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City Manager
Kyler Ludwig
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Danielle Ramsay



City Council
Arlon Chamberlain
Scott Colson
Chris Heaton
Boyd Corry
Peter Banks

KANAB CITY PLANNING COMMISSION

26 North 100 East
Kanab, UT 84741

October 7, 2025

NOTICE is hereby given that the Kanab Planning Commission will hold its regular Commission Meeting on the 7th day of October 2025, in the City Council Chambers at the Kanab City Office located at 26 North 100 East in Kanab. The Planning Commission meeting will convene at 6:30 PM and the agenda will be as follows:

Agenda Items:

1. Call to Order and Roll Call
2. Approval of meeting minutes from July 1, 2025 and September 2, 2025
3. Public Comment Period – Members of the public are invited to address the Planning Commission. Participants are asked to keep their comments to 3 minutes and follow rules of civility outlined in Kanab Ordinance 3-601

Administrative Decision Items:

Legislative Decision:

1. **PUBLIC HEARING** Discuss and recommend a text amendment to Kanab City's Land Use Ordinance Chapter 17 Single Family Zones, chapter 19 MH-KCR Zone and General Ordinance Section 13 Police and public Offenses. The purpose of the amendment is to discuss dog boarding parameters and requirements for residential areas.
2. **PUBLIC HEARING** Discuss and recommend a text amendment to Kanab City's General Ordinance Chapter 9 – Business Licenses. The purpose of the amendment is to discuss Special Events in city limits.
3. **Public Hearing** Discuss and recommend an application for a zone change on parcel K-45-9 from R-1-8 (Single Family) to RM (Multi-Family Zone). Parcel is located at 322 E 200 S [Applicant: Josh Beazer]

Work Meeting:

Staff Report:

Commission Member Report:

Council Member Liaison Report:

Times listed for each item on the agenda may be accelerated as time permits or may be taken out of order as moved upon by the commission. If you are planning to attend this public meeting and due to a disability need assistance in understanding or participating in the meeting, please notify the City eight or more hours in advance of the meeting, and we will try to provide whatever assistance may be required. Please contact the Kanab City Offices.

— A Western Classic —

Kanab City Planning & Zoning Commission Meeting
July 1, 2025
Kanab City Council Chambers
26 North 100 East
6:30 PM

Agenda Items:

1. Call to Order and Roll Call

In attendance – Commission Members Marlee Swain, Russ Whitaker, Dennis Shakespear, Nate Lyman, Mark Gilberg, Ben Aiken; Building/Land Use Administrator Janae Chatterley, Council Liaison Arlon Chamberlain, City Attorney Kent Burggraaf

Not in attendance – Commission Members Kerry Glover and Terry Edwards

2. Approval of meeting minutes from June 3, 2025

Commission Member Whitaker made a motion to approve the minutes from June 3, 2025.
Commission Member Lyman seconded the motion. Motion passed.

Marlee Swain – YES
Russ Whitaker – YES
Dennis Shakespear – YES
Nate Lyman – YES
Mark Gilberg – YES
Ben Aiken – YES
Kerry Glover – Absent
Terry Edwards – Absent

3. Public Comment Period – Members of the public are invited to address the Planning Commission. Participants are asked to keep their comments to 3 minutes and follow rules of civility outlined in Kanab Ordinance 3-601

Kylie Burks introduced herself and explained that she owns a pet sitting business. She shared her interest in pursuing legal options to board dogs overnight at her residence in the Ranchos area, where current zoning does not allow for commercial kenneling. She proposed exploring conditional use options, such as neighbor approval, limited dog numbers, and inspections, but was unsure how to initiate a change in the ordinance. She mentioned her discussion with Ms. Chatterley and expressed a desire to understand the legal path forward.

Chair Swain asked for clarification on what would be required to begin that process.

37 Ms. Chatterley explained that Kylie would need to petition to amend the ordinance, which includes
38 a \$250 fee and drafting proposed language—an intimidating task for someone unfamiliar with
39 ordinance structure. She offered to assist with the language if Ms. Burks chose to pursue it. She
40 further clarified that dog sitting is allowed as a home occupation, but overnight boarding currently
41 falls under commercial regulations and is only permitted on larger lots (typically 2 acres or more) or
42 in commercial zones.

43 Kylie acknowledged that she had unknowingly boarded dogs at her home and wanted to ensure she
44 was following proper procedures in the future. She mentioned that she would prefer to avoid
45 housing many dogs and envisioned a modest setup with inspections and neighbor approval.

46 Commission Member Shakespear recalled a prior case involving residents who boarded both dogs
47 and horses and noted that it had caused issues due to noncompliance.

48 Ms. Chatterley confirmed the case and stated that the main issue had been noise, particularly
49 barking during the night, from more than the allowed four dogs per residence.

50 Commission Member Gilberg commented that he had boarded dogs at residences in the Ranchos
51 area before, referencing services like Rover. He noted the practice seemed common but
52 unregulated.

53 Ms. Chatterley acknowledged this and reiterated that enforcement typically followed complaints, as
54 with the prior case.

55 Ms. Burks emphasized that her goal was to create a legal and humane option for short-term and
56 overnight care that would not disturb neighbors. She suggested having a limit on the number of
57 dogs and committed to transparency and compliance.

58 Chair Swain asked about the relevant permit requirements.

59 Ms. Chatterley explained that for personal dogs, owners must license and vaccinate them. Beyond
60 two dogs, an additional dog household permit is required, which includes a spay/neuter
61 requirement and a fenced yard of at least 450 square feet. She outlined the possibility of adding a
62 new category for small-scale dog boarding under home occupation rules, potentially with conditions
63 or a conditional use permit.

64 Ms. Burks stated she welcomed inspections and would be willing to make necessary improvements
65 to her yard to ensure safety and compliance. She stressed the importance of addressing a growing
66 community need.

67 Chair Swain asked whether the group would be open to discussing a conditional use permit option
68 at a future meeting.

69

Mr. Burggraaf weighed in, explaining the differences between permitted uses and conditional use permits. He recommended a conditional use path for flexibility and enforceability, particularly in handling issues such as noise and hours of operation.

Commission Members Gilberg and Aiken both voiced concerns about noise, with Mr. Gilberg also proposing fines for repeated violations.

Mr. Burggraaf noted that fines already exist under general ordinances for excessive noise, and enforcement typically begins with law enforcement addressing complaints informally.

Ms. Burks agreed that responsible pet care should prevent such issues and committed to taking corrective action if a dog became disruptive.

Chair Swain asked whether Kylie's current operation was permissible.

Ms. Chatterley clarified that as long as the dogs arrived and left the same day, it would fall within the bounds of daily pet sitting, which is allowed.

Ms. Burks appreciated the clarification and emphasized that this service was in high demand, especially from tourists. She reiterated her interest in following the proper process.

Chair Swain requested that a discussion item regarding conditional use permits for boarding animals be added to the agenda for the next meeting, and then closed the public comment period.

Ms. Chatterley confirmed the addition of the discussion item to the agenda.

Administrative Decision Items:

1. Discuss and recommend to City Council a plat amendment to adjust the lot line for parcel U-A-1, K-68-25, and K-68-15 located approximately at 384 N 200 E [Applicant Iron Rock Engineering]

Ms. Chatterley suggested discussing item three simultaneously, as it related to a vacation of an easement connected to the plat amendment. She explained that the property involved three lots—two in the same subdivision and one in a different one—requiring two separate plats due to county requirements. She clarified the location and subdivision details, noting that an existing house encroached on both the lot line and a public utility easement. Since the lots are under common ownership, the owners sought to resolve the encroachments. The city and utility companies required that, while the existing 7 ft and 5 ft easements would be vacated, a new 20 ft-wide easement would be created to accommodate sewer access, as required by ordinance. Janae detailed the specific adjustments to the lot lines and confirmed the proposal had been approved by the surveyor. Public Works Director Jake had requested the new easement, and South Central and

Garcane confirmed their utilities were also located there. The changes complied with state code, and staff recommended approval.

Chair Swain asked if there were further questions from the commission.

Commission Member Aiken clarified whether one easement was being vacated and another installed.

Ms. Chatterley confirmed that a new public utility easement was being established.

Commission Member Gilberg asked if the new easement was for sewer purposes.

Ms. Chatterley explained it was a general public utility easement. She also noted that a revised plat would reflect this designation and include the correct parcel numbers, a correction prompted when she caught an error while preparing notices.

Chair Swain inquired whether a single motion could address both items one and three.

Kent Burggraaf advised that the items should be addressed separately, as the plat amendment was contingent on city council approval of the easement vacation.

Commission Member Shakespear made a motion to send a positive recommendation to the City Council for the plat amendment to parcels U-A-1, K-68-25, and K-68-15 based on the findings and conditions outlined in the staff report PLAN 25-04. Commission Member Aiken seconded the motion. Motion passed.

Marlee Swain – YES

Russ Whitaker – YES

Dennis Shakespear – YES

Nate Lyman – YES

Mark Gilberg – YES

Ben Aiken – YES

Kerry Glover – Absent

Terry Edwards – Absent

2. Approve or deny a site plan for Kane County Office of Tourism parcel K-15-5A located approximately at 78 S 100 E [Applicant: Iron Rock Engineering/Kane County]

Ms. Chatterley explained that the Kane County Office of Tourism intended to remodel and expand the existing building. She noted that because the renovations affected over 50% of the building and included an addition, the project triggered Chapter 9 requirements related to parking and

landscaping. She described the existing landscaping and additions, including new landscaping diamonds. The total building size would increase to approximately 5,520 square feet, requiring 26 parking stalls, as per city code. She mentioned that the plan used a Chapter 6 allowance for compact stalls, permitting five compact spaces. She emphasized that the plan met code requirements and staff recommended approval.

Chair Swain asked whether the building's front would still face the road.

Ms. Chatterley clarified that while the front of the building remained the same, the entrance was being moved. She also mentioned a new garage bay and a line of windows on the new front elevation. She confirmed that Iron Rock was present for further questions.

Chair Swain asked about the location of the new storage space, and Commission Member Aiken identified a nearby motel as the adjacent property.

Ms. Chatterley commented that the building had also been a home previously.

Matt Hinky, the architect from Iron Rock Group, described the proximity to the motel and the mural visible on adjacent buildings. He noted the new storage area would be used for moving tourism materials by hand and would rarely be accessed. He explained that while the building's orientation was changing 90 degrees, the current front entrance was not prominent, so that the change would be subtle. He highlighted renderings that showed the new elevations.

Commission Member Whitaker asked if the storage area would involve truck traffic.

Mr. Hinky clarified that there would be no delivery trucks and the garage door would be used only a few times a year. He stated the renovation was overdue due to limited space and emphasized that the site would improve with additional parking (from 21 to 26 stalls), elimination of non-compliant access points, and an overall simplification. He also confirmed that a rumor about an additional access point was incorrect.

Ms. Chatterley suggested contacting the contractor, Lance, who had previously indicated he wasn't responsible for obtaining certain permits.

Chair Swain stated the project looked great and thanked Mr. Hinky.

Ms. Chatterley added that Mr. Burggraaf found a provision in Chapter 20 requiring front entrances to face the street. Because the building is on a corner lot, the new entrance would still meet this requirement. She noted the city might consider changing the address to match the new orientation, but that was a separate matter.

Mr. Burggraaf agreed that the address change did not require commission action and could be handled administratively.

Commission Member Gilberg commented that it looked good, but expressed disappointment about the mural being less visible.

Mr. Hinky explained that while the mural would no longer face the highway, new mural space would be available along the west and north sides of the building, maintaining a tribute to the existing artwork.

Ms. Chatterley described the areas where the new murals would be located.

Commission Member Gilberg acknowledged that the new placement would limit visibility.

Commission Member Whitaker made a motion to approve the site plan for the addition to the visitor center located at 78 S 100, based on the staff's analysis, findings, recommendations, and the conditions listed in the report POANSPR 25-004. Commission Member Aiken seconded the motion. Motion passed.

Marlee Swain – YES

Russ Whitaker – YES

Dennis Shakespear – YES

Nate Lyman – YES

Mark Gilberg – YES

Ben Aiken – YES

Kerry Glover – Absent

Terry Edwards – Absent

Legislative Decision:

3. Discuss and recommend to City Council a vacation of easement for parcel U-A-1, K-68-25, and K-68-15 located approximately at 384 N 200 E [Applicant Iron Rock Engineering]

Commission Member Shakespear made a motion to send a positive recommendation to the City Council for the vacation of the public utility easements identified on the proposed platinum map and add a 20-foot easement for the existing utilities for parcels U-A-1, K-68-25, and K-68-15 based on the findings and conditions outlined in the staff report POA 25-04. Commission Member Whitaker seconded the motion. Motion passed.

Marlee Swain – YES

Russ Whitaker – YES

Dennis Shakespear – YES

226 Nate Lyman – YES
227 Mark Gilberg – YES
228 Ben Aiken – YES
229 Kerry Glover – Absent
230 Terry Edwards – Absent

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232 **Work Meeting:**

233 **4. Discuss a text amendment for Land Use Ordinance Chapter 6 - Parking. Amendments**
234 **proposed would allow for public parking on city easements, rights-of-way, and property to be**
235 **accessed from the street and not a private driveway (§6-3). Consider clarifying the types of**
236 **business that require hard surfaces and landscaped diamonds and islands (§6-7(A)).**

237 Ms. Chatterley explained that the city manager had proposed new public parking near the park area,
238 including 10 East Street, where access to new parking spots would be directly from the street.
239 However, the current ordinance prohibits parking spaces from being accessed via public streets,
240 except for single-family and two-family dwellings. She proposed amending the ordinance to permit
241 public on-street parking accessed directly from public streets, provided it is not used for private or
242 business-specific parking. She also noted that existing agreements (e.g., with State Bank and
243 LumberPlus) allow businesses to use public parking for compliance when they cannot meet
244 requirements onsite.

245 Ms. Chatterley emphasized that the amendment would enable the city—and potentially other
246 parties—to construct public parking spaces without private driveways. She mentioned one such plan
247 near the former power company site, where the city aims to build trails, art installations, and
248 parking.

249 Chair Swain responded positively and asked to receive the proposed language.

250 Ms. Chatterley said she would share it but noted they hadn't sent out formal notices yet. She added
251 that the amendment should exclude major and minor collector roads and arterials to avoid issues on
252 high-traffic streets.

253 Mr. Burggraaf asked whether the amendment addressed perpendicular versus diagonal parking.

254 Ms. Chatterley said the code already addressed size requirements, but the specific orientation could
255 be discussed further if needed.

256 Mr. Burggraaf highlighted safety considerations with perpendicular parking, such as vehicles backing
257 out in both directions, and suggested diagonal parking might reduce such issues. He acknowledged
258 that the rural nature of the area might make the concern less critical, but still worth considering.

259 Chair Swain agreed the draft looked good and asked about the status of revisions.

Ms. Chatterley said she wanted feedback before finalizing the language. She then brought up a second parking-related issue involving hardscape requirements. She explained that the current code requires parcels with retail storefronts to provide hardscaped parking. This was challenged in a recent case involving the Office of Tourism, with the argument that the site did not qualify as a retail storefront. She explained the original intent was to exempt low-traffic properties, such as RV parks or storage units, from hardscaping requirements, while ensuring high-traffic areas like boutiques, grocery stores, and visitor centers had hardscaped parking.

Chair Swain and Commission Member Gilberg discussed the difficulty in defining what qualifies as a “customer” and how different businesses interpret the requirement.

Ms. Chatterley encouraged the group to consider clearer wording that captured the intent of the rule. She said she would research how other cities define similar regulations and bring back suggestions for further discussion.

Chair Swain noted that businesses generally understood the requirement, even if they occasionally pushed back, and confirmed that feedback could be provided directly to Ms. Chatterley or brought to the next meeting.

Ms. Chatterley agreed and offered to work through a live redline version during the next discussion.

5. Discuss a text amendment for Subdivision Ordinances Chapter 2A Subdivision Process and 2B Subdivision Process 1-2 Family Residential. Amendments proposed are to add the new code requirements that were passed in the Utah Legislative Session regarding Boundary Adjustments and Subdivision Amendments (aka Plat Amendments), discuss fees, and the process. Consider changing the timeline requirements in chapters 2A-3.7 and 2B-9 to match and be more streamlined.

Ms. Chatterley explained recent state legislative changes requiring updates to Chapters 2A and 2B of the subdivision ordinance. She detailed a new process called a “boundary adjustment,” which allows adjoining property owners to relocate a shared boundary without creating a new parcel or subdivision. She clarified that while “boundary establishments” (used to resolve disputes over unclear boundaries) do not require city review and may be recorded directly with the county, “boundary adjustments” now require written consent from the municipality, even if outside a subdivision. She explained the two types of boundary adjustments: simple and full. Simple boundary adjustments cannot affect easements, public rights-of-way, or result in violations of land use ordinances. Full adjustments involve any of those conditions and require additional documentation, including surveys, public hearings, and possibly plat amendments. The state now requires specific documents for simple adjustments, such as a compliant conveyance form, legal descriptions, and a legible depiction of changes. For full adjustments, a survey is mandatory. She noted that administrative consent can be issued by assigned staff and does not need to go through a formal land use decision. She described the cost implications of plat amendments, which include surveyor fees and city application fees totaling around \$1,700–\$2,700. She shared that some city council

297 members and a title company representative supported continuing to require plat amendments,
298 even for simple adjustments, to ensure clear records and prevent confusion during future property
299 transactions.

300 Chair Swain agreed that requiring plat amendments made tracking boundary changes easier and
301 kept records streamlined.

302 Commission Member Shakespear emphasized the importance of involving a surveyor.

303 Ms. Chatterley confirmed that even though surveys aren't required for simple adjustments, they are
304 highly recommended, and any survey performed must be recorded.

305 Commission Members Aiken and Gilberg supported continuing to require plat amendments, noting
306 that mistakes or confusion about property boundaries could lead to serious issues for property
307 owners.

308 Ms. Chatterley explained that requiring plat amendments would shift the decision-making authority
309 to legislative bodies like the Planning Commission and City Council. She said this provided clarity for
310 staff as she worked on drafting the redline version of the updated ordinance.

311 Commission Member Aiken then asked about enforcement of conditional use permits, wondering
312 whether there were inspections or only complaint-based oversight.

313 Ms. Chatterley responded that most conditional use permits did not require regular inspections, so
314 enforcement was typically triggered by complaints or obvious noncompliance. She shared that she
315 was currently working with an individual to come into compliance and described the process of
316 escalating from voluntary correction to citations and, if necessary, revocation of the permit.

