area, usually measured in gallons per minute. Bubblers exhibit a trickle, umbrella or short stream pattern.
3. “Check Valve” means a device used in sprinkler heads or pipe to prevent water from draining out of the pipe through gravity flow.
4. “Controller” means a device used in irrigation systems to automatically control when and how long sprinklers or drip systems operate.
5. “Drip Emitter” means drip irrigation fittings that deliver water slowly at the root zone of the plant, usually measured in gallons per hour.
6. “Grading Plan” means a plan that shows all finish grades, spot elevations, drainage as necessary and existing and new contours with the developed landscaped area.
7. “Ground Cover” means material planted in such a way as to form a continuous cover over the ground that can be maintained at a height not more than twelve inches (12”).
8. “Hardscape” means patios, decks and paths. Does not include driveways and sidewalks.
9. “Irrigation Plan” means a plan showing the components of the irrigation system with water meter size, backflow prevention, precipitation rates, flow rate and operating pressure for each irrigation circuit, and identification of all irrigation equipment.
10. “Landscape Architect” means a person who holds a professional license to practice landscape architecture in the State of Utah. Per Utah Code, licensed landscape architects, licensed architects, licensed land surveyors, and licensed engineers can professionally stamp plans that fall under the practice of landscape architecture. This includes commercial landscape and irrigation plans. ~~Kearns Metro Township~~ The City of Kearns has the authority to require that only a licensed landscape architect can stamp plans that fall under the practice of landscape architecture.

19.04.070 Use Definitions

A. Uses identified in Title 19 are defined as follows:

1. "Accessory Equipment" means the portion of the system including equipment sites, transformers, switchgear, pedestals, terminals, meters, buildings (substations), and other similar equipment that is normally installed aboveground in accordance with accepted practices of underground systems.
2. "Accessory Structure" means a detached subordinate building or structure the appropriate use of which is subordinate and customarily incidental to the primary building or to the main use of the land and which is located on the same lot or parcel of land with the primary building or use. Accessory structures include detached garages or carports, garden or storage sheds, and children's playhouses, but do not involve the conduct of a business.
3. "Accessory Dwelling Unit, Attached" means a habitable living unit attached to a primary single-family dwelling and contained on one lot for the purpose of offering a long-term rental of thirty (30) consecutive days or longer. An "Accessory Dwelling Unit, Attached" may include an addition to the footprint of the primary dwelling.
4. "Accessory Dwelling Unit, Detached" means a habitable living unit detached from a primary single-family dwelling and contained on one lot for the purpose of offering a long-term rental of thirty (30) consecutive days or longer.
5. "Accessory Dwelling Unit, Internal" means an accessory dwelling unit created:
 - a. Within a primary dwelling;
 - b. Within the footprint of the primary dwelling at the time the internal accessory dwelling unit (IADU) was created; and
 - c. For the purpose of offering a long-term rental of thirty (30) consecutive days or longer.
6. "Accessory Outside Storage" means the accessory location of any goods, wares, merchandise, commodities, or any other item outside of a completely enclosed building for a continuous period longer than twenty-four (24) hours. The area used for outdoor storage shall not constitute more than fifteen percent (15%) of the lot area. With the exception of retail sales displays in an approved commercial area, outdoor storage shall be screened from public view by a minimum six-foot (6') high opaque fence or, when outdoor storage occurs in a front yard, side yard, or any other location within the public view, a fence or screening of a height and material determined by the Planning Commission. The presence of hazardous materials, junk, junk cars, or debris not usually appurtenant to permitted on-site uses is prohibited. "Outdoor storage" as defined herein does not include construction yards, storage yards, or other storage uses where the storage of items outside of an enclosed building is a primary characteristic of the use. See "Storage Yard."
7. "Accessory Use" means 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.
8. "Agricultural Building" means a structure that is primarily associated with and supports agricultural use or activity but shall not be used for human occupancy and complying with the requirements of Utah Code. To qualify as an agricultural building the structure shall meet all

requirements of Utah Code, and be clearly associated with and necessary to support an agricultural use or activity.