317 Mr. Burggraaf added that a future proposal would likely recommend using an appeal officer to
318 handle revocations of conditional use permits. He explained that this approach would ensure
319 fairness and provide stronger legal defensibility by separating the original approving body from the
320 body making the revocation decision.

321 Ms. Chatterley concluded by noting that the city already uses an appeals authority for site plan
322 denials, ordinance interpretations, and variances, and that similar revisions would be proposed for
323 other processes in the future.

324 **Staff Report:**

325 Ms. Chatterley mentioned upcoming fall conferences, encouraging those interested to email her or
326 Celeste Cram to reserve a spot. She noted that there is a budget available for attendance. She
327 highlighted the APA conference, which is geared toward planning and land use and recommended
328 for appointed and elected officials, especially since the city does not have a dedicated planner. She
329 added that while agendas were not yet available, she would share them when published to help

330 determine if the content was relevant, particularly since some sessions might be more applicable to
331 urban areas than rural communities. She also gave a brief city council update, noting that no
332 planning commission items had gone to the council recently. The council meetings focused on the
333 budget, fee schedules, and changes proposed for the park area. She explained that there were two
334 meetings in June due to the need to approve the budget by the end of the month.
335

336 **Commission Member Report:**

337 **Council Member Liaison Report:**

338 **Adjournment:**

339

340 Commission Member Whitaker made a motion to adjourn the meeting. Commission Member
341 Shakespear seconded the motion. Motion passed.

342 Marlee Swain – YES

343 Russ Whitaker – YES

344 Dennis Shakespear – YES

345 Nate Lyman – YES

346 Mark Gilberg – YES

347 Ben Aiken – YES

348 Kerry Glover – Absent

349 Terry Edwards – Absent

350

Kanab City Planning & Zoning Commission Meeting
September 2, 2025
Kanab City Council Chambers
26 North 100 East
6:30 PM

Agenda Items:

1. Call to Order and Roll Call

In attendance – Commission Members Russ Whitaker (Chair Protem), Dennis Shakespear, Ben Aiken (Left at 7:20 PM), Kerry Glover, Terry Edwards; Building/Land Use Administrator Janae Chatterley, Council Liaison Arlon Chamberlain, City Attorney Kent Burggraaf

Not in attendance – Commission Members Marlee Swain (Chair), Nate Lyman, and Mark Gilberg

2. Approval of meeting minutes from July 1, 2025, and August 5, 2025

Commission Member Edwards made a motion to approve the August 5, 2025, meeting minutes.
Commission Member Glover seconded the motion. Motion passed.

Russ Whitaker – YES
Dennis Shakespear – YES
Kerry Glover – YES
Terry Edwards – YES
Ben Aiken – YES
Mark Gilberg – Absent
Nate Lyman – Absent
Marlee Swain – Absent

3. Public Comment Period – Members of the public are invited to address the Planning Commission. Participants are asked to keep their comments to 3 minutes and follow the rules of civility outlined in Kanab Ordinance 3-601

Administrative Decision Items:

1. Discuss and recommend to the City Council a plat amendment to address the phasing and new boundary lines for the Ventana Resort Village. [Applicant Iron Rock Engineering]

Ms. Chatterley explained that the Ventana Resort Village phases 1 and 2 required a plat amendment to separate the workforce housing apartments into their own plat. She clarified that apartments currently in phases 1 and 2 would be moved into a new phase 1A for funding purposes. She noted that no easements would be vacated, staff and engineers had approved the changes, and only minor

39 survey corrections were needed. She mentioned that Tom Avant from Iron Rock Engineering was
40 present to answer questions and concluded with a staff recommendation for approval.

41
42 Mr. Burggraaf noted that an amendment to the Ventana Development Agreement had recently
43 been reviewed and that it served as a precursor to the current plat amendment.

44
45 Tom Avant, representing the applicant, stated that the request came from their underwriter, who
46 required the apartments to be on a separate plat. He emphasized that nothing was changing other
47 than moving the apartments into their own plat and renaming it.

48
49 Commission Member Glover made a motion to send a positive recommendation to the city council
50 for the plat amendment for the Ventana Resort village, phases 1 and 2, affecting parcels K-131, Utah
51 Annex, and K-36643, K-36644, and K-366CA2 based on the findings and conditions of approval as
52 outlined in the staff report Plan 25-047. Commission Member Aikend seconded the motion. Motion
53 passed.

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55 Russ Whitaker – YES

56 Dennis Shakespear – YES

57 Kerry Glover – YES

58 Terry Edwards – YES

59 Ben Aiken – YES

60 Mark Gilberg – Absent

61 Nate Lyman – Absent

62 Marlee Swain – Absent

63
64 **2. Discuss, approve, or deny a Conditional Use Permit for extended stays at J&J RV Park.**

65 **[Applicant: Julie Allen]**

66
67 Ms. Chatterley explained that J&J RV Park wanted to add the extended stay option under Chapter 13
68 of the land use ordinances. She stated that their site plan met all requirements except the
69 recreation area, but after speaking with the park manager, she confirmed they did have an
70 additional recreation area not shown on the plan. This addition brought their recreation space up to
71 5600 square feet, exceeding the required 4400. She recommended approval since all requirements
72 were now met.

73
74 Commission Member Shakespear asked about regulations regarding the age of RVs allowed for
75 extended stays.

76
77 Ms. Chatterley clarified that while the ordinance required vehicles to be registered, it did not specify
78 age limits, though some parks imposed such restrictions.

Commission Member Shakespear noted that some parks restricted RVs older than 15 years due to aesthetics and deterioration. He expressed concern about maintaining the park's condition and preventing unsightly vehicles.

Ms. Chatterley said other parks like Crazy Horse initially had year restrictions, but later required only proof of functionality. She added that chapter 13 did not mandate vehicle age, though chapter 8 on conditional use permits might allow conditions related to aesthetics.

Commission Member Shakespear suggested inspections might be a better safeguard, protecting both the park and the city. He supported the extended stay but emphasized the need for protection.

Ms. Chatterley confirmed that requirements included registration and proper utility hookups.

Mr. Burggraaf stated that conditions could address aesthetics and noted that violations could trigger review or revocation of the conditional use permit.

Commission Member Glover clarified that the decision before them was simply whether to allow an extended stay. He stated that additional restrictions should be left to the park owners.

Commission Member Shakespear agreed that it was mainly the owners' responsibility, but stressed that enforcing standards would protect them from issues such as difficult evictions.

Commission Member Aiken noted that rental housing did not have such requirements.

Commission Member Glover admitted he never paid much attention when driving past the park.

Mr. Chamberlain commented that RVs used frequently were usually well-maintained, though extended stays could deteriorate quickly.

Commission Member Shakespear noted that J&J Park was the nicest and cleanest in town, which motivated his concern about keeping standards high.

Commission Member Glover made a motion to approve the conditional use permit for the extended stay at 5804 East 300 South based on staff's findings and conditions listed in the staff report, Plan CUP 25-002, and the findings in Chapter 8, Section 8-6B, and Chapter 13 (Recreational Vehicle Park), Section 13.5. Commission Member Edwards seconded the motion. Motion passed.

Russ Whitaker – YES

Dennis Shakespear – YES

Kerry Glover – YES

Terry Edwards – YES

Ben Aiken – YES

122 Mark Gilberg – Absent
123 Nate Lyman – Absent
124 Marlee Swain – Absent

125

126 **Legislative Decision:**

127 **3. PUBLIC HEARING Discuss and recommend a text amendment to Kanab City's Land Use**
128 **Ordinance Chapter 15 – Establishing Zones. The purpose of the amendment is to update the**
129 **ordinance with the new requirements in the Utah State Code to establish a process to modify**
130 **the land use tables.**

131

132 Ms. Chatterley stated that state law now required cities to provide a clear ordinance process for
133 applicants to request text amendments when a desired use was not listed as permitted or
134 conditional in a zone's land-use chart. She explained that the redline created that process formally,
135 noting the city had informally accepted petitions for text amendments in the past.

136

137 Mr. Burggraaf explained that the draft reflected the minimum required by the new law, including an
138 appeal right that was unusual for a legislative decision but mandated. He described a two-step path:
139 first, an administrative classification by the land use administrator (Janae), determining whether a
140 proposed business fits an existing category; second, if it does not, a request to add the use via text
141 amendment for planning commission recommendation and city council decision. He recommended
142 appeals occur only after both steps to avoid multiple appeals and excess cost, and he noted
143 applicants could appeal both Janae's classification and the council's decision in a single appeal.

144

145 Ms. Chatterley added that fees differed: a text amendment cost roughly half an appeal, so
146 consolidating appeals after both steps saved applicants money.

147

148 Mr. Burggraaf reiterated that combining the appeal preserved efficiency for staff and applicants and
149 advised keeping that structure.

150

151 Commissioner Aiken asked who would hear appeals.

152

153 Mr. Burggraaf answered that a contracted hearing officer served as the appeal authority under
154 Chapter 3.

155

156 Ms. Chatterley noted the practical cost implications again and supported the consolidated appeal
157 approach.

158

159 Mr. Burggraaf confirmed the draft required exhausting both steps before appealing and emphasized
160 the benefit of possibly resolving matters legislatively without an appeal.

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162 Commissioner Glover confirmed that the structure appeared in the draft.

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Mr. Burggraaf added that forcing the second step could often eliminate the need for an appeal since councils frequently added uses when appropriate.

Ms. Chatterley asked whether commissioners wanted to address the staff report’s discussion questions.

Mr. Burggraaf outlined key policy choices for the commission: what the classification application should include; whether to allow skipping a formal classification when both the land use administrator and applicant agreed the use did not align; who should be the land use authority for classifications; timelines for council action; and whether to set criteria for council consideration when adding unlisted uses.

Ms. Chatterley read the current text-amendment application items (proposed code text, supporting research, reasons, and how the change supports ordinance objectives) and noted she could request additional information as needed.

Mr. Burggraaf said that was sufficient and stressed that applicants should submit all information up front if they might appeal.

Commissioner Glover asked if more was needed.

Ms. Chatterley stated the current approach worked, though staff often refined lay submissions into legally sound language.

Mr. Burggraaf raised the exception question: should applicants be allowed to skip a formal classification request—and its fee—when it was clearly inapplicable?

Commissioner Aiken confirmed the idea was to empower the land use administrator to let applicants bypass that step when both parties agreed.

Ms. Chatterley supported having that option, citing examples where a quick verbal determination already guided applicants toward a text amendment.

Mr. Burggraaf clarified the exception mechanics and suggested documenting mutual agreement to skip classification.

Commissioner Edwards favored allowing the exception to save applicants time and money while leaving room for a formal classification if there was disagreement.

Mr. Burggraaf proposed adding a checkbox or signed acknowledgement to the application to confirm mutual agreement that no existing use applied, with Ms. Chatterley either accepting the petition or directing a formal classification if she disagreed.

Commissioner Edwards supported the approach and asked for other views.

Commissioner Glover expressed support.

Mr. Burggraaf asked whether the exception should apply broadly (whether the use fits nowhere in the code or simply not in the applicant's zone). He recommended a broad exception and noted that the zone-fit analysis would be handled later when considering the text amendment itself.

Ms. Chatterley and Mr. Burggraaf agreed that broad language would be workable and that the land use administrator should remain the classification authority, with the ability to delegate during absences.

Commissioner Glover confirmed that the delegation would cover time away, and Mr. Burggraaf agreed.

Mr. Burggraaf proposed a 30-day timeframe for the city council to act after receiving the planning commission's recommendation, or at the next properly noticed meeting.

Commissioner Edwards and Commissioner Glover supported 30 days.

Ms. Chatterley noted most actions typically occurred the following week, though 30 days gave flexibility.

Mr. Burggraaf explained the notice rationale and confirmed the draft allowed the required public hearing to occur before either the planning commission or the city council, preserving flexibility.

Ms. Chatterley supported that flexibility, and Mr. Burggraaf said the commission could insist otherwise, but did not recommend it.

Mr. Burggraaf asked whether to include decision criteria for adding unlisted uses.

Commissioner Edwards stated that cases were too varied for a checklist and preferred the current discretionary approach.

Mr. Burggraaf agreed that the existing practice had been thorough and could be revisited later if necessary.

Commissioner Whittaker opened and then closed the public hearing and confirmed that a recommendation to the city council was required that night.

Commissioner Glover asked about the recommended motions.

Ms. Chatterley and Mr. Burggraaf confirmed the commission would recommend approval with the added exception language discussed.

Commission Member Edwards made a motion to send a positive recommendation to the City Council to adopt the proposed changes to the Chapter 15 of the land use ordinance as detailed in the staff report and the draft presented with the additional modifications to the draft discussed and noted with the additional insertion of the corresponding footnote, footnote below each land use chart with the land use ordinance. Commission Member Edwards seconded the motion. Motion passed.

Russ Whitaker – YES

Dennis Shakespear – YES

Kerry Glover – YES

Terry Edwards – YES

Ben Aiken – YES

Mark Gilberg – Absent

Nate Lyman – Absent

Marlee Swain – Absent

4. PUBLIC HEARING: Discuss and recommend a test amendment to Kanab City's Land Use Ordinance Chapter 9 – Site Plan Review. The purpose of the amendment is to clarify the application process.

Ms. Chatterley explained that the proposed amendment aimed to add exceptions where requiring a site plan review was unnecessary and only a formality. She noted that previously, only single-family dwellings and accessory buildings were exempt. She described situations such as tenant turnovers, where a new professional office might replace a restaurant and thus reduce parking requirements, yet the applicant would still be forced to pay the \$600 site plan fee even though no changes to parking, landscaping, or requirements were needed. She added that small modifications like storage additions or small entryways, which did not affect parking or landscaping, were also being subjected to site plan review unnecessarily. She proposed language allowing the land use administrator or building official to review and approve minor changes without requiring a full planning commission review.

Mr. Burggraaf agreed, pointing out that the current process wasted applicant money and commission time when changes did not affect code requirements.

284 Commission Member Edwards supported the idea, stating it made complete sense.
285 Commission Members Shakespear and Aiken both expressed approval of the clarification.
286 Commission Member Whittaker opened the public hearing.
287 No comment from the public was provided.
288 Commission Member Whittaker closed the public hearing.
289 Commission Member Glover made a motion to send a positive recommendation to the City Council
290 to adopt changes to Kanab City's land use ordinances identified in Exhibit A of the staff report for
291 20250902.1. Commission Member Edwards seconded the motion. '

292 Russ Whitaker – YES
293 Dennis Shakespear – YES
294 Kerry Glover – YES
295 Terry Edwards – YES
296 Ben Aiken – YES
297 Mark Gilberg – Absent
298 Nate Lyman – Absent
299 Marlee Swain – Absent

300

301 **5. Continued Item - Discuss and recommend a text amendment to Kanab City's Land Use**
302 **Ordinance Chapter 6 – Parking Requirements. The purpose of the amendment is to allow**
303 **access for public parking spaces from a public street.**

304

305 Ms. Chatterley recapped prior discussion and explained the revised language, clarifying that single-
306 family and two-family dwellings were excluded and that "community benefit" uses (such as
307 hospitals, parks, courthouses, and government or political subdivision offices) could have parking
308 accessed directly from a public street without requiring a development agreement. She stated
309 private businesses would still need a development agreement to use city property for their own
310 parking. She added a consistency fix, aligning multifamily parking from 2.25 to 2.0 spaces per
311 dwelling to match Chapter 18, and noted an intended minimum 25-foot driveway width for
312 adequate ingress/egress, with final references to design standards for driveway spacing near
313 intersections.

314 Mr. Burggraaf clarified that the amendment specifically addressed perpendicular or angled parking
315 accessed directly from the city right-of-way. He stated private properties seeking such street-
316 accessed stalls would require a development agreement because it would otherwise not conform to
317 the ordinance, while government or community-benefit projects could be permitted without that
318 agreement.

319 Commission Member Glover recalled the previous discussion and indicated the changes matched
320 the commission's earlier direction.

321 Commission Member Whittaker opened the public comment.

322 No comment from the public was provided.

323 Commission Member Whittaker closed the public comment.

324 Commission Member Shakespear made a motion to send a positive recommendation to the City
325 Council to adopt changes to Kanab City's Land Use Ordinance Chapter 6 – Parking Requirements
326 based on the findings identified in Exhibit A, staff report 42025085.2. Member Glover seconded the
327 motion.

328 Russ Whitaker – YES
329 Dennis Shakespear – YES
330 Kerry Glover – YES
331 Terry Edwards – YES
332 Ben Aiken – YES
333 Mark Gilberg – Absent
334 Nate Lyman – Absent
335 Marlee Swain – Absent
336

337 **6. PUBLIC HEARING Discuss and recommend an application for a zone change on parcel K-C-6-1**
338 **from C3 (Commercial Zone) to RM (Multi-Family Zone). Parcel is located at 220 West 300**
339 **North [Applicant: Michael Lai, owner of the Cowboy Bunkhouse]**
340

341 Ms. Chatterley explained that the Cowboy Bunk House, located in a C-3 commercial zone, was
342 seeking a zone change to allow long-term rentals. She stated that residential use was recently
343 removed from commercial zones, and the owner needed the change to remodel the building and
344 bring it up to code. She noted the property's history as a hostel and group home, but pointed out
345 that the previous owners had not obtained the required permits. She described the surrounding
346 zoning as a mix of commercial, county agricultural, and residential areas, with nearby multi-family
347 housing. She added that the future land use map designated much of the surrounding area for
348 medium and high-density residential, making the proposal semi-consistent with planning goals. She
349 emphasized that this was a legislative decision, not one with a staff recommendation, and shared
350 the applicant's reasoning that the project would support affordable housing options.

351 Commission Member Glover clarified zoning to the west of the property.

352 Commission Member Edwards noted that some nearby properties were already used residentially.

353 Ms. Chatterley responded that those were grandfathered in, but emphasized that this property had
354 always been commercial in use.

355 Commission Member Aiken remarked that the area had long been planned for high-density
356 residential and that the proposed change aligned with the city's vision. He and Commission Member
357 Shakespear both expressed support, noting the benefits of adding affordable long-term housing.

358 Commission Member Shakespear asked about landscaping requirements.

359 Ms. Chatterley explained that a site plan review would be triggered by the change of occupancy,
360 which would include landscaping, parking, and code compliance updates.