9. "Agricultural Products Processing" means the processing of non-animal agricultural products including but not limited to the processing, cleaning, sorting, grading, packaging, or milling of products intended for human or animal consumption or use.
10. "Agricultural Sales" means the retail or wholesale sale of agricultural or horticultural products grown or raised on site and not produced or purchased from another location for resale. This use does not include the commercial slaughtering, processing, packaging, or sale of meat, poultry and dairy, concentrated animal feeding operation, or similar uses.
11. "Agriculture" means the tilling of the soil, the raising and harvesting of crops, horticulture and gardening, but not including the keeping or raising of domestic animals or fowl, except household pets, and not including any agricultural industry or business such as fruit-packing plants, fur farms, animal hospitals or similar uses.
12. "Agritourism" means a commercial enterprise linking agricultural production and/or processing with tourism in order to attract visitors onto a farm, ranch, or other agricultural business for the purposes of entertaining and/or educating the visitors and generating income for the farm, ranch, or business owner. This excludes guest ranches and other forms of overnight accommodation.
13. "Airport/Heliport" means an area used for the landing and takeoff of both fixed-wing aircraft and helicopters and buildings, structures, or other facilities associated with these activities, including taxiways, aircraft storage and tie-down areas, hangars, servicing, and passenger and freight terminals and used by commercial, private, or military aircraft.
14. "Animal Control or Rescue Facility" means a location, with buildings, structures, and holding facilities necessary to provide temporary housing and food for animals (primarily pets or companion animals) from abusive homes or homeless situations, rehabilitation (if the animal has health or behavior problems), or for treatment if the animal requires veterinary care. This may include publicly licensed facilities to detain and/or dispose of stray dogs, cats, and other animals.
15. "Animal Feeding Operation" means a facility that confines, feeds, and maintains domestic livestock in either an open or enclosed lot or space for a total of forty-five (45) days or more in any twelve (12) month period. The area(s) where the livestock are confined does not sustain crops, vegetation, forage growth, or post-harvest residues in the normal growing season. An AFO may also be a Concentrated Animal Feeding Operation ("CAFO" see CAFO). An AFO may be subject to the requirements of the Utah Pollutant Discharge Elimination System (UPDES).
16. "Animal Hospital or Clinic" means facilities for the diagnosis, treatment and hospitalization of domesticated animals in indoor holding facilities but does not include any outdoor holding or boarding facilities.
17. "Animal Hospital or Clinic with Outdoor Holding Facilities" means facilities for the diagnosis, treatment, hospitalization, and boarding of animals (including large animals) that may include indoor and/or outdoor holding and boarding facilities.
18. "Apiary" means the assembly of one or more colonies of bees at a single location. For regulations regarding the keeping of bees, see Chapter 19.42 of this Title.

19. "Assembly Use" means a business where finished parts are assembled to develop a final product. These uses include computer and electronic assembly, and similar uses, but do not include vehicle or manufacturing type uses.
20. "Assisted Living Facility" means either (i) a Type I Assisted Living Facility, which is a residential facility that supports activities of daily living and social care to two or more residents who require protected living arrangements and are sufficiently mobile to exit the facility without the assistance of another person; or (ii) a Type II Assisted Living Facility, which is a residential facility with a home-like setting that provides an array of coordinated supportive personal and health care services available twenty-four (24) hours per day to residents who have been assessed under Utah Department of Health and Human Services rules to need any of these services.
21. "Athletic Clubs" means an indoor establishment that provides for aerobic exercises, weightlifting, bodybuilding, running, exercise equipment, game courts, swimming facilities, saunas, spas, showers, and lockers. See "Recreation Facility, Commercial" and "Recreation Facility, Private".
22. "Bank" means the same as "Financial Institution."
23. "Bar" means a commercial establishment open to the general public which sells and serves intoxicating beverages for consumption on the premises, subject to the Utah Alcoholic Beverage Control Act.
24. "Bed and Breakfast" means ~~dwellings~~ a dwelling in which ~~two (2) or more rooms~~ up to fifteen (15) guest rooms are rented out by the day, offering overnight lodging to travelers, and where one or more meals are provided by the host family, the price of which is included in the room rate.
25. "Breweries and Distilleries in association with a Restaurant" means a business which conducts the retail sale of beer or liquor which is brewed or distilled on the premises in compliance with applicable state and federal laws. Such establishments may also include restaurants as an accessory use.
26. "Breweries and Distilleries, Industrial" means an industrial use that brews ales, beers, meads, and/or similar beverages on site. Industrial breweries and distilleries are engaged predominantly in manufacturing and do not include a bar or restaurant. Industrial breweries and distilleries may include incidental retail sales when permitted by the Department of Alcoholic Beverage Services.
27. "Boardinghouse" means a building with not more than five guestrooms, where, for compensation, meals are provided for at least five but not more than fifteen persons.
28. "Campground" means a public area designated by a public agency for camping, or a private area licensed by the local governing body for camping. "Campground" also includes any lot or parcel of land upon which two or more sites are located, established or maintained for occupancy by recreational vehicles for a fee as temporary living quarters for recreation or vacation purposes. This may include accessory facilities such as kitchens, pavilions, playgrounds, or storage for recreation equipment.
29. "Camping" means the use of any tent, trailer, lean-to, teepee, recreational vehicle, or similar non-permanent structure or vehicle for temporary living quarters for residential, recreation, education, or vacation purposes.