361 Commission Member Whitaker opened the public hearing.

362 No comment from the public was provided.

363 Commission Member Whitaker closed the public hearing.

364 Commission Member Aiken made a motion to send a positive recommendation for the zone change
365 from C3 to multi-family zone for the parcel located at 220 West 300 North, based on the findings
366 and conditions of approval as outlined in the staff report 25-001. Commission Member Glover
367 seconded the motion. Motion passed.

368 Russ Whitaker – YES

369 Dennis Shakespear – YES

370 Kerry Glover – YES

371 Terry Edwards – YES

372 Ben Aiken – YES

373 Mark Gilberg – Absent

374 Nate Lyman – Absent

375 Marlee Swain – Absent

376

377 **Work Meeting:**

378 **7. Continued Item - Discuss Land Use Ordinance regarding dog boarding in residential zones as a**
379 **home occupation.**

380

381 Ms. Chatterley explained that the city council initially misunderstood the request, thinking it meant
382 large kennels with unlimited dogs. After discussion, council members agreed to allow dog boarding
383 but only up to the same limit currently permitted for residential households with an additional dog
384 permit, which is four dogs. She noted there would need to be requirements for mitigating nuisances,
385 such as barking, with the possibility of issuing warnings and revoking licenses if issues persisted.

386 Mr. Chamberlain confirmed that the city council reached that consensus.

387 Commission Member Glover noted that this approach aligned with what the applicant had originally
388 sought.

389 Ms. Chatterley added that residents already owning four personal dogs would not qualify for
390 boarding since they were at the maximum.

391 Commission Member Shakespear stated support for allowing dog boarding as long as protections
392 were in place for neighbors to appeal and have operations shut down if nuisances arose. He
393 emphasized the potential for disturbance in closely spaced neighborhoods.

394 Ms. Chatterley outlined how complaints—such as barking, odors, lack of care, or animals escaping—
395 were typically handled. She explained that animal control currently responded to complaints about
396 household dogs, and coordination with the police chief was common. She said it would need to be
397 clarified whether land use staff or animal control would handle enforcement for dog boarding
398 permits.

399 Mr. Burggraaf added that a general ordinance addressing licensing would also be created alongside
400 the land use ordinance change, ensuring mechanisms existed to revoke business licenses if
401 necessary.

402 Ms. Chatterley agreed, noting that business licenses already contained steps for revocation. She
403 explained that the land use ordinance would need to be updated to add dog boarding to the use
404 chart, while the general ordinance would contain operational conditions similar to those in
405 additional dog household permits and kennel licenses.

406 Mr. Burggraaf said the planning commission would not make recommendations on the general
407 ordinance, but it would be beneficial for them to review it alongside the land use proposal to see
408 how the conditions aligned.

409 Commission Member Glover remarked that it had taken a long time to reach this point.

410 Ms. Chatterley stated that a draft ordinance would be prepared for the next meeting, pulling
411 requirements from existing dog household and kennel regulations, including sanitation, nuisance
412 control, and enforcement measures. She added that the city council could still revise the proposal
413 and extend the process by another 30 days if needed.

414 **Staff Report:**

415 Ms. Chatterley mentioned upcoming trainings, including those by the Utah League of Cities and
416 Towns, Utah Land Use, and APA. She explained that tentative agendas were not yet available, but
417 encouraged members to review past conferences and reach out if they were interested in attending
418 so she could assist with registration. She offered to either check back in a few weeks for agendas or
419 send an email update once the schedules were posted.

420

421 **Commission Member Report:**

422 **Council Member Liaison Report:**

423 **Adjournment:**

424

425 Commission Member Gloven made a motion to adjourn the meeting. Commission Member Edwards
426 seconded the motion. Motion passed.

427 Russ Whitaker – YES

428 Dennis Shakespear – YES

429 Kerry Glover – YES

430 Terry Edwards – YES

431 Ben Aiken – Absent

432 Mark Gilberg – Absent

433 Nate Lyman – Absent

434 Marlee Swain – Absent

435

Mayor
T. Colten Johnson
City Manager
Kyler Ludwig
Treasurer
Danielle Ramsay



City Council
Arlon Chamberlain
Chris Heaton
Scott Colson
Boyd Corry
Peter Banks

Kanab City Planning Commission Staff Report

File Number 20251007.1

Date:	October 6, 2025
Meeting Date:	October 7, 2025
Agenda Item:	Discuss and recommend to City Council a text amendment to the Land Use Ordinance, Chapter 17 Single Family Zones and Chapter 19 MH-KCR Zone and to the General Ordinance Section 13 Police and Public Offenses

Attachments:

- Exhibit A: Proposed Amendment(s) with Red Lines

Summary:

A text amendment to update Land Use Ordinance Chapter 17 Single Family Zones and Chapter MH-KCR Zone adding dog boarding to the Land Use Chart. A text amendment to General Ordinances Section 13 adding parameters and requirements for dog boarding in residential zones.

Recommended Motion:

I move to send a positive recommendation to City Council to adopt changes to the Kanab City Land Use Ordinances identified in exhibit A of the staff report for 20251007.1

I move to send a negative recommendation to City Council.

I move to send a positive recommendation to City Council to adopt changes to the Kanab City Land Use Ordinances identified in exhibit A of the staff report for 20251007.1 with the following amendments:

I move to continue the discussion to the following meeting:

— A Western Classic —

Mayor
T. Colten Johnson
City Manager
Kyler Ludwig
Treasurer
Danielle Ramsay



City Council
Arlon Chamberlain
Chris Heaton
Scott Colson
Kerry Glover
JD Wright

Exhibit A: Proposed Amendment with Red Lines

Kanab

Land Use Ordinance

Chapter 17 – Residential Zones

- Section 17-1 Purpose
- Section 17-2 Permitted and Conditional Uses
- Section 17-3 Height Regulations
- Section 17-4 Minimum Area, Width and Yard Requirements
- Section 17-5 Modifying Regulations
- Section 17-6 Reserved
- Section 17-7 Supplementary Regulations
- Section 17-8 Design Standards for A Two-Family Dwelling

Section 17-1 Purpose

Residential Zones (R-20, R-15, R-10, R-8): To provide and protect areas for low-density, one and two-family neighborhoods, while permitting the limited establishment of public and quasi-public uses which serve the requirements of families.

Section 17-2 Permitted and Conditional Uses

LAND USE CHART RESIDENTIAL	ZONES			
	R-20	R-15	R-10	R-8
Bed and breakfast	C	C	C	C
Cemetery	C	C	C	C
Child day care or nursery	C	C	C	C
Church	C	C	C	C
Dog Boarding ⁵	P	P	P	P
Golf course	C	C	C	C
Guest house	P	P	P	P
Home occupation – light ³	P	P	P	P
Home occupation – heavy ⁴	C	C	C	C
Horticulture and gardening ¹	P	P	P	P
Household pets	P	P	P	P
Park or playground	C	C	C	C
Public buildings	C	C	C	C
Public utilities, essential services	C	C	C	C
School	C	C	C	C
Shed / garage ²	P	P	P	P

Adopted January 22, 2008; Revised July 16, 2024

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Kanab

Land Use Ordinance

Chapter 17 – Residential Zones

Single family dwelling unit	P	P	P	P
Two family dwellings	P	P	P	P

- ¹ For personal use
- ² Refer to Section 17-5-2
- ³ Home Occupation, light does not include dangerous or objectionable objects. See definitions in Section 1-6 and additional regulations in Section 4-28.
- ⁴ Home Occupation, heavy potentially includes dangerous or objectionable objects. See definitions in Section 1-6 and additional regulations in Section 4-28.
- ⁵ Refer to Section 13-200.04 of the General Ordinances for additional requirements regarding dog boarding.

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Section 17-3 Height Regulations

No building may exceed two and one-half (2½) stories or thirty-five (35) feet in height. No dwelling shall be less than one (1) story in height.

Section 17-4 Minimum Area, Width and Yard Requirements

District	Area	Width	Yard Setbacks in Feet		
			Front	Side	Rear
R-20	20,000 sq ft	120	25	10	10
R-15	15,000 sq ft	100	25	10	10
R-10	10,000 sq ft	80	25	10	10
R-8	8,000 sq ft	60	25	8	10

Section 17-5 Modifying Regulations

- A. Side yards - On corner lots the side yard setback shall be the same as the front yard setback.
- B. Accessory Buildings - See Chapter 4, Section 4-10

Section 17-6 Reserved

Section 17-7 Supplementary Regulations

Supplementary regulations are provided in Chapter 4 of this Ordinance.

Section 17-8 Design Standards for A Two-Family Dwelling

A two-family dwelling is one building with two residential units under a single continuous roof line. It may be constructed in the Residential Zones subject to compliance with the following standards. These standards are encouraged to promote a residential design which provides architectural interest for a two-family dwelling to blend harmoniously in R

Adopted January 22, 2008; Revised July 16, 2024

Kanab

Land Use Ordinance

Chapter 17 – Residential Zones

zones.

1. Units located side by side are encouraged to be offset by at least 5 feet difference in their front setback, unless the units share an elevated common front porch with roof overhang, or similar design scheme to provide a front entry with greater architectural interest than plain, uncovered front entries on adjacent units. In addition to the primary exterior wall material, accent materials included such as stone, brick, or metal is encouraged to provide architectural character to the dwelling.
2. A two-family dwelling is encouraged to have an appearance similar to a large single-family home with varying roof lines, and building articulations with such things as decks, balconies, or other exterior features which provide design interest.
3. Except for the driveway area and walkways, the front yard setback area shall be landscaped. At the time of occupancy or within six months of occupancy, the front yard area shall be fully landscaped.
4. The minimum lot size for a two-family dwelling is 10,000 sq ft, and the minimum street frontage is 80 feet.
5. Land coverage of all buildings shall not exceed 50% of the lot or parcel acreage.
6. Each two-family dwelling shall have four (4) off-street parking spaces (2 per unit). Driveways to the garage and areas used for off-street parking shall be hard-surfaced with either concrete or asphalt.
7. Each unit in a two-family dwelling shall be independently connected to the city's culinary water and sewer system,
8. Prior to issuance of a building permit, all provisions for two-family dwellings shall be met through site plans submitted with the building permit application and the plan review building permit process.

Kanab

Land Use Ordinance

Chapter 19 – Kanab Creek Ranchos KCR-720 Zone

- Section 19-1 Purpose
- Section 19-2 Permitted and Conditional Uses
- Section 19-3 Height Regulations
- Section 19-4 Minimum Area, Width, and Yard Requirements
- Section 19-5 Modifying Regulations
- Section 19-6 Supplementary Regulations

Section 19-1 Purpose

To provide and protect areas of low-density, single-family neighborhoods of a rural character and to provide for zoning for the Kanab Creek Ranchos Subdivision.

Section 19-2 Permitted and Conditional Uses

LAND USE CHART KCR-720 HOMES	KCR ZONE
Bed and Breakfast Inn ⁵	P
Cemetery	C
Day Care I	P
Day Care II	C
Church	C
Dog Boarding ⁶	P
Golf course	P
Guest house	P
Home occupation - light ³	P
Home occupation - heavy ⁴	C
Horticulture and gardening ¹	P
Household pets	P
Park or playground	P
Public buildings	P
Public utilities, essential services	P
School	P
Shed / garage ²	P
Single-family dwelling unit	P
Two-Family Dwelling	P

Adopted January 22, 2008; Amended July 16, 2024

Kanab

Land Use Ordinance

Chapter 19 – Kanab Creek Ranchos KCR-720 Zone

- 1 For personal Use
- 2 Refer to Section 19-5-B
- 3 Home Occupation-light does not include dangerous or objectionable objects. See definitions in Section 1-6 and additional regulations in Section 4-28.
- 4 Home Occupation-heavy potentially includes dangerous or objectionable objects. See definitions in Section 1-6 and additional regulations in Section 4-28.
- 5 Regulations in Section 4-22 shall apply to all Bed and Breakfast establishments
- 6 Refer to Section 13-200.04 of the General Ordinances for additional requirements regarding dog boarding.

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Section 19-3 Height Regulations

No building may exceed two and one-half (2½) stories or thirty-five (35) feet in height. No dwelling shall be less than one (1) story in height.

Section 19-4 Minimum Area, Width, and Yard Requirements

			Yard Setbacks in Feet		
District	Area	Width	Front	Side	Rear
KCR-720	13,000 sq ft	80	25	10	10

Section 19-5 Modifying Regulations

- A. On corner lots, the side yard setback shall be the same as the front yard setback.
- B. A detached private garage or accessory building see Chapter 4, Section 4-10.
- C. All homes in the KCR-720 zone shall be on a permanent foundation.
- D. Each dwelling shall have a minimum floor area of 720 square feet of floor space on the main floor, exclusive of garages.
- E. The width of the dwelling shall not be less than fourteen feet (14) feet at the narrowest point of its first floor exclusive of any garages, bay windows, room additions or other similar appendages. The width shall be considered as the lesser of the two primary dimensions.
- F. A basement shall not be considered as a first floor.
- G. All manufactured homes shall be anchored to and supported by an approved method of the manufacture and based on the residential design standards found in Chapter 4 – Supplementary Guidelines of this ordinance.
- H. A maximum of two units on single family residential zoned lot.

Section 19-6 Supplementary Regulations

Supplementary regulations are provided in Chapter 4 of this Ordinance.

Adopted January 22, 2008; Amended July 16, 2024

Kanab

Land Use Ordinance

Chapter 19 – Kanab Creek Ranchos KCR-720 Zone

Section 19-7 Design Standards for a Two-Family Dwelling

A two-family dwelling is one building with two residential units under a single continuous roof line. It may be constructed in the Residential Zones subject to compliance with the following standards. These standards are encouraged to promote a residential design which provides architectural interest for a two-family dwelling to blend harmoniously in MH-KCR zones. .

- A. Units located side by side are encouraged to be offset by at least 5 feet difference in their front setback, unless the units share an elevated common front porch with roof overhang, or similar design scheme to provide a front entry with greater architectural interest the plain, uncovered front entries on adjacent units. In addition to the primary exterior wall material, accent materials included such as stone, brick, or metal is encouraged to provide architectural character to the swelling. The two-family dwelling must be of new construction.
- B. A two-family dwelling is encouraged to have an appearance similar to a large single-family home with varying roof lines, and building articulations with such things as decks, balconies, or other exterior features which provide design interest.
- C. Except for the driveway area and walkways, the front yard setback area shall be landscaped. At the time of occupancy, the front yard area shall be fully landscaped or the applicant for the Certificate of Occupancy shall post a financial guarantee (bond, cashier's check, etc) ensuring that front yard landscaping will be completed within 6 months of occupancy.
- D. The minimum lot size for a two-family dwelling is 10,000 (13,000) sq.ft. and the minimum street frontage is 80 feet.
- E. Land coverage of all buildings shall not exceed 50 % of the lot or parcel acreage.
- F. Each two-family dwelling shall have four (4) off-street parking spaces (2 per unit). Driveways to the garage and areas used for off-street parking shall be hard-surfaced with either concrete or asphalt.
- G. Each unit in a two-family dwelling shall be independently connected to the city's culinary water and sewer system.
- H. Prior to issuance of a building permit, the Planning Commission shall review and approve the proposed exterior building elevations and design in order to promote neighborhood design compatibility in accordance with Chapter 9 Site Plan Review.

KANAB

General Ordinances

Section 13: POLICE AND PUBLIC OFFENSES

Section 13-111	Police Department – Established
Section 13-114	Register of Arrest
Section 13-115	Property Taken From the Person Arrested - Triplicate Receipts
Section 13-116	Register of Property to Be Kept
Section 13-117	Stolen Property Disposition
Section 13-121	Jail-Governing Body to Provide
Section 13-125	Prisoners to Labor on Public Works
Section 13-200	Animal Control
Section 13-200.01.010	Definitions
Section 13-200.01.011	Purpose
Section 13-200.01.020	Premises Confining Animals and Fowl-Neat and Sanitary Condition Required.
Section 13-200.01.040	Disposal of Animals
Section 13-200.01.050	Leaving Animal in Vehicle
Section 13-200.01.060	Excessive Noise
Section 13-200.01.141	Revocation of License or Permits
Section 13-200.01.150	Interference with Officer
Section 13-200.01.120	Animal Bites
Section 13-200.01.130	Defecation and Urination
Section 13-200.01.070	Animals Running at Large
Section 13-200.01.080	Impound-Authority
Section 13-200.01.085	Impound Procedures
Section 13-200.01.160	Quarantine of Animals
Section 13-200.01.100	Detention of Animals
Section 13-200.03.010	Rabies Control
Section 13-200.03.020	Vaccination Required
Section 13-200.01.190	Female Cats in Heat/Season Running at Large
Section 13-200.01.200	Threatening Passers-By
Section 13-200.02.040	Female Dogs in Heat/Season Running at Large
Section 13-200.02.160	Dogs in Prohibited Areas
Section 13-200.02.170	Allowable Number of Dogs
Section 13-200.04	Kennels <u>and Dog Boarding</u>
Section 13-200.04.020	Permit Required
Section 13-200.04.030	Fees

KANAB

General Ordinances

Section 13: POLICE AND PUBLIC OFFENSES

Section 13-200.04.050	Inspection
Section 13-200.04.060	Definitions - Exception for Puppies/Kittens
Section 13-200.02.010	Licensing
Section 13-200.02.020	Licensing and Fee Exemptions
Section 13-200.01.210	Penalties
Section 13-310	Adoption Criminal Code
Section 13-311	Off-Highway Vehicle Act
Section 13-312	Curfew-Minors-Exceptions
Section 13-312.1	Minor Daytime Curfew
Section 13-313	Responsibility Of Parents, Etc.
Section 13-314	Discharge of Firearms
Section 13-315	Prohibition of Discharge of Fireworks or To Set on Fire Any Inflammable Material within Kanab City
Section 13-349	Sexually-oriented Businesses
Section 13-350	Purpose
Section 13-351	Definitions
Section 13-352	Classification
Section 13-353	License Required
Section 13-354	Issuance of License
Section 13-355	Fees
Section 13-356	Inspection
Section 13-357	Expiration of License
Section 13-358	Suspension
Section 13-359	Revocation
Section 13-360	Hearing-Denial, Revocation, and Suspension - Appeal
Section 13-361	Transfer of License
Section 13-362	Hours of Operation
Section 13-363	Exhibition of Sexually Explicit Films or Videos
Section 13-364	Loitering, Exterior Lighting, Visibility, and Monitoring Requirements
Section 13-365	Penalties and Enforcement
Section 13-366	Applicability of Section to Existing Businesses

General Ordinances

Section 13: POLICE AND PUBLIC OFFENSES

Section 13-368	Scienter Required to Prove Violation or Business Licensee Liability
Section 13-369	Effect of City Failure to Act
Section 13-370	Signs
Section 13-371	Location of business, Restrictions
Section 13-380	Prohibition of Certain Forms of Tobacco and Nicotine on City-Owned Properties

Section 13-111 Police Department – Established

There is hereby established a regularly constituted police force to be known as the police department which shall consist of a chief of police and such other police officers as shall be employed by the municipality, and to operate pursuant to the powers and duties referred to in Utah Code 10-3-919.