30. "Canopy" means a roofed structure supported by a building and/or supports extending to the ground directly underneath the canopy and providing a protective shield for service-station pump islands and walkways.
31. "Car and Light Truck Wash" means a facility with machine or hand-operated facilities used principally for the cleaning, washing, polishing, or waxing of automobiles and light trucks. A car and truck wash may be able to accommodate more than one vehicle at a time.
32. "Carport" means a private garage not completely enclosed by walls or doors. For the purpose of this Title, a carport shall be subject to all of the regulations prescribed for a private garage.
33. "Cemetery" means land used or dedicated to the burial of the dead, including crematoriums, mausoleums, necessary sales, and maintenance facilities.
34. "Check Cashing" means cashing a check for consideration or extending a deferred deposit loan and shall include any other similar types of businesses licensed by the State pursuant to the Check Cashing Registration Act. Check cashing does not include the activities of depository institutions or persons who cash a check in a transaction that is incidental to the retail sale of goods or services for consideration that does not exceed the greater of one percent of the amount of the check or three dollars.
35. "Child Care" means the provision, day or night, of supplemental parental care, instruction, and supervision for a non-related child or children, on a regular basis, and for less than twenty-four (24) hours a day. The term does not include babysitting services of a casual, non-recurring nature, or in the child's own home or cooperative, or reciprocative childcare by a group of parents in their respective domiciles.
36. "Child Care Center" means a facility, operated by a person qualified and licensed by the State of Utah, which provides children with daycare and/or preschool instruction as a commercial business and complying with all applicable state standards and licensing and having regularly scheduled, ongoing enrollment for direct or indirect compensation that provides childcare for less than twenty-four (24) hours per day. "Commercial Daycare Facilities" excludes the following:
- a. Kindergartens or nursery schools or other daytime programs operated by public or private elementary or secondary schools or institutions of higher learning;
 - b. Facilities operated in connection with a fitness center, shopping center, or other activity where children are cared for temporarily while parents or custodians of the children are occupied on the premises or are in the immediate vicinity and readily available; or
 - c. Special activities or programs, including athletics, crafts instruction, and similar activities, are conducted on a periodic basis by civic, charitable, private, or governmental organizations.
37. "Child Care, Home" means the same as "Home Daycare" and includes the following:
- a. "Child Care, Licensed Family" means the provision of childcare for sixteen or fewer children, including the provider's children who are under the age of thirteen, in the home where the caregiver resides, in the absence of a child's parents, for four (4) or more hours but less than twenty-four (24) hours, on a regularly scheduled, ongoing basis. A "Child Care, Licensed Family" is subject to licensing by the Utah Department of Health and Human Services.