Section 13-114 Register of Arrest

The chief of police shall provide and cause to be kept a register of arrest. Upon such register shall be entered a statement showing the date of such arrest, the name of the person arrested, the name of the arresting officer, the offense charged and a description of any property found upon the person arrested.

Section 13-115 Property Taken From the Person Arrested - Triplicate Receipts

When money or other property is taken from a person arrested upon a charge of a public offense, the officer taking it must at the time issue triplicate receipts therefore specifying particularly the amount of money or kind of property taken. One of the receipts he must deliver to the person arrested. Another he must forthwith file with the clerk of the court to which the complaint and other papers in the case are required by law to

Section 13: POLICE AND PUBLIC OFFENSES

be sent. The third receipt must be sent at once to the office of the police department.

Section 13-116 Register of Property to Be Kept

The chief of police must enter or cause to be entered in a suitable book a description of every article of property alleged to be stolen or embezzled and brought into his office or taken from the person of the prisoner and must attach a number to each article and make a corresponding entry thereof.

Section 13-117 Stolen Property Disposition

It shall be the duty of the chief of police to keep all lost or stolen property that comes into the possession of the police department or any of its members. He shall make all reasonable efforts to discover the owners thereof.

Section 13-121 Jail- Governing Body to Provide

The governing body may contract with any person, county, municipality, or combination thereof for the purpose of providing suitable premises and facilities to be used by the municipality for incarceration.

Section 13-125 Prisoners to Labor on Public Works

Any person committed to jail or other place of incarceration as a punishment or in default of the payment of a fine, or fine and costs, may be required to work pursuant to jail policy for the city at such labor as his or her strength will permit not exceeding eight hours in each working day; a judgment that the defendant pay a fine or a fine and costs may also direct that he be imprisoned until the amount thereof is satisfied.

Section 13: POLICE AND PUBLIC OFFENSES

Section 13-200 Animal Control

Section 13-200.01.010 Definitions

The following definitions shall apply for purposes of this title, unless it is plainly evident from the context that a different meaning is intended:

"Additional- Dog Household" means a residence that is allowed up to four dogs (including foster dogs) under the applicable license.

"Animal" means any live, vertebrate, domestic or wild animal.

"Animal at Large" means any animal whether or not licensed, not under restraint.

"Animal Control Board" means the City Council, unless such role is otherwise delegated by the City Council to a different individual or group.

"Animal Control Officer" means any person designated by the State of Utah, a municipal government, or a humane society, as a law enforcement officer, or specifically as an animal control officer, being qualified under the laws of this state.

"Animal Shelter" means any facility operated by a humane society or political subdivision of the State of Utah, for the purpose of impounding or caring for animals held under the authority of this Section or state law.

"Animal under Restraint" means an animal on a leash or lead which is held by a person or attached to a stationary object or confined within a vehicle or confined upon the real property of the owner or custodian.

"Attack" means any biting, attempted biting, or other action by an animal that places a person or another animal in danger of imminent bodily harm. Actual physical contact shall not be required to constitute an attack. Attack may include jumping upon, chasing, nipping, or otherwise threatening.

"Bite" means an actual puncture, tear or abrasion of the skin, inflicted by the teeth of an animal.

Section 13: POLICE AND PUBLIC OFFENSES

"Cat" means any member of the species felis catus.

"Custodian" means any person having the charge, care, custody, or control of an animal that he or she does not own.

"Dog" means any age canis lupus familiaris of the domesticated types.

"Euthanize" means a humane killing of an animal.

"Foster Dog" means a dog licensed by a foster-dog entity.

"Foster- Dog Entity" means an entity with an agreement with Kanab City to license dogs fostered for less than one year by City residents. The agreement shall include terms related to required vaccinations, identification, and other items required by the City Council.

"Private Kennel" means any residential property where more than two dogs, or more than four dogs if the residence has an Additional-Dog Permit, or more than three cats, are raised, kept, or housed; or any residential premises wherein any person engages in the business of breeding, buying, letting for hire, training for a fee, or selling dogs or cats. A "private kennel" shall not include any residential property upon which a Community Cat program is in place in accordance with the provisions of the Utah Community Cat Act, and Community Cats shall be specifically excluded from the three cat limitation as stated herein.

"Public Kennel" means any commercial premises where any dogs or cats are raised, kept, housed, or boarded; or any commercial premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee or selling dogs or cats. A "public kennel" shall not include any commercial premises upon which a Community Cat program is in place in accordance with the provisions of the Utah Community Cat Act.

"Leash" or "Lead" means any chain, rope, or device used to restrain an animal.

"License" means a properly completed and validated license and rabies certificate issued by the City or other City-designated licensing agency.

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"License Tag" means a piece of metal or other durable material inscribed with {Kanab City} and a number that has been issued by City or other City-designated licensing agency.

"Licensed Animal" means an animal wearing its current license tag as required by this Section.

"Micro-chipping" means implanting an electronic animal identification device.

"Neutered" means having had the testicles removed; a castrated animal.

"Owner" means any person, partnership or corporation owning, keeping or harboring one or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for three consecutive days or more. However, "owner" shall not include a Community Cat Caretaker as defined under the Utah Community Cat Act.

"Quarantine" means the isolation of an animal in a substantial enclosure so that the animal is not subject to contact with other animals or unauthorized persons.

"Spayed" means having had the ovaries and uterus removed or extirpated; an ovariectomy.

"Veterinary Clinic" means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis, or treatment of diseases and injuries of animals.

"Vicious Animal" means an animal

1. with a known propensity, tendency or disposition to attack unprovoked, to cause injury to, or to otherwise endanger the safety of humans or other domestic animals;
2. that attacks a human being or other domestic animal without provocation; or
3. that is trained or used to fight or to attack humans.

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"Wild Animal" means an animal commonly accepted as being "wild" and includes, but is not limited to, the following, no matter how domesticated they may be:

- A. Alligators and crocodiles;
- B. Bears (ursidae);
- C. Cat family (felidae), except felis catus;
- D. Coyotes, foxes and wolves;
- E. porcupine (erchizontiade);
- F. Nonhuman primates (hominidae);
- G. Raccoon (prosynnidae);
- H. Skunks;
- I. venomous snakes or venomous lizards;
- J. Weasels (mustelidae); and
- K. Ferrets.

Section 13-200.01.011 Purpose

The City Council finds that to adequately protect the residents of the City of Kanab from dangerous or potentially dangerous animals, from rabid animals, or from animals causing a nuisance, it is necessary to provide a management and licensing structure, pound facilities, and care requirements for animals within the City limits. The City Council further finds that regulations are necessary to ensure humane treatment for all animals within the City limits. The purpose of this Section is to establish standards for the keeping of animals and fowl in a manner that will not endanger the health, peace, or safety of the residents of the City, and which will ensure that such animals and fowl are kept in clean and sanitary conditions and are not subject to suffering, cruelty, or abuse. The City Council further finds that Kanab is in a unique situation with the regards to sheltering animals.

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Section 13-200.01.020 Premises Confining Animals and Fowl-Neat and Sanitary Condition Required.

- A. Wherever animals, including fowl and pigeons, may be tethered, corralled, confined and sheltered or fed, the premises shall be maintained in a neat and sanitary condition so that no nuisance due to unsightliness, odor or pest breeding or harborage shall be caused by such animals or premises.
- B. All barns or stables intended for or presently used to shelter livestock that are now erected and maintained or may be erected, constructed, altered or repaired within the city shall conform to the requirements of the applicable zoning ordinance, the building code and all other applicable laws of the city.

Section 13-200.01.040 Disposal of Animals

If an animal or fowl dies within the limits of this city, the owner of that animal or fowl must remove or bury the carcass within ten hours of its death. Except at designated landfills, it is unlawful to bury a non-domesticated animal within the City limits, including, but not limited to, a horse, cow, ox, pig, sheep, goat, ostrich, llama, emu, or wild animals.

Section 13-200.01.050 Leaving animal in vehicle

- A. It shall be unlawful to leave or confine an animal in any unattended motor vehicle under conditions that endanger the health or well-being of an animal due to heat, cold, lack of adequate ventilation, or lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.

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Section 13-200.01.060 Excessive Noise

- A. It is a Class C misdemeanor for any person to possess or own an animal or fowl and to allow the animal or fowl to make a sound or combination of sounds that are frequent, repetitive, or continuous, and loud or raucous to the extent that the sound or sounds unreasonably disturbs or interferes with the peace, comfort or repose of another, including but not limited to barking, howling, braying, quacking and crowing.
- B. It shall be prima facie evidence that the noise referred to in subsection A is frequent, repetitive or continuous if it occurs:
 - a. Between the hours of 10:01 p.m. and 7:00 a.m. and continuously for a period of five minutes or more, or intermittently for a period of fifteen minutes or more; or
 - b. Between the hours of 7:01 a.m. and 10:00 p.m. and continuously for a period of fifteen minutes or more, or intermittently for a period of thirty minutes or more.
- C. It shall be prima facie evidence that the noise referred to in subsection A is loud or raucous to the extent that it unreasonably disturbs or interferes with the peace comfort or repose of another if the sound can be heard anywhere on the property of another.
- D. It shall be an affirmative defense under this section that the animal was intentionally provoked to make such noise; provided that enactment of this provision shall in no way abrogate any other provision under this code concerning animal noise.
- E. In addition to any other penalty authorized by law, a person found guilty of this section shall pay a fine of not less than one hundred fifty dollars for the first occurrence, and a fine of not less than three hundred dollars for additional occurrence within a 12 month period.

Section 13-200.01.141 Revocation of License or Permits

- A. The Chief of Police may revoke any permit or license of a person holding a permit or license if he or she does not comply with any part

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of Section 13-200, the regulation promulgated by said authorities, or any applicable law governing the protection and keeping of animals.

- B. If a person's permit or license is revoked for any reason other than by court order, the person may appeal the revocation to the animal control board by delivering a written notice of appeal to the City Office within 10 calendar days from the date of revocation. If a notice of appeal is properly made and delivered under Section B, the animal control board shall hold an administrative hearing within 10 calendar days of receiving the notice to determine the disposition of the appeal. The animal control board's decision shall be final.
- C. Any person whose permit or license is revoked shall, within ten days thereafter if no appeal is made or within 10 days after a written decision upholding the revocation by the animal control board, humanely dispose of the animals owned, kept, or harbored by such person under the permit or license, and no part of the permit or license fee shall be refunded.
- D. It shall be a condition of the issuance of any permit or license that the licensing authorities, animal control officers, police officers, or humane officer, shall be permitted to inspect all animals and the premises where animals are kept at any time. If permission for an inspection is refused, the permit or license of the refusing owner or keeper shall be revoked.
- E. If the applicant has withheld or falsified any information on the application, the licensing authorities shall refuse to issue a permit or license.
- F. No person who has been convicted of cruelty to animals shall be issued a permit or license to operate a commercial animal establishment or kennel.

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Section 13-200.01.150 Interference with Officer

A. It shall be unlawful for any person to interfere with, molest, hinder or prevent any police officer or animal control officer in the discharge of their duties as herein prescribed.

B. Any person who shall hinder, delay, interfere with or obstruct any police officer or animal control officer while engaged in capturing, securing or taking to the animal shelter any animal or animals needing to be impounded, or who shall break open or in any manner directly or indirectly aid, counsel or advise the breaking open of any animal control vehicle or other vehicle used for the collecting of any such animals shall be guilty of a class B misdemeanor.

Section 13-200.01.120 Animal Bites

A. It shall be unlawful for any animal to bite or attack any person or domestic animal. It is no defense that the animal is chained or confined if the chaining or confining is on public or private property where the public has access to be on such property. The owner or custodian of any animal is in violation of this section regardless of the precautions taken to prevent the bite or attack and regardless of the lack of knowledge of the offense at the time it occurs.

B. It is unlawful for any person to keep, own, harbor, or have the control of any vicious animal. It is prima facie evidence that an animal is vicious if it bites or attacks a person or domestic animal. Any police officer or animal control officer may apprehend such animal and may cause it to be impounded at the animal shelter.

Section 13-200.01.130 Defecation and Urination

It is unlawful to allow an animal to defecate or urinate upon private property not owned by the person owning or in control of such animal. The owner or custodian of any animal shall be responsible for the removal of any defecation deposited by such animal on public property, recreation

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areas, or private property not owned by the person owning or in control of such animal.

Section 13-200.01.070 Animals Running at Large

A. It is unlawful for the owner or person having charge, care, custody, or control of any animal to allow such animal at any time to run at large. The owner or person charged with responsibility for an animal found running at large shall be strictly liable for any violation(s) committed by the animal, regardless of whether or not the person knows the animal is running at large.

B. However, dogs may be at large while participating in field trials and obedience classes organized and sanctioned by recognized dog clubs, while assisting their owner or trainer in legal hunting or in herding of livestock, while assisting a peace officer engaged in law enforcement duties, or while being trained for the above purposes so long as such dogs are under direct and effective sound or gesture control within sight of such individuals to assure that they do not violate any other provisions of law. Furthermore, Community Cats, as defined under the Utah Community Cat Act, shall not be considered at large under this provision, and the Community Cat Caretaker, as defined under the Utah Community Cat Act, shall not be subject to penalties under this provision.

C. In addition to any other penalty, there shall be a \$35 pick-up fee for each animal apprehended under this provision.

Section 13-200.01.080 Impound-Authority

A. The animal control officer may apprehend and impound any animal found at large within the city. Any person apprehending any animal running at large on his or her property may deliver the same to any

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animal control officer, which animal may then be impounded in the animal shelter.

- B. Whenever an animal control officer shall have probable cause to believe that an animal has been abandoned, or is a vicious animal, or that the animal has been treated in any way that is in violation of any provision of Section 13-200 or Utah Code regarding Cruelty to Animals, the officer shall be authorized to immediately seize the animal and may impound the same in the animal shelter, in accordance with the Fourth Amendment.
- C. In the enforcement of any provision of this Section, any police officer or animal control officer is authorized to enter the premises of any person to take possession of a fierce, dangerous, or vicious animal or animals running at large, when in fresh pursuit of such animal at the time the animal goes onto the private property.
- D. A community cat released to the location where it was trapped in accordance with the Utah Community Cat Act shall not be considered abandoned.
- E. Healthy community cats shall not be impounded. Stray, feral, or domesticated cats may be impounded if there is no Community Cat program actively in place in the community. A community cat released to the location where it was trapped in accordance with the Utah Community Cat Act shall not be considered abandoned.

Section 13-200.01.085 Impound Procedures

- A. If an animal is summarily impounded without the knowledge of the owner or custodian, a notice that the animal has been impounded shall be given to the owner or custodian of the animal, if the same is known, by handing the notice to the owner or custodian, attaching the notice to the door at the residence thereof, or mailing a notice to the last known address of the owner or custodian. Such notice triggers the minimum holding period described in (B) below.

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- B. An animal summarily impounded as provided in this section may be recovered by the owner complying with the regulations of the animal shelter. If, in a subsequent court proceeding, the animal is determined not to be abandoned, vicious, at large, or a nuisance, the animal shall be released to the owner or custodian without any charge. Unless subject to quarantine, any animal impounded at an animal shelter shall be held for a minimum five working days. If the animal is not claimed or adopted within the five days, it may be surrendered to an animal sanctuary/kennel, or, as a last resort, euthanized.
- C. If there are safety concerns with releasing the animal, the City may continue holding the animal until an agreement has been reached between the owner/custodian and the City, or until a court order, pursuant to a hearing, makes findings, including whether the animal is vicious, and directs that the animal be 1) destroyed, 2) placed in a sanctuary, or 3) released to the custodian according to any court-imposed restrictions.
- D. Healthy community cats that have been impounded may be immediately returned to the field near where the cat was found, released to a caregiver or the sanctuary, or adopted.
- E. Any animal voluntarily relinquished to the animal control officer or an animal shelter by the owner or custodian thereof for destruction or other disposition need not be kept for the minimum holding period, but may be euthanized immediately.
- F. Any law enforcement officer may humanely destroy any animal found suffering past recovery for any useful purpose. Before destroying the animal the officer shall obtain the judgment to the effect of a veterinarian, or of two reputable citizens called by him to view the animal in his presence, or shall obtain consent to the destruction from the owner of the animal.
- G. Any wild animal placed in the animal shelter may be disposed of immediately.

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Section 13-200.01.160 Quarantine of Animals

- A. Whenever any animal attacks or bites a person or domestic animal, the police department may impound and quarantine the animal for a period of ten days. The owner of an animal, upon learning that the animal bit or attacked a person or other domestic animal, shall immediately notify the police department. At the end of the ten-day quarantine period, the animal may be released from quarantine, upon a veterinarian's examination that such animal is free from rabies in accordance with Section 13-200.03.010 Rabies Control below. If the animal is not claimed or adopted within the ten days, it may be surrendered to an animal sanctuary/kennel, or, as a last resort, euthanized. The expenses incurred in the inspection of such animal shall be paid by the owner or person in control of such animal, in addition to any other fines or charges due. Such expenses shall be paid prior to the release of the animal. If the animal dies within the ten-day quarantine period, its brain shall be sent to the State Department of Health for examination for rabies.
- B. If there are safety concerns with releasing the animal, the City may continue holding the animal until an agreement has been reached between the owner/custodian and the City, or until a court order, pursuant to a hearing, makes findings, including whether the animal is vicious, and directs that the animal be 1) destroyed, 2) placed in a sanctuary, or 3) released to the custodian according to any court-imposed restrictions.

Section 13-200.01.100 Detention of Animals

It is unlawful for any person to detain or hold the animal of another, without the owner's consent or knowledge, and without notifying the animal control officer or law enforcement agency within twenty four hours.