- b. "Child Care, Residential" means the provision of childcare for eight or fewer children, including the provider's children, who are under the age of thirteen, in the home where the caregiver resides, in the absence of a child's parents, for less than twenty-four (24) hours, on a regularly scheduled, ongoing basis. A "Child Care, Residential" is subject to licensing by the Utah Department of Health and Human Services.
38. "Church, Synagogue, Mosque, Temple, Cathedral, or Other Religious Buildings" means a building, with accessory structures and uses, where persons regularly assemble for religious purposes and related social events and which building, with accessory structures and uses, is maintained and controlled by a religious body organized to sustain religious ceremonies and purposes.
39. "Club" means a building used, occupied, and operated by an organized association of persons for social, fraternal, religious, or patriotic purposes, whose activities are confined to the members and their guests, but shall not include any organization, group, or association, of which the principal activity is to render a service usually and ordinarily carried on as a business. A club may also be a bar, subject to the Utah Alcoholic Beverage Control Act.
40. "Commercial Plant Nursery" means a business where young plants or trees are raised for experimental horticultural purposes, for transplanting, or for sale.
41. "Commercial Recreation" means recreational facilities operated as a business and open to the general public for a fee, such as golf driving ranges and baseball batting ranges.
42. "Community Garden" means the production of a harvestable product, planted, grown, and cultivated in the soil by an identifiable group of community members. Includes products grown and managed by a community or neighborhood organization for local consumption or sale.
43. "Concentrated Animal Feeding Operation" An Animal Feeding Operation (AFO) is a "Concentrated Animal Feeding Operation" ("CAFO") if it meets the regulatory definition of CAFO or if it is designated as a CAFO by the State of Utah. A CAFO is defined in 40 CFR 122.23 Appendix B as "an animal feeding operation where more than one thousand (1,000) 'animal units' (as defined by the regulation) are confined at the location; or more than three-hundred (300) animal units are confined at the facility and either one of the following conditions are met: pollutants are discharged into navigable waters through a man-made ditch, flushing system or other similar man-made devices; or pollutants are discharged directly into waters of the United States which originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation." ("Animal unit", for the purposes of an AFO being designated as a CAFO by the State of Utah, means a unit of measurement for any animal feeding operation calculated as per the Utah Administrative Code (UAC) R317-8-3.5 and used to determine if an operation meets the definition of a concentrated animal feeding operation). A CAFO is subject to the requirements of the Utah Pollutant Discharge Elimination System (UPDES).
44. "Contractor's Office" A facility providing building construction and maintenance, including carpentry, plumbing, roofing, electrical, air conditioning, and heating, within a fully enclosed building, and that may include the open storage of associated building materials, equipment, or vehicles.
45. "Contractor's Storage Yard" means the same as "Storage Yard".

46. "Corral" means a space, other than a building, less than one acre in area or less than one hundred feet in width, used for the confinement of animals.
47. "Correctional Facility" means any facility operated by or contracting with the Department of Corrections to house offenders in either a secure or non-secure setting; which includes any facility operated by a municipality or a county to house or detain criminal offenders, any juvenile detention facility, and any building or grounds appurtenant to the facility or lands granted to the state, municipality, or county for use as a correctional facility.
48. "Court" means an occupied space on a lot, other than a yard, designed to be partially surrounded by group dwellings.
49. "Crematorium" means a building that contains cremation chambers and a holding facility for human or pet remains, and which may receive remains from funeral establishments.
50. "Critical Infrastructure Materials" means sand, gravel, or rock aggregate.
51. "Critical Infrastructure Materials Operations" means the extraction, excavation, processing, or reprocessing of critical infrastructure materials.
52. "Critical Infrastructure Materials Operator" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, including a successor, assign, affiliate, subsidiary, and related parent company, that:
- a. Owns, controls, or manages a critical infrastructure materials operations; and
 - b. Has produced commercial quantities of critical infrastructure materials from the critical infrastructure materials operations.
53. "Dairy" means a commercial establishment for the manufacture or processing of dairy products.
54. "Drive-Thru and Drive-Up Facilities" means an establishment designed or operated to provide drive-through or drive-up service to patrons remaining in vehicles. "Drive-Thru and Drive-Up Facilities" may include other forms of service, such as conventional seating.
55. "Duplex" means the same as "Dwelling, Two Family."
56. "Dwelling, Manufactured Home" means a transportable factory-built housing unit constructed on or after June 15, 1976, according to the HUD Code, in one or more sections, that: (a) in the traveling mode, is eight body feet (8') or more in width or 40 body feet (40') or more in length, or when erected on site, is 400 or more square feet (400+ sq.ft.); and (b) is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems. A manufactured home shall be attached to a permanent foundation in accordance with plans providing for vertical loads, uplift, lateral forces, and frost protection in compliance with the ~~Kearns Metro Township's~~ City of Kearns's Building Code, as adopted. All appendages, including carports, garages, storage buildings, additions, or alterations shall be built in compliance with the ~~Kearns Metro Township's~~ City of Kearns's Building Code, as adopted.

19.18.040 Planned Unit Development Mixed Use

- A. In a PUD, vertical mixed-use is allowed in zones that allow both residential and commercial and/or office uses, provided it meets the following requirements, in addition to the other requirements in this Chapter. For purposes of this section, vertical mixed-use means commercial or office uses sharing the same building as residential uses. PUDs in mixed-use zones shall comply with the standards of that zone.
- B. The property is abutting or contiguous to a corridor as defined in the general plan, or major or minor arterial street.
- C. Commercial uses shall only be allowed on the first floor of buildings fronting on the street. Office uses may only be allowed on the first and second floor of buildings fronting on the street. Entrances to the first floor of these buildings shall front on the street. Windows shall make up at least fifty percent (50%) of street-facing facades of these floors. These floors shall have architectural differentiation from the other floors in the building.
- D. Parking is not allowed between the building(s) and the street.
- E. ~~The front yard setback shall be fifteen feet (15'), except as provided in Subsection (E), and the side and rear yards shall be twenty feet (20') minimum.~~ Corner lots are deemed to have two (2) front yards.
- F. ~~The front yard setback is the build-to-line. At least fifty percent (50%) of the front elevation of the building(s) must be built within ten feet (10') of the build-to-line or as approved by the Planning Commission. A build-to-line is defined as the line at which construction of a building façade is to occur on a lot, running parallel to the front property line, and ensuring a uniform (or more or less even) building façade line on the street.~~

19.42.090 Bed And Breakfast Inn

A bed and breakfast inn, where allowed as a permitted or conditional use in the applicable zone, is also subject to the following standards:

- A. The structure shall have a residential appearance;
- B. The structure shall be limited to a maximum of two (2) stories in height;
- C. The structure ~~must contain a minimum of five (5) guestrooms, but not more than fifteen (15)~~ may contain no more than fifteen (15) guestrooms.
- D. Guests using the accommodations or lodging must pay compensation;
- E. A bed and breakfast inn may not provide cooking facilities in any individual guestroom;
- F. The access to the site and the on-site parking shall be available for use and maintained, including snow removal, throughout the entire year; and
- G. A bed and breakfast inn located in the C-1, C-2, C-3, and NMU zones may include a restaurant and conference rooms.

19.42.330 Storage And Salvage Yards

A. Storage yards and salvage yards, when listed as a permitted or conditional use in the applicable zone, are subject to the following requirements:

- 1. No portion of the storage area shall be located within three hundred feet (300') of any residential zone or use lot line.
- 2. Any outdoor storage area shall be completely enclosed by a fence or wall no less than six feet (6') in height, constructed of a sturdy, durable material and sufficiently opaque to ensure that the stored material is not visible from outside the storage area. The fence or wall shall have a minimum of two (2) non-transparent gates not exceeding forty-eight feet (48') in width providing access to the storage area for vehicles but may not allow direct view of the storage area from adjacent properties or streets. Said fence or wall shall be continuously maintained in good condition and may contain only approved signs.
- 3. Each salvage or storage yard must include a masonry wall along the entirety of each street frontage. This wall shall be constructed at the front setback line required for buildings in the underlying zone. The storage or salvage area may not be closer to the street than the front facade of the building. The Director may accept a landscaped berm in lieu of the masonry wall if the height, width, and berm landscaping fully screen the storage or salvage areas. A berm allowed in lieu of a masonry wall shall include live plant material that covers no less than fifty percent (50%) of the berm with grasses, bushes, ground cover or tree canopies. Trees and bushes must be at least twenty five percent (25%) evergreen.

3.4. The surface of the storage or salvage yard shall be covered with an all-weather surface. Any stormwater or other runoff from the site shall be contained on the site and disposed of through an on-site drainage system, in conformance with applicable regulations to enforce the requirements of the National Pollutant Discharge Elimination Systems (NPDES) permit.