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Section 13-200.03.010 Rabies Control

A. A Report of Bites. A person bitten and the parents or guardians of a minor child bitten by a dog, cat, skunk, fox, bat, coyote, bobcat, or other animal known to constitute a serious threat of rabies shall notify the animal control officer immediately thereafter. Physicians treating such bites and other persons having the knowledge of such bites shall also be required to make such notification.

B. Report of Suspected Rabid Animals. Any person who observes or has knowledge of an animal that shows symptoms of rabies, or which acts in a manner that would lead to a reasonable suspicion that it may have rabies, shall notify the animal control officer and comply with appropriate laws and regulations regarding suspected cases of rabies as directed by the state or city-county health departments.

C. Isolation of Biting or Suspected Rabid Animals. Upon the reasonable order of the animal control or public health officer, a biting or suspected rabid animal shall be isolated, at the owner's expense if owned, in strict confinement under proper care and under the observation of a licensed veterinarian in an animal shelter or veterinary clinic in a manner approved by the animal control officer.

D. Examination of Head. Any biting or suspected rabid animal may be humanely euthanized immediately, and such animal's undamaged and properly packaged and properly refrigerated head shall be delivered promptly to an approved medical facility having the capability of performing tests to demonstrate the presence of rabies.

E. Release. Ten (10) days after the day of a bite by an animal, such animal may be released to its owner after a licensed veterinarian has examined that animal and in his or her opinion found it not to have had rabies in a transmittable stage on the day of the bite. Non-immunized animals shall be vaccinated for rabies before release.

F. Animals Possibly Exposed to Rabies. Any animal of a species subject to rabies that has been bitten by a known rabid animal, or that has been in intimate contact with such an animal, shall be isolated, at the

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owner's expense if owned, in strict confinement in a place and manner approved by the animal control officer and observed by a licensed veterinarian for a period of six (6) months, or euthanized. Notwithstanding the foregoing, the following alternative is permitted in case of dogs and cats. If the dog or cat had been vaccinated against rabies at least thirty (30) days before the suspected exposure with a type of vaccine produced under U.S.D.A. license and within the time period approved by the state veterinarian, the dog or cat may be re-vaccinated and isolated in strict confinement in a place and manner approved by the animal control officer and observed by a licensed veterinarian for a period of thirty (30) days.

Section 13-200.03.020 Vaccination Required

A. Dog owners shall obtain a rabies vaccination for each dog they own, keep, harbor, or have custody of, within ten (10) days after it becomes three months of age, or within ten (10) days after obtaining any dog over three months of age. It shall be unlawful for any person or persons to own, keep, harbor, possess, or to have in his or her care, charge or custody, any dog three months of age or over unless such dog has a current and valid rabies vaccination administered by any duly qualified and licensed veterinarian, with a rabies vaccine approved by the State Department of Health for use in dogs. Such vaccination shall be repeated at intervals specified by the State Department of Health in order to maintain adequate immunity.

B. In addition to the current year's license, the vaccination tag shall be attached to or otherwise worn by the dog. It shall be unlawful for any person or persons to remove or cause to be removed the vaccination tag from any dog without the consent of the owner, keeper, or harbinger thereof. The vaccination tag shall not be transferable from one dog to another.

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Section 13-200.01.190 Female Cats in Heat/Season Running at Large

The owners or custodians of female cats shall cause such cats, when in heat/season, to be penned or enclosed in such a manner as to preclude other cats from attacking such female cat or from being attracted to such female cat. It shall be unlawful for the owner or custodian of any female cat to cause, permit, or allow such cat to be at large, or to enter upon a street or sidewalk while such female cat is in copulating heat/season regardless of lack of knowledge of the offense at the time it occurs. If the female cat cannot be controlled by the owner in accordance with this section during the copulating heat/season, such cat may be impounded by the animal control officer.

Section 13-200.01.200 Threatening Passers-By

It shall be unlawful for any animal to threaten a passer-by by nipping, chasing, jumping upon, or attacking. The owner or custodian of such animal shall be guilty of a Class C misdemeanor.

Section 13-200.02.040 Female Dogs in Heat/Season Running at Large

The owners or custodians of female dogs shall cause such dogs, when in heat/season, to be penned or enclosed in such a manner as to preclude other dogs from attacking such female dog or from being attracted to such female dog. It shall be unlawful for the owner or custodian of any female dog to cause, permit, or allow such dog to be at large, or to enter upon a street or sidewalk while such female dog is in copulating heat/season regardless of lack of knowledge of the offense at the time it occurs. If the female dog cannot be controlled by the owner in accordance with this section during the copulating heat/season, such dog may be impounded by the animal control officer.

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Section 13-200.02.160 Dogs in Prohibited Areas

A. It shall be unlawful for any person to take or to permit any dog, whether loose or on a leash or in arms, in or about any establishment or place of business where food or food products are sold or displayed, as required by Utah law; and it shall be unlawful for any person to allow any dog to enter in or be upon any public park, school, cemetery, or other City property where it is posted that no dogs are allowed.

B. An exception to this section shall be for any dog trained and used for physically handicapped persons, such as dogs for the blind or hearing impaired.

Section 13-200.02.170 Allowable Number of Dogs

A. Except as otherwise provided in this Section, no more than two (2) dogs which are three (3) months of age or older shall be kept at any property at any time.

B. Additional—Dog Households, public and private kennels, or any similar facilities that keep more animals than allowed by this section, are permitted within the City and exempt from this section only if licensed by the City and lawfully located pursuant to City Zoning Regulations.

C. Additional-Dog-Household Permit:

1. A person may receive an Additional-Dog-Household Permit by meeting the following requirements:

- a) All dogs within the household must meet the licensing requirements of Section 13-200.02.010;
- b) All dogs within the household must be spayed or neutered;
- c) The residence must have a fully fenced yard of at least 450 square feet capable of containing all dogs;
- d) Dogs may not be chained or tethered to a fixed location outdoors at anytime; and

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e) An applicant must submit an application provided by the City agreeing to the terms of this provision, and must include as part of the application images of the required fence and fenced property.

f) If the applicant does not own the property, the property owner must co-sign the application.

2. Additional -Dog -Household Permits will be revoked for any of the following reasons:

a) Two convictions within 12 months under Section 13-200.01.060 for excessive noise;

b) Two convictions within 12 months under Section 13-200.01.070 for animals at large;

c) One conviction under Section 13-200.01.050 for cruelty to animals;

d) One conviction under Section 13-200.01.020 for failure to maintain premises in a neat and sanitary condition;

e) One conviction for other serious dog-related offenses (greater than a Class C misdemeanor); or

f) Failure to maintain the requirements of this section

3. Additional- Dog- Household Permits are not transferable between applicants nor properties.

Section 13-200.04 Kennels and Dog Boarding

Section 13-200.04.020 Permit or Licensure Required

A. Kennels:

A.1. Permit required. No person may operate or maintain a kennel without first obtaining a permit from Kanab City.

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B.2. Application. All applications for permits to operate or maintain a kennel shall be submitted in writing upon printed forms provided for such purposes by the City. The application shall first be referred to the City animal control officer. Upon approval, the City shall issue the permit upon payment of the fee herein provided.

C.3. Before the permit can be issued the following conditions concerning the location of the kennel must be met.

1.a. A private kennel shall be located in a Residential Agricultural (RA) ~~District~~zone or Rural Residential (RR-1) zone, with a conditional use permit and shall not exceed more than three (3) dogs per acre. The location where the dogs or cats are kept, raised, or housed must be 200 feet away from any neighboring house, and must be 150 feet from any road.

2.a. A public kennel shall be located in a permitted commercial district, with a conditional use permit.

B. Dog Boarding:

1. A business license is required to operate or maintain dog boarding in a residential zone as permitted in the Land Use Ordinances.
2. Boarding dogs in a permitted residential zone shall not exceed more than four (4) dogs per property, including any dogs that are owned by the tenant or property owner.
3. The location of any structure or enclosure (i.e. doghouse, dog run, etc.) where dogs are kept or housed must meet the setback requirements for the zone.
4. The residence must have a fully fenced yard of at least 450 square feet capable of containing all dogs
5. Dogs may not be chained or tethered to a fixed location outdoors at anytime

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6. If the applicant does not own the property, the property owner must co-sign the application.

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D.C. The following minimum standards shall be complied with to obtain and maintain a kennel permit and a business license for dog boarding.

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1. Enclosure must be provided which shall allow adequate protection against weather extremes. Floors of buildings, runs and walls shall be of an appropriate material as required by the specific breed of animal and also to permit proper cleaning and disinfecting.
2. Adequate ventilation shall be maintained and an appropriate temperature provided as required by the specific breed of animal housed therein.
3. Each animal shall have sufficient space to stand up, lie down and turn around without touching the sides or tops of cages.
4. Runs shall provide an adequate exercise area and protection from the weather.
5. All animal quarters and runs are to be kept clean, dry and in a sanitary condition.
6. The food shall be free of contamination, palatable and of sufficient nutritive value as to meet the normal daily requirements for the condition and size of the animal.
7. Fresh water is to be available at all times. Water vessels shall be mounted or secured in a manner that prevents tipping and be of the removable type.
8. Permits and licensure will be revoked for any of the following reasons:
 - a. Two convictions within 12 months under Section 13-200.01.060 for excessive noise;

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b. Two convictions within 12 months under Section 13-200.01.070 for animals at large;

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c. One conviction under Section 13-200.01.050 for cruelty to animals;

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d. One conviction under Section 13-200.01.020 for failure to maintain premises in a neat and sanitary condition;

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e. One conviction for other serious dog-related offenses (greater than a Class C misdemeanor); or

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f. Failure to maintain the requirements of this section

7.9. Permits and licensure are not transferable between applicants nor properties.

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E.D. Holders of existing kennel permits which do not meet the distance requirements required in this Section shall be exempt from the distance requirements for their existing animals. As animals die, are sold, given away, or are otherwise removed from the property, they may not be replaced unless all of the conditions of this Section are met. The City shall have the power to revoke the kennel permit in the event that the permit holder is convicted of any other violation of the provisions of this title.

Section 13-200.04.030 Fees

Any person conducting, operating or maintaining a kennel shall pay to the City for the privilege of conducting, operating, or maintaining such kennel an annual permit fee, which shall be in an amount established by City Council resolution.

Section 13-200.04.050 Inspection

It shall be the duty of the animal control officer or police officer to periodically inspect all registered kennels, to see that the provisions of

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this Section pertaining to the sanitation and care of such places are being observed.

Section 13-200.04. 060 Definitions - Exception for Puppies-Kittens

- A. Kennel as defined in §13-200.01.010 shall be applicable to this Section.
- B. This Section shall not apply to the birth of puppies or kittens in a situation which is not an intentional commercial breeding business so long as the total number of dogs or cats is reduced to the allowable number per the definition of Kennel.

Section 13-200.02.010 Licensing

A person owning a dog within the City limits shall license the dog pursuant to the following provisions:

- A. Licensing, Fees, and Registration.
 - 1. It is unlawful for any person to own, keep or harbor a dog over the age of three months within the limits of this City without licensing the dog with Kanab City and paying to the City an annual registration fee.
 - 2. A late fee shall be imposed unless a new license is acquired before the expiration of the current license. Licenses for the following year may be purchased within ninety (30) days before the expiration date.
 - 3. All licenses and late fees required by this Section shall be in the amounts established by City Council resolution.
 - 4. It shall be the duty of the animal control officer to license any dog upon a qualified application of the owner or keeper and to issue a license receipt and metallic license tag on payment by the owner or keeper. Such license receipt and metallic license

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tag shall be valid and in force from the date issued until the expiration date.

5. The provisions of this section shall not apply to dogs whose owners are nonresidents temporarily within the City for thirty (30) days or less, nor to dogs brought into the City for the purpose of participating in any show or event.
- B. Information Required for License. Before receiving a license receipt and metallic license tag, each owner must identify in the application for such a license, the name and address of the owner and sex, breed, age and color of each dog to be licensed. The owner must also present a certificate from a veterinarian stating that the dog has been vaccinated for the prevention of rabies. Such certificate must give the last date of vaccination and the number of the vaccination tag used by the veterinarian at the time of vaccination. It is unlawful for the owner to misrepresent the age of any dog for the purpose of avoiding the payment of the license required by this Section.
- C. Collar-Tag Attachment. It shall be the duty of the owner or keeper of any dog so licensed to provide a suitable collar for such dog to wear and to attach thereto the metallic license tag having a number corresponding with the certificate of registry inscribed thereon. All dogs not so licensed and collared as prescribed by this Section may be impounded by the animal control officer or any police officer or other designated official of the city.
- D. Removal of Collar and License Tag. It is unlawful for any person other than the owner to remove the collar from any dog to which collar has been attached the metallic license tag herein required, or to remove said metallic license tag from the collar to which it has been attached.
- E. The owner of any dog of license age, except exempt dogs below, shall make application for permit and obtain a permit tag for such dog within ten (10) days after acquisition or age attainment.

Section 13-200.02.020 Licensing and Fee Exemptions

The provisions of §13-200.02.010.(A)(1) shall not apply to:

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1. Seeing eye dogs properly trained to assist blind persons, if such dogs are actually being used by blind persons to assist them in moving from place to place.
2. Hearing dogs properly trained to assist deaf persons if such dogs are actually used by deaf persons to aid them in responding to an auditory stimulus.
3. Dogs specifically trained to assist officials of governmental agencies in the performance of their duties and which are owned by such agencies.
4. Nothing in this section shall be construed to exempt any dog from having a current rabies vaccination.

Section 13-200.01.210 Penalties

Unless otherwise specifically provided, every person whose animal violates any provision of this Section is guilty of a Class C misdemeanor. In addition to any other penalty authorized by law and unless otherwise specified, a person found guilty of violating Section 13 shall pay a fine of at least one hundred and fifty dollars for the first occurrence and at least three hundred dollars for each additional occurrence within a 12- month period.

Section 13-310 Adoption Criminal Code

- A. ADOPTION OF CRIMINAL AND TRAFFIC CODE - The provisions of the Utah State Code, Titles 13, 23 (including the applicable sections of the Utah Administrative Code, enacted by the Utah Department of Wildlife), 24, 26, 30, 31A, 32B, 41, 53, 53A, 53B, 54, 58, 59, 63, 65A, 72, 73, 76, 77, 78, and the Federal Motor Carrier Safety Regulations (the specific sections adopted by Utah Code, Title 72), any of which as may hereafter be amended from time to time, which define offenses which are Class A, B, or C Misdemeanors, or Infractions, and definitions, procedural, or supporting sections as contained in the Utah Criminal and Traffic Code are hereby approved

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and adopted as the Criminal and Traffic Code of this municipality, as may be modified by ordinances of this municipality.

- B. Penalties : Each criminal or traffic offense outlined or adopted herein shall be of the same misdemeanor or infraction offense level as outlined in Utah State Code, Utah Administrative Code, and the Federal Motor Carrier Safety Regulations, unless otherwise specified herein. The fine or bail amount for each offense shall be the same as that outlined in Utah State Code or the current version of the Utah Uniform Fine/Bail Schedule, unless otherwise specified herein.

Section 13-311 Off-Highway Vehicle Act

- A. Adoption of Off-Highway Vehicle Act. Section 22 of Title 41 of the Utah Code Annotated 1953, shall constitute the Kanab City Ordinance as to the rules and regulations governing off-highway vehicle (hereinafter OHV) and the same shall be construed to make them applicable as City ordinances.
- B. Designation of OHV routes. The following streets within the City of Kanab are designated as permissible routes for the use of off-highway vehicles subject to all other rules and regulation outlined in this Section. While on city streets, any operator who is under 16 years of age must be under the direct visual supervision (as defined in Utah Code 41-22-30) of an adult who is at least 18 years of age.
- C. Speed Limits. The maximum speed for off-highway vehicles shall be 25 miles per hour or as posted (for general motor vehicular traffic) whichever is the most restrictive. The operation of off-highway vehicles shall otherwise be in accordance with all applicable motor vehicle laws and regulations. The violation of this provision shall be punishable consistent with speed violation for general motor vehicles.
 - 1. The following described roadways are hereby designed for off highway vehicle (OHV) use in conformance with all applicable

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laws, ordinances, and regulations of the State of Utah and the City of Kanab.

West Side of Kanab

- 300 West to Highway 89 North.
- 300 North - from 300 West to 200 East.
- 200 West - from 300 North to 200 South.
- 200 South to 100 West (1 block).
- South on 100 West to 400 South (2 blocks).
- 300 South - West to Powell Drive.
- South on Powell Drive to the Utah / Arizona State Line.
- 100 West to 300 East.

East Side of Kanab

- 300 North down 200 East to 100 North.
- East on 100 North to 300 East (1 block).
- Down 300 East to 400 South.
- West on 400 South to 175 East.
- 175 East to 650 South.
- 650 South to 2100 South on State Road 11.
- 2100 South to 2500 South on 175 East.
- 175 East to 400 East on 2500 South.
- 2500 South to 2900 South on 400 East.
- 550 East to 1000 East on 2900 South.

Highway 89

- From 300 East on Highway 89 to 900 East.
- South on 900 East to Chinle Drive.
- East on Chinle Drive (old highway 89) to the junction of Highway 89 (6 miles).

The use of the above designated routes by OHV shall be exclusively for the purpose of accessing approved trails or roadways on state and federal lands outside City limits.

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2. Operation of off-highway vehicles on streets or roadways within Kanab City other than those designated above shall be authorized, but only to access the closest designated route described above or by operators then registered as participants of an organized OHV event which event has previously obtained the necessary permit or authorization from Kanab City. The violation of this section shall be punishable as an infraction.

Section 13-312 Curfew-Minors-Exceptions

It is hereby made unlawful for persons of or below the following ages to remain upon the streets, alleys or public places or vacant lots of the municipality between the hours set forth below, unless such person is accompanied by a parent, guardian, or other person with legal custody of such persons necessitates, in which event such person or persons shall obtain a permit from the Chief of Police. Where a permit is required, such permit shall be kept with the person.

<u>Ages</u>	<u>Curfew Hours</u>
14 and below	10:00 p.m. to 5:00 a.m.
15 to 18	10:00 p.m. to 5:00 a.m. for every curfew period which immediately precedes a school day.
	12:00 Midnight to 5:00 a.m for curfew periods not preceding a school day.

A school day shall be any day that Kanab High School is in session during the regular school year.

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Section 13-313 Responsibility Of Parents, Etc.

The parents, guardians or persons with the legal charge or custody of any person subject to section 13-312 shall not permit such person or persons to remain upon any street, alley, vacant lot or public place, except when a permit as is therein authorized has been issued.