- 4.5. Stored materials may not be stacked higher than six feet (6') and shall be stored in a manner so as not to be visible from adjoining properties or rights-of-way. In no case may salvage or junk be stored at a height exceeding the height of the storage area fence or wall. Operational vehicles and motorized equipment are not subject to the height requirement for storage. No inoperable vehicle or equipment may be stored within the outdoor storage areas. Permitted salvage yards are the only allowable storage areas for inoperable vehicles or equipment.
- 5.6. Outdoor storage shall be kept and maintained in a neat and orderly manner. Outdoor storage may not include dirt, manure, gravel, rocks, sand, bark, or similar materials, unless the items are stored in bags, on pallets, or on other individually sealed containers.
- 6.7. A management office shall be provided on site. A caretaker unit may be permitted for security personnel or on-site operator.
- 7.8. Conditions within the storage area shall be controlled to minimize the hazards of fire and other threats to health and safety. ~~Conditions within the storage area shall be controlled to minimize the hazards of fire and other threats to health and safety.~~ Product, salvage, or other storage shall be stored in rows with a continuously looping drive aisles with a minimum width of twenty feet (20').
- 8.9. Requests for a permit for a salvage yard shall also require submission of a detailed proposal identifying the predominant type of salvage to be received, the methods of separation and/or recycling, and ultimate destination of all salvaged, recycled, and waste materials. The applicant shall submit written materials outlining measures taken to comply with all necessary state, county, and local laws.
- 9.10. All batteries shall be removed from any vehicle, and all radiator and fuel tanks shall be drained prior to the vehicle being placed in the storage yard. Salvaged batteries, oil and other such substances shall be removed by a licensed disposal company and be stored in a manner which prevents leakage of battery fluid. No fluids removed from vehicles may be applied as a dust control method, or otherwise allowed to be discharged upon the ground.
- 10.11. Vehicle parts may not be stored, loaded, unloaded, or dismantled outside the fence enclosing the salvage yard.
- 11.12. In order to protect surrounding areas, business operations, including loading and unloading operations shall be limited to daylight hours.

19.56.060 Permit Procedures

- A. Application. Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following submittals and information are required:
1. Plans drawn to scale showing the location, dimensions, and elevations of proposed landscape alterations;
 2. Plans drawn to scale showing the location, dimensions, and elevation of existing and proposed structures, including the placement of manufactured homes;
 3. Location of the foregoing in relation to SFHA's;
 4. Elevation, in relation to mean sea level, of the lowest floor (including basement and crawlspace) of all new and substantially improved structures;
 5. Elevation, in relation to mean sea level, to which any nonresidential structure (if applicable) shall be floodproofed;
 6. A certificate from a registered professional engineer that the nonresidential floodproofed structure (if applicable) shall meet the floodproofing criteria of this chapter and the NFIP Regulations;
 7. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
 8. All other information that may reasonably be required by the Floodplain Administrator;
 9. Reasonable fees in accordance with the adopted fee schedule; and
 10. ~~Kearns Metro Township~~The City of Kearns shall become the owner of all Floodplain Development Permits and shall maintain a record of all such information in accordance with this chapter and the NFIP Regulations.

Meeting Body: City of Kearns Council

Meeting Date: May 20th, 2024

Planner: Kayla Mauldin, Senior Long Range Planner

Project Name and File Number: Miscellaneous Amendments to Titles 18 and 19 (OAM2024-00140)

Project Type:

- ☐ Amend Text Ordinance

Areas Affected: Entirety of the City of Kearns

Key Findings:

- The transition of Kearns from a Metro Township to a City necessitates minor amendments to ordinance language.
- Additional amendments seek to improve ordinance clarity and reduce contradictions.

Staff Recommendation:

Planning staff recommends that the Council adopt Title 18 and 19 miscellaneous amendments, with or without revisions.



Municipal Services District

SUMMARY

On May 20th, 2024, planning staff will present miscellaneous amendments to Titles 18 and 19 to the Council for consideration. A public hearing on the amendments was held on May 6th, 2024, and the Planning Commission gave a recommendation of adoption. Kearns adopted comprehensive revisions to Titles 18 and 19 in 2023. The minor amendments now being proposed by staff are part of an ongoing effort to keep Kearns Municipal Code user-friendly, responsive to community needs, and compliant with Utah State Code.

The following amendments are being proposed:

1. All instances of "Kearns Metro Township" within Titles 18 and 19 are replaced with "the City of Kearns".
2. The definition of "Bed and Breakfast" is updated in Sections 19.04.070 and 19.42.090 for consistency purposes.
3. New language is added to the specific use standards for Storage and Salvage Yards (19.42.330) to require surfaces of storage and salvage yards to be covered with an all-weather surface.
4. Setback standards specific to Mixed Use Planned Unit Developments (PUDs) are removed so that the PUD is subject to general perimeter setbacks and the right-of-way setbacks specified in the underlying zoning district.

ATTACHMENTS

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

1. Proposed Amendments to City of Kearns Title 18.
2. Proposed Amendments to City of Kearns Title 19.

**The attachments only show portions of Titles 18 and 19 that are proposed for amendment. The remaining portions of Titles 18 and 19 will not be effected.*

BACKGROUND

Purpose of Proposed Amendments:

When comprehensive revisions to Kearns Titles 18 and 19, Subdivision and Zoning Ordinances, were adopted in 2023, the intent was to:

1. Ensure compliance with State Code and recent legislation;
2. Encourage conformity with the adopted General Plan;
3. Promote ease of use for staff and residents; and
4. Preserve community character.

It is imperative that Kearns continues to periodically update its Municipal Code so that it continues to meet the above-stated objectives. The miscellaneous amendments proposed to Titles 18 and 19 were identified by staff during the application of Kearns ordinances. These proposed amendments are minor in nature but contribute to the responsiveness and usability of Kearns Municipal Code.

Amendment Timeline:

Kearns officially became a City on May 1st. This necessitated revision to ordinance language referring to "Metro Township". Needed additional amendments had been identified and recorded by staff during the past several months. These amendments were introduced for the first time at the Planning Commission meeting on May 6th, 2024. Planning staff's presentation of the proposed amendments was followed by a public hearing. No input from the public was received. The Commission has made a recommendation of adoption to the Council. At a special meeting on May 20th, the Council may vote to adopt, adopt with revision, or not adopt the amendments as drafted.

Methodology:

The proposed amendments to Titles 18 and 19 are minor in nature, and address "Metro Township" language or issues that staff discovered while applying the Subdivision and Zoning Ordinances. The full amendment language is available in Attachments 1 and 2, and additional detail is provided in Table 1 of this report.

State Code Requirements:

State Code Sections 10-9a-501:503 outline 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. Following the public hearing, the Planning Commission may make a recommendation to the Council regarding the adoption of the drafted ordinance amendments. Only the Council (as the legislative body) can make a final decision on the ordinances.

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. However, the Council must first receive a recommendation from the Planning Commission. On May 6th, the Commission made a motion to:

Recommend adoption of miscellaneous amendments to Titles 18 and 19 as drafted.

ORDINANCE CONTENT

Proposed Amendments:

Four amendments are proposed in order to improve the clarity, effectiveness, and responsiveness of Kearns' Subdivision and Zoning Ordinances. Proposed amendments include:

1. Changing all instances of "Kearns Metro Township" to the "City of Kearns";
2. Clarifying the definition of "Bed and Breakfast";
3. Adding standards for all-weather surfacing materials and stormwater capture to "Storage and Salvage Yards"; and
4. Eliminating separate setback standards for Mixed Use Planned Unit Developments.

The full amended language can be read in Attachment 1 (Title 18 – Subdivision Ordinance) and Attachment 2 (Title 19 – Zoning Ordinance). Each of the proposed amendments is described in further detail in Table 1 (on the next page).

Table 1: Staff Recommended Miscellaneous Amendments to Titles 18 and 19.