Section 13-312.1 Minors Daytime Curfew

- A. **Minors Subject to Compulsory or Alternative Compulsory Education – Daytime.** It is unlawful for any minor subject to compulsory or alternative compulsory education to loiter or remain in any public place, any restricted dwelling, or any unsupervised place within the Kanab City limits during the normal school hours for the school said minor is required to attend.
- B. **Parents, Guardians, and Teachers – Daytime.** It is unlawful for any parent, guardian, teacher, or other person having legal care and custody of any minor subject to this chapter to permit or allow, whether willfully or by exercise of insufficient control, any such minor to remain or loiter in any public place or in any other restricted place, except as provided in this chapter.
- C. **Defenses.** It shall be a defense to a violation of this chapter that at the time the minor was in violation of Section A or B above, the minor was:
 - 1. A minor 14 years or older, emancipated by marriage.
 - 2. Accompanied by the minor's parent, guardian, or other adult person having care, custody, or supervision of said minor.
 - 3. In a motor vehicle involved in interstate travel.
 - 4. On an errand at the direction of the minor's parent or guardian, without detour or stop.
 - 5. Acting in response to an emergency.
 - 6. Going to, or returning from, a medical or dental appointment.

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7. Permitted to leave the school campus for lunch or any school-approved activity.
 8. Attending, or without any detour or stop, was going to, or returning from, a school-approved, recreational, or educational activity, supervised by adults, and sponsored by the local school district, another school district, or any civic, religious, or other government organization.
 9. Going to, or returning directly from, a compulsory alternative education program.
 10. Going to, or returning directly from, the minor's place of school-approved employment.
 11. Granted an exemption for "home schooling" as prescribed by the local board of education.
 12. Otherwise granted an exemption to compulsory education by the local board of education, under Utah Code Section [53A-11-102](#), or any successor provision.
- D. **Enforcement Procedures.** Before taking any enforcement action under the provisions of this section, a Peace Officer shall ask said minor's age and reason for being in the public place or other restricted place. The Peace Officer shall not take enforcement action under this section if the Peace Officer has reasonable cause to believe that any defense under subsection (C) of this section applies.
1. Upon any violation, the Peace Officer may take the minor into temporary custody and/or issue a citation to the minor. If the Peace Officer takes the minor into temporary custody, the Peace Officer, without unreasonable delay, shall:
 - a. Transport the minor to the school from which the minor is absent, releasing the minor to the principal or other designated school official; or

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- b. Release the minor to any individual who has been designated by the local school board to receive and return the minor to school; or
 - c. Transport and release the minor to a receiving center established and designated by the local school board.
 - 2. If the minor refuses to return to school or go to the receiving center, or the Peace Officer is unable to otherwise release the minor to the appropriate school official or designated receiving center, the Peace Officer may release the minor to the minor's parent or guardian, and shall notify the appropriate school officials of the violation. If a parent or guardian cannot be reached or is unable to accept custody, the minor shall be referred to the Division of Child and Family Services, in the manner required under state law.
 - 3. If cited, the minor shall appear, along with a parent or guardian, in the applicable youth court or in Juvenile Court as directed in the citation.
 - 4. A parent or guardian shall not be cited for a violation unless the minor in question was previously cited for a violation of this section and the parent or guardian was warned or advised by a Peace Officer, school official, receiving center, or court official of such violation.
- E. **Penalty.** A violation of this section shall be a Class C misdemeanor. In Juvenile or Justice Court, a person adjudicated in violation of this section shall receive a minimum fine of \$50.00 for an initial violation. A person adjudicated in subsequent violations of this section shall receive a minimum fine of \$100.00. The minimum fine is not intended to be a limitation of any other penalty, probation, community service requirement, or other fine which may be imposed by the applicable court.

Section 13-314 Discharge of Firearms

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It shall be a class B misdemeanor for any person to discharge within the city of Kanab any kind of firearm unless a permit is issued by the Chief of Police; provided that this section shall not be construed to prohibit any officer of the law from discharging a firearm in the performance of his duty nor any citizen from discharging a firearm when lawfully defending person or property.

Section 13-315 Prohibition of Discharge of Fireworks or To Set On Fire Any Inflammable Material within Kanab City

- A. Excepting those provisions in Utah Code § 53-7-225, and in accordance with Utah Code § 53-7-22, it shall be unlawful to possess, discharge, sell, or offer for sell Class C Fireworks within Kanab City without first having obtained a Fireworks permit from the City Fire Department or other authorized agents.
- B. It shall be unlawful to throw, deposit, or discard upon any public road, highway, park, recreation area or other public or private land, or waterway any lighted material.
- C. It is hereby declared that this ordinance is necessary for the immediate safety of the Citizens of Kanab City and shall take effect immediately upon publication and shall remain in effect until further notice.

Section 13-349 Sexually-oriented Businesses

Section 13-350 Purpose

The purpose of this Section is to regulate sexually-oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent deleterious secondary effects of sexually-oriented businesses within the City. The provisions of this Section have neither the purpose nor effect of imposing a limitation or restriction on the content of or

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reasonable access to any communicative materials, including sexually-oriented materials. Similarly, it is neither the intent nor effect of this Section to restrict or deny access by adults to sexually-oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually-oriented entertainment to their intended market. Neither is it the intent nor effect of this Section to condone or legitimize the distribution of obscene or indecent material.

Section 13-351 Definitions

For purposes of this Section, the following words and phrases shall have the meanings set forth below unless a different meaning is clearly indicated by the context.

"Adult bookstore" or "adult video store" means a commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one (1) or more of the following: books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides or simulated display, or other visual representations which are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas. For the purpose of this definition, "principal purpose" means the commercial establishment:

- A. has a substantial portion of its displayed merchandise which consists of said items, or
- B. has a substantial portion of the wholesale value of its displayed merchandise which consists of said items, or
- C. has a substantial portion of the retail value of its displayed merchandise which consists of said items, or
- D. derives a substantial portion of its revenues from the sale or rental, for any form of consideration, of said items, or

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- E. maintains a substantial section of its interior business space for the sale or rental of said items; or
- F. regularly features said items, and prohibits access by minors, because of age, to the premises, and advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way; or
- G. maintains an adult arcade, which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting specified sexual activities or specified anatomical areas.

"Adult cabaret" means a nightclub, bar, juice bar, restaurant, bottle club, or other commercial establishment, whether or not alcoholic beverages are served, which regularly features persons who appear nude and/or semi-nude.

"Adult motel" means a motel, hotel, or similar commercial establishment which:

- A. offers accommodations to the public for any form of consideration; provides customers with closed-circuit television transmissions, films, motion pictures, video cassettes, other photographic reproductions, or live performances which are characterized by the display or simulated display of specified sexual activities or specified anatomical areas and which advertises the availability of such material by means of a sign visible from a public right-of-way, or by means of any on-or-off premises advertising, including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; or
- B. offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

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- C. allows a tenant or occupant of a sleeping room to sub rent the room for a period of time that is less then ten (10) hours.
- D. "Adult motion picture theater" means a commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the display or simulated display of specified sexual activities or specified anatomical areas are regularly shown to more than five (5) persons for any form of consideration.

"Characterized by" means describing the essential character or quality of an item. As applied in this Section, no business shall be classified as a sexually-oriented business solely by virtue of showing, selling, or renting materials rated "NC-17" or "R" by the Motion Picture Association of America.

"City" means the City of Kanab, Utah.

"Customer" means a patron of a business as defined in this Section.

"Employ," "employee" and "employment" describe and pertain to any person who performs any service on the premises of a business, on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

"Establish" and "establishment" means any of the following:

- A. the opening or commencement of any sexually-oriented business as a new business;
- B. the conversion of an existing business, whether or not a sexually-oriented business, to any sexually-oriented business; or
- C. the addition of any sexually-oriented business to any other existing sexually-oriented business.

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"Hearing Officer" means an attorney with an independent practice and not a full-time employee of Kanab City, licensed to practice law in the state of Utah.

"Influential interest" means any of the following:

- A. the actual power to operate a sexually-oriented business or control the operation, management or policies of a sexually-oriented business or legal entity which operates a sexually-oriented business.
- B. ownership of a financial interest of twenty (20) percent or more of a business or of any class of voting securities of a business, or
- C. holding an office (e.g., president, vice president, secretary, treasurer, managing member, managing director, etc.) in a legal entity which operates a sexually-oriented business.

"Licensee" means a person in whose name a license to operate a sexually-oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for a sexually-oriented business license. In the case of an employee, "licensee" means the person in whose name a sexually-oriented business employee license has been issued.

"Municipal Council" means the Municipal Council of the City of Kanab, Utah.

"Nudity" or "state of nudity" means the showing of the human male or female genitals, pubic area, vulva, anus, or anal cleft or cleavage with less than a fully opaque covering, or the showing of the female breast with less than fully opaque covering of part of the nipple and areola.

"Operate" or "cause to operate" means to cause to function or to put or keep in a state of doing business.

"Operator" means any person on the premises of a sexually-oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. A person may operate or cause to be operated a sexually-oriented business

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whether or not that person is an owner, part owner, or licensee of the business.

"Person" means an individual, proprietorship, partnership, corporation, association, or other legal entity.

"Premises" means the real property upon which a sexually-oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually-oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in an application for a business license pursuant to Section 13-353 of this Section.

"Regularly" means the consistent and repeated doing of the act so described.

"Semi-nude" or "state of semi-nudity" means the showing or the simulated showing of a female breast with less than a fully opaque covering below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition includes the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a dress, blouse, shirt leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

"Semi-nude model studio" means a place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketch, drawn, painted, sculptured, photographed, or similarly depicted by other persons. This definition does not apply to any place where persons appearing in a state of semi-nudity do so in a modeling class operated:

- A. by a college, junior college, or university supported entirely or partly by taxation;
- B. by a private college or university which maintains and operates educational programs in which credits are transferable to college,

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junior college, or university supported entirely or partly by taxation;
or:

"Sexual device" means any three-dimensional object designed or marketed for stimulation of the male or female human genital organ or anus or for sadomasochistic use or abuse of oneself or others and shall include devices such as dildos, vibrators, penis pumps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include any device primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

"Sexual device shop" means a commercial establishment that regularly features sexual devices. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic, or any establishment primarily dedicated to providing medical or healthcare products or services, nor shall this definition be construed to include commercial establishments which do not restrict access to any portion of their premises by reason of age.

"Sexual encounter center" means a business or commercial enterprise that, as one of its principal business purposes, purports to offer for any form of consideration, physical contact in the form of wrestling or tumbling when (1) or more of the persons is semi-nude.

"Sexually-oriented business" means an adult bookstore or adult video store, an adult cabaret, an adult motel, an adult motion picture theater, a seminude model studio, sexual device shop, or a sexual encounter center.

"Simulated showing or simulated display" means the utilization of a device or covering, exposed to view, that realistically appears to be any part of a specified anatomical area.

"Specified anatomical area" means and includes:

- A. less than completely and opaquely covered human genitals, pubic region, anus, anal cleft, buttock and female breast below a point immediately above the top of the areola; and

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- B. human male genitals in a discernibly turgid state, even if completely and opaquely covered.

"Specified criminal activity" means:

- A. any of the following specified crimes for which less than five (5) years elapsed since the date of conviction or the date of release from confinement for the conviction whichever is the later date:
1. dissemination or distribution of obscenity or pornographic material;
 2. distribution of a controlled substance;
 3. engaging in organized criminal activity relating to a sexually-oriented business;
 4. indecency with a child, including:
 - (a) unlawful sexual activity with a minor,
 - (b) sexual abuse of a minor, and
 - (c) lewdness involving a child;
 5. indecent exposure or lewdness;
 6. molestation of a child, including:
 - (a) rape of a child,
 - (b) object rape of a child,
 - (c) sodomy on a child;
 - (d) sexual abuse of a child, and
 - (e) aggravated sexual abuse of a child;
 7. sexual exploitation of a minor;
 8. prostitution or promotion of prostitution, including:
 - (a) patronizing a prostitute,
 - (b) aiding prostitution

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- (c) exploiting prostitution, and
 - (d) aggravated exploitation of prostitution;
 - 9. rape, including,
 - (a) object rape,
 - (b) forcible sodomy, and
 - (c) forcible sexual abuse;
 - 10. sale, distribution or display of harmful material to a minor, including:
 - a. indecent public displays, and
 - a. dealing in harmful material to a minor;
 - 11. sexual assault or aggravated sexual assault;
 - 12. sexual performance by a child;
 - 13. criminal attempt, conspiracy or solicitation to commit any of the foregoing offenses; or
 - 14. any offense in another jurisdiction that, had the predicate act(s) been committed in Utah, would constitute any of the foregoing offenses; or
 - B. any attempt, solicitation, or conspiracy to commit one (1) of the foregoing offenses.
- "Specified sexual activity" means any of the following:
- A. actual or simulated intercourse, oral copulation, masturbation or sodomy; or
 - B. actual or simulated excretory functions as a part of or in connection with any of the activities described in (I) above.
- "Substantial" means at least thirty-five (35) percent of the item(s) or word(s) so modified.

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"Transfer of ownership or control" of a sexually-oriented business means any of the following:

1. the sale, lease, or sublease of the business;
2. the transfer of securities which constitute an influential interest in the business, whether by sale, exchange, or similar means; or
3. the establishment of a trust, gift, or other similar legal device which transfers ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

"Viewing room" means the room, booth, or area where a customer of a sexually-oriented business would ordinarily be positioned while watching a film, videocassette, or other video reproduction.

Section 13-352 Classification

The classifications for sexually-oriented businesses shall be as follows:

- A. adult bookstore or adult video store;
- B. adult cabaret;
- C. adult motel;
- D. adult motion picture theater;
- E. semi-nude model studio;
- F. sexual device shop; or
- G. sexual encounter center.

Section 13-353 License Required

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- A. It shall be unlawful for any person to operate a sexually-oriented business in Kanab City without a valid sexually-oriented business license.
- B. It shall be unlawful for any person to be an employee, as defined in this Section, of a sexually-oriented business in Kanab City without a valid sexually-oriented business employee license.
- C. An applicant for a sexually-oriented business license or a sexually-oriented business employee license shall file in person at the Kanab City business license office a complete application. The application shall be signed as required by subsection (E) herein and shall be notarized. An application shall be considered complete when it contains, for each person required to sign the application, the information and/or items required in subsections (a) through (g) below, accompanied by the appropriate fee identified in Section 13-355 of this Section.
 - 1. the applicant's full true name and other names used by the applicant in the preceding five (5) years;
 - 2. current business address or another mailing address of the applicant;
 - 3. written proof of age, in the form of a driver's license or a copy of a birth certificate accompanied by a picture identification document issued by a government agency;
 - 4. if the application is for a sexually-oriented business license, the business name, location, legal description, mailing address and phone number of the sexually-oriented business;
 - 5. if the application is for a sexually-oriented business license, the name and business address of the statutory agent or other agent authorized to receive service of process;
 - 6. a statement of whether an applicant has been convicted of or has pled guilty or nolo contendere to a specified criminal activity as defined in Section 13-351 of this Section, and if so, each

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specified criminal activity involved, including the date, place and jurisdiction of each as well as the dates of conviction and release from confinement, where applicable; and

7. a statement of whether any sexually-oriented business in which an applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):
 - a. been declared by a court of law to be a nuisance; or
 - b. been subject to a court order of closure or padlocking.
- D. The information provided pursuant to subsections (a) through (g) of this subsection shall be supplemented in writing by certified mail, return receipt requested, to the City Manager within ten (10) working days of a change of circumstances which renders the information originally submitted false or incomplete.
- E. An application for a sexually-oriented business license shall be accompanied by a legal description of the property where the business is located and a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches. Applicants who are required to comply with Subsections 13-363 and 13-367 of this Section shall submit a diagram indicating that the interior configuration meets the requirements of those sections.
- F. If a person who wishes to operate a sexually-oriented business is an individual, the person shall sign the application for a license as the applicant. If a person who wishes to operate a sexually-oriented business is other than an individual, each person with an influential interest in the business shall sign the application for a license as the applicant. Each applicant shall be qualified under Section 13-354

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and each applicant shall be considered a licensee if a license is granted.

- G. The information provided by an applicant in connection with an application for a license under this Section shall be maintained by the office of the City Manager on a confidential basis, and such information may be disclosed only as may be required by law or court order, and only to the extent required, by law or court order.

Section 13-354 Issuance of License

- A. Upon the filing of a complete application under Subsection (C) of this Section for a sexually-oriented business license, the City Manager shall immediately issue a temporary license to the applicant, which temporary license shall expire upon a final decision of the City to deny or grant a business license. Within twenty (20) days of the filing date of a complete sexually-oriented business license application, the City Manager shall issue a business license to the applicant or issue to the applicant a letter of intent to deny the application. The City Manager shall issue a license unless:
 - 1. an applicant is less than eighteen (18) years of age;
 - 2. an applicant has failed to provide information required by Section 13-353 of this Section for issuance of a license or has falsely answered a question or request for information on the application form;
 - 3. the license application fee required by Section 13-355 of this Section has not been paid;
 - 4. the sexually-oriented business does not comply with the interior configuration requirements of this Section or does not comply with the interior configuration requirements of this Section or does not comply with local requirements set forth in Section, Kanab City code;

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5. any sexually-oriented business in which the applicant has had an influential interest, has in the previous five (5) years (and at a time during which the applicant had the influential interest):
 - (a) been declared by a court of law to be a nuisance; or
 - (b) been subject to an order of closure or padlocking; or
 6. an applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity as defined in this Section.
- B. Upon the filing of a complete application under Subsection 13-353 (3) of this Section for a sexually-oriented business employee license, the City Manager shall immediately issue a temporary license to the applicant, which temporary license shall expire upon the final decision of the City to deny or grant a business license. Within twenty (20) days of the filing date of the filing date of a complete sexually-oriented business employee license application, the City Manager shall issue a business employee license to the applicant or issue to the applicant a letter of intent to deny the application. The City Manager shall issue a license unless:
1. the applicant is less than eighteen (18) years of age;
 2. the applicant has failed to provide information as required by Section 13-353 of this Section for issuance of a license or has falsely answered a question or request for information on the application form;
 3. the license application fee required by Section 13-355 of this Section has not been paid;
 4. any sexually-oriented business in which the applicant has had an influential interest, has in the previous five (5) years (and at a time during which the applicant had the influential interest):
 - a. been declared by a court of law to be a nuisance; or
 - b. been subject to an order of closure or padlocking, or

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5. the applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity as defined in this Section.
- C. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the licensee(s), the expiration date, and, if the license is for a sexually-oriented business, the address of the sexually-oriented business. The sexually-oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually-oriented business so that it may be read at any time. A sexually-oriented business employee shall keep the employee's license on his or her person or on the premises where the licensee is then working or performing.

Section 13-355 Fees

The initial license and annual renewal fees for sexually-oriented business licenses and sexually-oriented business employee licenses shall be as follows:

- A. one hundred dollars (\$100) for the initial fee for a sexually-oriented business license and fifty dollars (\$50) for annual renewal. These fees will be in addition to the general business license fees; and
- B. fifty dollars (\$50) for the initial sexually-oriented business employee license and twenty-five dollars (\$25) for annual renewal.

Section 13-356 Inspection

- A. A sexually-oriented business and any sexually-oriented business employee shall permit the City Manager and his or her agents to inspect, from time to time on an occasional basis, the portions of the sexually-oriented business premises where customers are permitted, for the purpose of ensuring compliance with applicable requirements of this Section, during those times when the sexually-oriented

Section 13: POLICE AND PUBLIC OFFENSES

business is occupied by customers or is open to the public. This section shall be narrowly construed by the City to authorize reasonable inspections of the licensed premises pursuant to this Section, but not to authorize a harassing or excessive pattern of inspections.

- B. The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

Section 13-357 Expiration of License

- A. Except for a temporary license or as otherwise provided in this section, the term of a license shall be as provided in Section 9-02, Kanab City Code, unless suspended or revoked.
- B. A license may be renewed only by submitting an application as provided in Section 13-350.040 and paying the fee required by Section 13-359 of this Section.
- C. Application for renewal of a license should be made at least ninety (90) days before the expiration date pursuant to the procedures set forth in Section 13-353 of this Section. When made less than ninety (90) days before the expiration date, the expiration of the license shall not be affected.

Section 13-358 Suspension

- A. If a sexually-oriented business licensee knowingly violates or knowingly allows an employee to violate the provisions of this Section, the City Manager shall issue a letter to the employee indicating the City's intent to suspend the employee's sexually-oriented business employee license for a period of up to thirty (30) days.

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Section 13-359 Revocation

- A. The City Manager shall issue a letter of intent to revoke a sexually-oriented business license or a sexually-oriented business employee license, as applicable, if the licensee knowingly violates a provision of this Section or has knowingly allowed an employee to violate a provision of this Section and the licensee's license has been suspended within the previous twelve (12) month period.
- B. The City Manager shall issue a letter of intent to revoke a sexually-oriented business license or a sexually-oriented business employee license, as applicable, if:
 - 1. the licensee has knowingly given false information in the application for the sexually-oriented business license;
 - 2. the licensee has knowingly or recklessly engaged in or allowed possession, use, or sale of controlled substances or alcoholic beverages on the premises;
 - 3. the licensee has knowingly or recklessly engaged in or allowed prostitution on the premises; or
 - 4. the licensee has knowingly or recklessly engaged in or allowed any specified sexual activity to occur in or on the licensed premises.
- C. The fact that any relevant conviction is being appealed shall have no effect on the revocation of a license, provided that, if any conviction which serves as a basis of a license revocation is overturned or reversed on appeal, such conviction shall be treated as null and of no effect for revocation purposes.
- D. When, after the notice and hearing procedure described in Section 13-360 of this Section, a license is revoked, such revocation shall continue for one (1) year and the licensee shall not be issued a sexually-oriented business license or sexually-oriented business employee license for one (1) year from the date revocation becomes effective.

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Section 13-360 Hearing-Denial, Revocation, and Suspension -Appeal.

- A. When the City Manager issues a written notice of intent to deny, suspend, or revoke a license, the City Manager shall immediately send such notice, which shall include the specific grounds under this Section for such action, to the applicant or licensee (respondent) by personal delivery or certified mail. The notice shall be directed to the most current business address or other mailing address on file with the Kanab City business license office for the respondent. The notice shall specify a date, not less than ten (10) days nor more than twenty (20) days after the date the notice is issued, on which a hearing officer shall conduct a hearing on the City Manager's intent to deny, suspend, or revoke the license.
1. At the hearing, the respondent shall have the opportunity to present all of respondent's arguments and to be represented by counsel, present evidence and witnesses on his or her behalf, and cross-examine any of the City Manager's witnesses. The City Manager shall also be represented by counsel, and shall bear the burden of proving the grounds for denying, suspending, or revoking the license. The hearing shall take no longer than two (2) consecutive days, unless extended at the request of the respondent to meet the requirements of due process and proper administration of justice. The hearing officer shall issue a written decision, including specific reasons for the decision pursuant to this Section, to the respondent within five (5) days after concluding the hearing.
 2. If a decision is to deny, suspend, or revoke a license, the decision shall not become effective until the thirty (30) days after the decision is rendered. The decision shall include a statement advising the respondent of the right to appeal such decision to a court of competent jurisdiction.
 - (a) If the hearing officer's decision finds that no grounds exist for denial, suspension, or revocation of the license, the hearing

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officer shall, contemporaneously with the issuance of the decision, order the City Manager to immediately withdraw the intent to deny, suspend, or revoke the license and to notify the respondent in writing by certified mail of such action.

(b) If the respondent is not yet licensed, the City Manager shall contemporaneously therewith issue the license to the applicant.

- B. If any court action challenging the City Manager's or hearing officer's decision is initiated, the City Attorney shall prepare and transmit to the court a transcript of the hearing within ten (10) days after receiving written notice of the filing of the court action. The City shall consent to expedite briefing and/or disposition of the action, shall comply with any expedited schedule set by the court, and shall facilitate prompt judicial review of the proceedings.
- C. The following shall apply to any sexually-oriented business that is in operation as of the effective date of this Section:
1. Upon the filing of any court action to appeal, challenge, restrain, or otherwise enjoin the City's enforcement of the denial, suspension, or revocation, the City shall immediately issue the respondent a provisional license.
 2. The provisional license shall allow the respondent to continue operation of the sexually-oriented business or to continue employment as a sexually-oriented business employee and shall expire upon the court's entry of judgment on the respondent's appeal or other action to restrain or otherwise enjoin the City's enforcement.

Section 13-361 Transfer of License

A licensee shall not transfer his or her license to another person, nor shall a licensee operate a sexually-oriented business under the authority of a license at any place other than the address designated on the license.

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Section 13-362 Hours of Operation

No sexually-oriented business shall be or remain open for business between 10:00 p.m. and 8:00 a.m. on any day.

Section 13-363 Exhibition of Sexually Explicit Films or Videos

- A. A person who operates or causes to be operated a sexually-oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than three hundred fifty (350) square feet of floor space, a film, video cassette, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements.
1. Each application for a sexually-oriented business license shall contain a diagram of the premises showing the location of each restroom, operator station, viewing room, overhead lighting fixture, video camera and monitor installed for monitoring purposes and shall designate those portions of the premises where customers will not be permitted.
 - (a) Restrooms shall not contain video reproduction equipment.
 - (b) The diagram shall also designate the place where the license will be conspicuously posted, if granted.
 - (c) A professionally prepared diagram in the nature of an architectural drawing shall not be required; however, the top of each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. The City Manager may waive the foregoing diagram for renewal applications if the applicant presents a

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previously submitted diagram and certifies that the configuration of the premises has not been altered since it was prepared.

2. It shall be the duty of the operator, and of any employee present on the premises, to ensure no customer is permitted access to any area of the premises which has been designated as an area in which customers will not be permitted in the application filed pursuant to Subsection (A.1) of this section.
3. The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place where customers are permitted access at an illumination of not less than five (5) foot candles as measured at the floor level. The operator and any employee present on the premises shall have the duty to ensure the illumination described above is maintained at all times when the premises are occupied by customers or open for business.
4. The operator and any employee present on the premises shall have the duty to ensure no sexual activity occurs in or on the licensed premises.
5. The operator shall have the duty to post conspicuous signs in well-lighted entry areas of the business stating all of the following:
 - (a) occupancy of viewing rooms is limited to one (1) person;
 - (b) sexual activity on the premises is prohibited;
 - (c) making of openings between viewing rooms is prohibited;
 - (d) violators will be required to leave the premises; and
 - (e) violations of Subparagraphs (a), (b), (c) of this paragraph (5) are unlawful.
6. The operator shall have the duty to enforce the regulations set forth in Subsections (5.a) through (5.e) above.

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7. The interior of the premises shall be configured to provide an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room, but excluding restrooms, to which any customer is permitted access for any purpose.
 - (a) An operator's station shall not exceed thirty-two (32) square feet of floor area.
 - (b) If the premises have two (2) or more operator's stations designated, then the interior of the premises shall be configured to provide an unobstructed view of each area of the premises to which any customer is permitted access for any purpose from at least one (1) of the operator stations. The view required in this subsection shall be by direct line of sight from an operator's station..
 - (c) The operator and any employees present on the premises shall have the duty to ensure the view area specified in this subsection remains unobstructed by any door, curtain, wall, merchandise, display rack or other material or enclosure at all times when a customer is present on the premises.
- B. It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

Section 13-364 Loitering, Exterior Lighting, Visibility, and Monitoring Requirements

- A. The operator of a sexually-oriented business shall have the duty to:
 1. post conspicuous signs stating that no loitering is permitted on the premises;
 2. designate one (1) or more employees to monitor the activities of persons on the premises by visually inspecting the premises at least once every ninety (90) minutes or inspecting the premises by use of video cameras and monitors; and

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3. provide lighting of the exterior portion of the premises to provide for visual inspection or video monitoring to prohibit loitering. If used, video cameras and monitors shall operate continuously whenever the premises are open for business. Such monitors shall be installed within an operator's station.
- B. It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.
- C. No sexually-oriented business licensee or other person shall erect a fence, wall, or other barrier which prevents any portion of a parking lot for employees or customers of the business from being visible from a public right of way.

Section 13-365 Penalties and Enforcement

- A. A person who knowingly violates, disobeys, omits, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this Section shall be guilty of a Class "B" misdemeanor. Each day a violation is committed, or permitted to continue, shall constitute a separate offense and shall be fined as such.
- B. The City Attorney is hereby authorized to institute civil proceedings necessary for the enforcement of this Section to prosecute, restrain, or correct violations hereof. Such proceedings, including injunction, shall be brought in the name of the City.
- C. Nothing in this section and no action taken hereunder shall:
 1. prohibit a criminal or administrative proceeding as may be authorized by other provisions of this Section, the Kanab City Code, or other law, or
 2. exempt any person violating this Section, the Kanab City Code, or other law from a penalty which may be incurred.

Section 13-366 Applicability of Section to Existing Businesses

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- A. It is unlawful for a sexually-oriented business to knowingly violate the following regulations or to knowingly allow an employee or any other person to violate the following regulations.
 - 1. It shall be a violation of this Section for a customer, employee, or any other person to knowingly or intentionally, in a sexually-oriented business, appear in a state of nudity, regardless of whether such public nudity is expressive in nature.
 - 2. It shall be a violation of this Section for a person to knowingly or intentionally, in a sexually-oriented business, appear in a semi-nude condition unless the person is an employee who, while semi-nude, remains at least six (6) feet from any customer and on a stage at least eighteen (18) inches from the floor in a room of at least one thousand (1,000) square feet.
 - 3. It shall be a violation of this Section for any employee who regularly appears semi-nude in a sexually-oriented business to knowingly or intentionally touch a customer or the clothing of a customer on the premises of a sexually-oriented business.
 - 4. It shall be a violation of this Section for any person to sell, use, or consume alcoholic beverages on the premises of a sexually-oriented business.
- B. (2) A sign, in a form prescribed by the City Manager, summarizing the provisions of Subsections (1), (2), (3), and (4) of this section shall be posted near the entrance of a sexually-oriented business in a location where it is clearly visible to customers upon entry.

Section 13-368 Scienter Required to Prove Violation or Business Licensee Liability

This Section does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a knowing or reckless mental state is necessary to establish a violation of a provision of this Section. Notwithstanding anything to the contrary, for the purposes of

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this Section, an act by an employee that constitutes grounds for suspension or revocation of that employee's license shall be imputed to the sexually-oriented business licensee for purposes of finding a violation of this Section, or for purposes of license denial, suspension, or revocation, only if an officer, director, or general partner, or a person who managed, supervised, or controlled the operation of the business premises, knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act.

Section 13-369 Effect of City Failure to Act

In the event a City official is required to act or do a thing pursuant to this Section within a prescribed time, and fails to act or do such thing within the time prescribed, said failure shall not prevent the exercise of constitutional rights of an applicant or licensee. If the act required of the City official under this Section is not completed in the time prescribed, including approval of condition(s) necessary for approval by the City of an applicant's or licensee's application for a sexually-oriented business license or a sexually-oriented business employee's license (including a renewal), the license shall be deemed granted and the business or employee shall be allowed to commence operations or employment the day after the deadline for the City's action has passed.

- A. If a provision of this ordinance conflicts with a provision of a previously adopted ordinance, this ordinance shall prevail.
- B. This ordinance and its various sections, clauses and paragraphs are hereby declared to be severable. If any word, phrase, sentence, part, section, subsection, or other portion of this Section, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable and the remaining provisions of this section, in full force and effect. The Municipal Council declares that no invalid or proscribed provision or application

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was an inducement to this Section, and that it would have enacted this subsection regardless of the invalid or proscribed provision or application.

- C. The Municipal Council hereby directs that the official copy of the Kanab City Code be updated to reflect the provisions enacted by this ordinance.

Section 13-370 Signs

Notwithstanding anything contrary contained, in Section 7, Sign Regulations, of the Kanab City Uniform Zoning Ordinance, the more restrictive requirements for signs shall prevail. Signs for sexually oriented businesses shall be limited as follows:

- A. No more than one exterior sign shall be allowed.
- B. No sign shall be allowed to exceed eighteen (18) square feet.
- C. No animation shall be permitted on or around any sign or on the exterior walls or roof of such premises.
- D. No descriptive art or designs depicting any activity related to or inferring the nature of the business shall be allowed on any sign. Said sign shall contain alphanumeric copy only.
- E. Only flat wall signs and/or awning signs shall be permitted.
- F. Painted wall advertising shall not be allowed.
- G. Other than the signs specifically allowed by this Section, sexually oriented businesses shall not attach, construct or allow to be attached or constructed, any temporary signs banner, light, or other device designed to draw attention to the business location.

Section 13-371 Location of business, Restrictions

Except as provided in this Section, no building, structure, or land shall be used for the establishment or operation of a sexually-oriented business. A

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person commits an offense if the person operates or causes to be operated, a sexually-oriented business in violation of this Section.

A. Sexually oriented businesses shall only be permitted in the areas zones (M-2).

B.

1. No sexually oriented business shall be located within 1000 feet of:

(a) a church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;

(b) a public or private educational facility including but not limited to child day-care facilities, nursery schools, pre-schools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities. Schools include the school grounds, but does not include facilities used primarily for another purpose and only incidentally to schools;

(c) a public park or recreational area which has been designated for park or recreational activities including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the City which is under the control, operation, or management of the City Park and recreation authorities;

(d) an entertainment business which is oriented primarily towards children or family entertainment;

2. No sexually oriented business shall be located within 600 feet of:

(a) a boundary of a residential district as defined in the Kanab City Zoning Ordinance; or

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(b) the property line of a lot devoted to a residential use as defined in the Kanab City Zoning Ordinance;

- C. A person commits a misdemeanor if that person causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually-oriented business within one thousand feet (1000') of another sexually oriented business.
- D. For the purpose of this Section, measurements shall be made in a straight line, without regard to the intervening structures or objects from the nearest portion of the building or structure used as part of the premises where a sexually-oriented business is conducted, to the nearest property line of the premises of a used listed in Subsection (B). Presence of a City, County, or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Section.
- E. For the purpose of this Section, the distance between any two sexually-oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closed exterior wall of the structure in which each business is located.

Section 13-380 Prohibition of Certain Forms of Tobacco and Nicotine on City-Owned Properties

This section is intended to protect the health and welfare of the public by prohibiting smoking in City parks, recreation areas and facilities, and trails.

- A. Definitions: Terminology used in this section is used as defined in the Utah Indoor Clean Air Act, found in Utah Code, Title 26, Chapter 38, and also those definitions found in Utah Code § 76-10-101 (2022), or their subsequent amendments. Additionally, the following words and terms shall have the meanings ascribed to them in this section:

PARKS, TRAILS, AND RECREATION FACILITIES: City-owned real property which has been designated for park or recreational activities, including, but not

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limited to, a park, airports, playground, skate park, nature trails, swimming pool, baseball diamonds, athletic fields, basketball courts, tennis courts, pedestrian paths, bicycle paths, public squares, parking lots and open space on City property, wilderness areas, or similar City-owned land which is under the control, operation, or management of the city. Parks, trails and recreation facilities also includes Jackson Flat Reservoir.

B. Smoking and Tobacco and Nicotine Use Prohibited in Parks, Trails, and Recreation Facilities:

1. Prohibitions: The use of tobacco products, electronic cigarette products, or nicotine products are hereby prohibited in parks, trails, and recreation facilities within Kanab City.
2. Posting of Signs: "No tobacco use" signs, "No smoking" signs, or the international "no tobacco use" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) may be posted at vehicle and pedestrian entrances to city-owned property. The absence of a sign on or near city-owned property does not signify tobacco products are allowed; the absence of a sign does not remove any liability otherwise imposed by this section.

C. Penalty: A violation of this ordinance is a Class "C" Misdemeanor, with a recommended fine of one hundred dollars (\$25.00) for a first offense, and a recommended fine of two hundred dollars (\$50.00) for a subsequent offense within two years of a prior conviction.

Mayor
T. Colten Johnson
City Manager
Kyler Ludwig
Treasurer
Danielle Ramsay



City Council
Arlon Chamberlain
Chris Heaton
Scott Colson
Boyd Corry
Peter Banks

Kanab City Planning Commission Staff Report

File Number 20251007.2

Date:	October 6, 2025
Meeting Date:	October 7, 2025
Agenda Item:	Discuss and recommend to City Council a text amendment to the General Ordinance, Section 9 Business Licenses

Attachments:

- Exhibit A: Proposed Amendment(s) with Red Lines

Summary:

A text amendment to update the General Ordinances, Section 9 – Business Licenses. The amendment is to address Special Events in city limits.