Section	Identified Deficiency	Proposed Solution
Titles 18 and 19: Subdivision and Zoning Ordinances, Entirety	Ordinances include a handful of references to "Metro Township", a form of government which no longer exists in Utah.	Change all instances of "Kearns Metro Township" to "City of Kearns".
Sections 19.04.070 and 19.42.090: Bed and Breakfasts	Staff identified a contradiction between the definition of "Bed and Breakfasts" in Chapter 19.04 and the specific use standards for Bed and Breakfasts in Chapter 19.42. The definition allowed Bed and Breakfasts to have 2 or more guestrooms, while the specific use standards required a Bed and Breakfast to have between 5 and 15 guestrooms.	Change the definition of Bed and Breakfasts to include up to 15 guestrooms (19.04.070). Update the specific use standards to indicate the same. Lodging that does not fit the definition of Bed and Breakfast, including lodging with more than 15 guestrooms, would fall under the definition of "Hotel" and be subject to a different set of standards. Staff elected to preserve the more restrictive limit on guestrooms (up to 15) as had been articulated in the specific use standards).
Section 19.42.330: Storage and Salvage Yards	A standard related to surfacing and stormwater capture for storage and salvage yards was located in Section 19.42.340, but not carried over to 19.42.330 which directly addresses storage and salvage yards.	Copy the language related to all-weather surfaces and stormwater capture from 19.42.340 and add it to standards for 19.42.330. This change improves clarity for staff and applicants.
Section 19.18.040: Planned Unit Development Mixed Use	Setback provisions in 19.18.040 contradicted the standards of 19.18.030 and dictated a uniform setback regardless of the context of the underlying zoning district.	Eliminate the separate setback standards in 19.18.040. All PUDs would instead be subject to the 15' perimeter setback and the right-of-way setback specified in the underlying zoning district.

STAFF ANALYSIS

Compatibility with Existing Plans and Ordinances:

The proposed amendments are minor in nature and do not have a strong tie to the adopted General Plan. The amendment to the Mixed Use Planned Unit Development standards allows for the underlying zoning district to determine the project's setbacks. This is important for maintaining context-sensitive development. Kearns zoning districts were developed based on the character areas (future land uses) determined in the General Plan.

Consistency with State Code Requirements:

The proposed amendments maintain conformity with State Code; no provisions of State Code directly address the proposed amendments.

Anticipated Impacts:

The proposed amendments are intended to improve clarity and responsiveness of the Subdivision and Zoning Ordinances. Table 2 details the expected impact of each amendment.

Table 2: Anticipated Impacts of Proposed Miscellaneous Amendments to Titles 18 and 19.

Proposed Amendment	Anticipated Impact
Titles 18 and 19: Subdivision and Zoning Ordinances, Entirety – elimination of "Metro Township" language.	NA. Amendments reflect the new name of the City of Kearns.
Sections 19.04.070 and 19.42.090: Bed and Breakfasts – definition clarifications.	NA. Bed and breakfasts are allowed to have up to fifteen (15) guest rooms in existing code. This amendment removes the requirement for the minimum number of guest rooms and reduces contradictions between the two sections addressing Bed and Breakfasts. There are no Bed and Breakfasts currently advertised in Kearns.
Section 19.42.330: Storage and Salvage Yards – addition of standards for all-weather surfacing and stormwater capture.	Staff currently require Storage and Salvage Yards to provide all-weather surfacing and to contain stormwater and runoff. The anticipated impact of adding this language into Section 19.42.330, instead of just referring to 19.42.340, is to improve clarity for future applicants.
Section 19.18.040: Planned Unit Development Mixed Use – elimination of conflicting setback standards.	This amendment eliminates contradictions related to setbacks within the Planned Unit Development Chapter. The proposed changes would require Mixed Use Planned Unit Developments to conform with the right-of-way setback inherent in the underlying zone. The anticipated outcome is more context-sensitive development.

STAFF RECOMMENDATION

MSD Planning Staff has thoroughly reviewed the drafted amendments to Titles 18 and 19 of Kearns Municipal Code. Based on their review and analysis, staff finds that the proposed amendments:

1. Reflect the change of Kearns from a Metro Township to a City;
2. Minimize contradictions and inconsistencies between sections of code;
3. Improve clarity for applicants and planning staff; and
4. Enhance the code's responsiveness to the unique conditions of the City of Kearns.

Given the above findings, staff recommends the following action:

Adopt Title 18 and 19 miscellaneous amendments, as drafted in Attachments 1 and 2, with or without revisions as deemed necessary following the public hearing.

NEXT STEPS

At their May 20th meeting, the Council may adopt, adopt with revisions, or not adopt the proposed amendments to Titles 18 and 19. The amendments represent text amendments ONLY, and do not include any revision to Kearns' official zoning maps.