Recommended Motion:

I move to send a positive recommendation to City Council to adopt changes to the Kanab City Land Use Ordinances identified in exhibit A of the staff report for 20251007.2

I move to send a negative recommendation to City Council.

I move to send a positive recommendation to City Council to adopt changes to the Kanab City Land Use Ordinances identified in exhibit A of the staff report for 20251007.2 with the following amendments:

I move to continue the discussion to the following meeting:

– A Western Classic –

Mayor
T. Colten Johnson
City Manager
Kyler Ludwig
Treasurer
Danielle Ramsay



City Council
Arlon Chamberlain
Chris Heaton
Scott Colson
Kerry Glover
JD Wright

Exhibit A: Proposed Amendment with Red Lines

Section 9: BUSINESS LICENSES AND REGULATIONS

- [9-01 General Business License Process](#)
- [9-02 General Fees & Time Periods](#)
- [9-03 Solicitors](#)
- [9-04 Mass Gatherings](#)
- [9-05 Special Sales Events and Promotions](#)
- [9-06 Non-Profit Special Events](#)
- [9-07 Seasonal Businesses](#)
- [9-08 Alcoholic Beverage Control](#)
- [9-09 Construction Permits](#)
- [9-10 Offensive Businesses and Facilities](#)
- [9-11 Short Term Rental Property](#)

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Section 9: BUSINESS LICENSES AND REGULATIONS

9-01 General Business License Process

- 9-01-010 Penalty for No License
- 9-01-020 Business Definition
- 9-01-030 City License Officer's Powers and Duties
- 9-01-040 License Denial or Revocation
- 9-01-050 License - Application - Issuance
- 9-01-060 Content of License
- 9-01-070 No Transfer of License
- 9-01-080 Separate License for Branch Establishments
- 9-01-090 Hearing as to Classification
- 9-01-100 Exemptions
- 9-01-110 Qualifying for Exemptions
- 9-01-120 Civil Enforcement

9-01-010 Penalty for No License

It shall be a Class B Misdemeanor:

- (1) To engage in any activity or business regulated or licensed under the provisions of this Section without a valid license therefor; or
- (2) To otherwise violate any provision of this Section.

9-01-020 Business Definition

To engage in any activity or business means:

- (1) operating, keeping, conducting, or maintaining a vacation rental dwelling;
- (2) sale of tangible personal property at retail or wholesale;
- (3) manufacturing of goods; or
- (4) rendering of services to others for consideration (i.e., something of value), and includes (as examples, and not by way of limitation): retail merchants; persons engaged in trades and crafts; professionals, including doctors, lawyers, accountants, and dentists; contractors; banks; savings

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and loan associations; and real estate agents. The act of employees rendering services to employers shall not be included in such terms unless otherwise specifically prescribed.

9-01-030 City License Officer's Powers and Duties

(1) The City Recorder is the City License Officer. The City License Officer shall issue licenses in the name of the City to all persons qualified under the provisions of this Section, shall collect all license fees based upon the rate established by this Section, and shall remit all license fees collected to the City Treasurer. While the City License Officer may disclose business names and locations as public information, all other information furnished to or secured by the City License Officer under the authority of this Section shall be kept in strict confidence, shall not be subject to public inspection, and shall be kept in such a manner as to prevent disclosure to persons other than those charged with the administration of this Section except as otherwise provided by law. He or she shall enforce all provisions of this Section, and shall cause to be filed complaints against all persons violating any of the provisions of this Section. The City License Officer shall have the power, directly or through his or her appointed agents, to:

- A. Adopt forms - Adopt all forms and prescribe the information required therein as to all matters relevant for the issuance of a license hereunder.
- B. Investigation - Investigate and determine the eligibility of any applicant or licensee either at the time of issuance of a license or at any reasonable time after its issuance in such manner as may be reasonable and necessary for the proper administration and enforcement of this Section. The Chief of Police, the Fire Marshall, and their authorized officers and deputies are authorized and declared to be investigators for the City License Officer upon request of the latter.
- C. Inspection of Premises and Records - Inspect prospective or existing places of business to ensure compliance with building, zoning, safety and health codes, and request production by the applicant or licensee

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of documents which will verify the number of employees or other information relevant under this Section. The Officer shall utilize the investigators referred to in sub-paragraph B, above, for the purpose of the inspections provided for herein.

- D. Give Notice - Notify any applicant of the acceptance or rejection of his or her application and, in the event of rejection, upon request of the applicant, state in writing the reasons for such rejection; notify a licensee of any infraction of City zoning, building, fire or health codes disclosed by the inspection provided herein, together with notice of the revocation by the City License Officer of the license unless correction of the infraction is effected within five days after such notification.
- E. Request Enforcement - Request the City Attorney to file a complaint against any applicant or any licensee who conducts a business in violation of this Section.
- F. Good Standing of Applicant or Licensee - Determine that the applicant or licensee is not in default under the provisions of any City ordinance, or indebted or obligated in any manner to the City or the utilities operated by it; to not be in violation of any City zoning regulations by reason of the condition of business premises or the use to be made thereof.

(2) In the event the City License Officer has not fulfilled his or her duties in regards to issuing the license at the time the applicant or licensee pays for a license or renewal thereof, the City Treasurer may issue a receipt for the money paid but it shall not be construed as the approval of the City License Officer for the issuance of the License, nor shall it entitle or authorize the applicant to open or maintain any business until such times as the license itself has been issued to him.

9-01-040 License Denial or Revocation

The City may deny, suspend, or revoke a license if the applicant:

- (1) Has obtained a license by fraud or deceit;

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- (2) Has failed to pay personal property taxes or other required taxes or fees imposed by the City; or
- (3) Has violated the laws of the State of Utah, the United States Government, or the ordinances of the City governing operation of the business for which the applicant is applying for the license.

9-01-50 License - Application - Issuance

- (1) All applications for a business license, except as otherwise provided in this code, shall be made in writing to the City License Officer.
- (2) All licenses shall be approved and signed by the City License Officer or its designee. The City License Officer shall file all applications for license with accompanying statements and bonds, and shall keep an alphabetical list of licenses issued, stating the number, name, licensing time frame, place and kind of business and the amount paid, with such remarks as may be considered necessary.
- (3) All business license issuances shall be subject to a fire inspection to ensure compliance with applicable fire codes and regulations.
 - A. Inspection Options:
 - i. The City may conduct a fire inspection, subject to a fee as outlined in the Kanab City Consolidated Fee Schedule.
 - ii. Applicants may elect to perform a self-inspection and certify their compliance with fire code requirements, using forms and guidelines provided by the City.
 - B. Regardless of the inspection method selected, the City reserves the right to conduct fire inspections at any time to verify compliance and ensure the safety and welfare of residents.

9-01-060 Content of License

Every license issued shall specify, by name, the person to whom it is issued and shall designate the particular place at which the business is to be carried on. No license granted or issued under any of the provisions of this Section shall be in any manner assignable or transferable, or authorize any other person than is therein mentioned and named to do business, or

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authorize any other business than is therein mentioned or named to be done or transacted, or the business therein mentioned or named to be done or transacted at any place other than is therein mentioned or named, unless specifically authorized herein.

9-01-070 No Transfer of License

A business license issued hereunder shall not be transferrable to a new owner of any licensed business, or to a new entity owning or operating such business wherein the previous licensee is not the owner of a majority interest in the new entity. An existing license may be transferred from one location to another, where the business is operated at a fixed location, only after obtaining approval of the City License Officer, having a new license issued indicating the new location, and paying an additional fee in accordance with the Kanab City Consolidated Fee Schedule as well as a fee for a fire inspection of the new premises. The City License Officer shall not approve the transfer of a license to a new location operated by the same licensee where the basic type of business in which he shall engage is changed from his former business. Upon the termination of business, the expiration of a license year, or the revocation of a license, the previous license permit shall be destroyed.

9-01-080 Separate License for Branch Establishments

A separate license must be obtained for each branch established or each separate place of business in which the business activities of a licensee are carried on, except that warehouses and distributing plants from which no retail or public trade is conducted used in connection with or incidental to a business licensed under the provisions of this Section shall not be deemed to be separate places of business or branch establishments.

9-01-090 Hearing as To Classification

In the event the City License Officer determines that a business falls within a category that requires additional regulation, fees, or processing steps, an

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applicant may contest such classification by submitting with his or her application a written request for hearing as to the propriety of such classification. The Officer shall submit any request for hearing so received to the Kanab City Council, and the Council shall notify such applicant in writing that on a day and at a time and place therein mentioned said Council shall take up for hearing the question as to whether said Classification is proper or not, and at which time and place said applicant may appear and be heard. At the time and place named in said notice, the City Council shall take up said matter and shall determine said question upon the facts presented to it, and it shall, within 30 days, enter an order according to its judgment upon the facts so presented. Included in that order shall be findings made by the City Council supporting its decision. If it shall be determined that the classification is improper, the Officer shall accept a new application under a general business classification or other specific classification. In the event an applicant or licensee for whom a bond is required because of any of the classifications referred to herein shall object to the size of such bond, he may request a hearing before the Kanab City Council as to the amount of bond set by the Officer in like manner as set forth above, and the Council shall either approve the bond as set by the Officer or instruct the Officer to reconsider the amount of the bond required.

9-01-100 Exemptions

Unless otherwise provided in this Section, the provisions of this Section shall not be construed to require a business license for:

- (1) an activity which is conducted, managed or carried on wholly for charitable, religious or other non-profit purposes from which profit is not derived, directly or indirectly by any person. Qualification under the federal tax laws for non-profit status shall be prima facie evidence that a person has the charitable, religious or non-profit purposes described above.
- (2) Any person selling surplus household goods or furnishings at a private residence in the garage or yard, if such sales are held in accordance with the applicable requirements and frequency set in the municipal code.
- (3) Any individual who is under 18 years of age.

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9-01-110 Qualifying for Exemptions

With respect to exemptions from business license requirements claimed because of charitable, religious or other nonprofit status, the person claiming the exemption shall have the burden of establishing that exemption.

9-01-120 Civil Enforcement

Upon receipt of a report of the violation of this Section or of any other law or ordinance of the City, or of failure by a licensee or applicant to verify information or produce documents upon request, the City License Officer shall issue to the licensee a notice of the alleged violation, along with the manner in which the licensee can correct the violation if applicable. If the licensee refuses to correct the violation, or if the violation automatically revokes the license, the City License Officer shall also send a notice with a request that the licensee appear at a hearing at a date and time set forth in the notice, which date shall be not less than five (5) and not more than thirty (30) days after the date of the notice. In the event the City License Officer receives a sworn statement outlining specific facts showing the alleged violation is a threat to the safety, health or welfare of any specific person or the public, the notice may also contain a provisional order to comply, in writing. The provisional order shall require compliance, or arrangements with the City Officer for such compliance, upon service of the order. The notice shall be personally served upon the person, his or her agent or employee. In the event service cannot be obtained upon the person doing business or his agent or employee, a copy of such notice shall be affixed to some structure on the premises, and a copy shall be deposited in the United States mail addressed to the address contained on the license application. Upon such hearing before the City Council, the City License Officer and the licensee shall have the right to call witnesses, present evidence and make statements. If the City Council finds that violation of the license ordinance, City ordinances, license conditions, or other laws has

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occurred, the City Council shall declare the business license suspended until compliance is made or revoked because of the violation. Within 30 days of a decision, the City Council shall put in writing its findings in support of its decision. Upon revocation of a license, the licensee shall summarily cease business and close the premises upon which the business was operated. The City Attorney shall institute civil suit at the request of the City License Officer to enjoin the operation of any business being operated without the license required hereunder, and he or she shall also commence suit to collect the amount of any unpaid amount, the payment of which is required hereunder, if it cannot be collected by other means. This subsection does not preclude the City's option of pursuing criminal charges against the licensee.

9-02 General Fees & Time Periods

- 9-02-010 General Business License Fee
- 9-02-020 Fee Payments and Prorations
- 9-02-030 Late Penalties
- 9-02-040 Expiration of Licenses
- 9-02-050 Year-End Fee Adjustment
- 9-02-060 Rebate of Fee

9-02-010 General Business License Fee

Fees for business licenses and inspections are set in the Kanab City Consolidated Fee Schedule.

"Number of Employees" shall be the average number of employees engaging in the furtherance of the licensee's business from a base within the city during each regular working day of the preceding calendar year. In the computing of such number, a part-time or seasonal employee shall be counted as that fraction formed by using the total amount of hours regularly worked by the part-time employee in the year as the numerator and the number 2016 as the denominator. The fractional numbers for such part-time or seasonal employees shall be cumulated for the determination of the

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total number of employees. Any fractional balance after such accumulation shall be considered an additional employee.

9-02-020 Fee Payments and Prorations

All license fees shall be paid in advance at the office of the City Treasurer. Annual license fees shall be due and payable on the first day of April of each year. The license fee of any business commenced after the beginning of the license period shall be prorated for the balance of the year remaining.

9-02-030 Late Penalties

Any license fee due on April 1st that is paid later than April 30th of any license year shall be considered to be late, and a late penalty shall be assessed for each renewal or application submitted after April 30th and before June 1st of a license year. A license renewal application due on April 1st of a license year, which is not submitted until after June 1st of that year, shall pay an additional late fee.

9-02-040 Expiration of Licenses

All licenses shall expire on March 31st of each year, except those issued pursuant to a specific indicated time period.

9-02-050 Year-End Fee Adjustment

If an applicant or licensee discovers by the end of any license year that the number of employees utilized by him or her at the beginning of that license year to determine the amount of license fee payable was an improper estimate, and the business did in fact during the year employ more or less persons than the number used as a basis for that fee, an amended application for that year shall be filed on or before April 30th of the following year setting forth the actual number of employees during the license year just completed, and the license fee for the coming year shall be adjusted

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in accordance with the amended application. The City License Officer shall have the right to verify through inspection of the business's payroll and personnel records the accuracy of any amended application. This Section shall apply also to businesses starting up after the commencement of the license year, but on a prorated basis.

9-02-060 Rebate of Fee

No rebate or refund of any license fee or part thereof shall be made by reason of the non-use of such license or by reason of a change of location or type of business rendering the use of such license ineffective, except in the following instances:

- (1) When a license fee is collected in error;
- (2) When a licensee has been prevented from enjoying the full license term due to death or physical incapacity to engage in business;
- (3) When a licensee is rendered unable to conduct business because he has entered the armed services of the United States; or
- (4) When the licensed business is destroyed by fire or other casualty through no fault of the licensee. In the event of the applicability of an exception, the rebate shall be prorated according to the number of days remaining in the license year after the occurrence of the event relied upon for a rebate.

9-02-70 Fee Waivers

Fee waivers do not change the requirements for businesses to have a business license and to comply with other applicable federal, state, and local laws and regulations. Businesses are eligible for a fee waiver if all business activities fall under the following criteria:

- (1) The business is a producer of unprocessed food grown on the producer's property, located within Kanab City limits or within fifty (50) miles of the City's limits, and generating less than 5,200 dollars per year in gross revenues. Unprocessed food includes fruits, vegetables, herbs,

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mushrooms, and flowers. This section does not apply to any producer who sells products that have been processed or altered in any way.

(2) Any person with a Cottage Food Establishment permitted by the State of Utah generating less than 5,200 dollars per year in gross revenues.

(3) Home occupation businesses that do not create an additional offsite impact. Examples of offsite impact include regular deliveries, client meetings, signage, utilization of off-street parking, storage of materials, and employment of people not living in the home.

9-03 Solicitors

- 9-03-010 Purpose
- 9-03-020 No Other City License or Approval Required
- 9-03-030 Definitions
- 9-03-040 Exemptions from This Subsection
- 9-03-050 Solicitation Prohibited
- 9-03-060 Registration of Solicitors
- 9-03-070 Application Form
- 9-03-080 Written Disclosures
- 9-03-090 When Registration Begins
- 9-03-100 Issuance of Certificates
- 9-03-110 Certificate Form and Identification Badge
- 9-03-120 Maintenance of Registry
- 9-03-130 Non-Transferability of Certificates
- 9-03-140 Denial, Suspension or Revocation of a Certificate
- 9-03-150 Appeal
- 9-03-160 Deceptive Soliciting Practices Prohibited
- 9-03-170 "No Solicitation" Notice
- 9-03-180 Duties of Solicitors
- 9-03-190 Time of Day Restrictions
- 9-03-200 Buyer's Right to Cancel

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9-03-010 Purpose

Residents of the City have an inalienable interest in their personal safety, well-being, and privacy in their residences, as well as their ability to provide or receive information regarding matters of personal belief, political or charitable activities, and goods and services lawfully in commerce. The City has a substantial interest in protecting the well-being, tranquility, personal safety, and privacy of its citizens, which includes the ability to protect citizens from unwanted intrusions upon residential property. The City also has a substantial interest in protecting citizens from fraud or otherwise unfair consumer sales practices as well as criminal activity.

There must be a balance between these substantial interests of the City and its citizens, and the effect of the regulations in this Section on the rights of those who are regulated. Based on the collective experiences of City officials derived from regulating business activity, protecting persons and property from criminal conduct, responding to the inquiries of citizens regarding door-to-door Solicitation, the experience of its law enforcement officers and those affected by door-to-door canvassing and solicitation, as well as judicial decisions outlining the boundaries of constitutional protections afforded and denied persons seeking to engage in door-to-door Solicitation, the City adopts this Subsection to promote the City's substantial interests in:

- (1) respecting citizen's decisions regarding privacy in their residences;
- (2) protecting persons from criminal conduct;
- (3) providing equal opportunity to advocate for and against religious belief, political position, or charitable activities; and
- (4) permitting truthful and non-misleading door-to-door solicitation regarding lawful goods or services in intrastate or interstate commerce.

The City finds that the procedures, rules and regulations set forth in this Section are narrowly tailored to preserve and protect the City interests referred to herein while at the same time balancing the rights of those regulated.

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9-03-20 No Other City License or Approval Required

- (1) Registered solicitors and persons exempt from Registration need not apply for nor obtain any other license, permit, or registration from the City to engage in door-to-door solicitation.
- (2) Any business licensed by the City under another City Ordinance that uses employees, independent contractors, or agents for door-to-door solicitation in an effort to provide any tangible or intangible benefit to the Business, shall be required to have such solicitors obtain a Certificate, unless otherwise exempt from registration.
- (3) Those responsible persons or entities associated with registered solicitors need not apply for, nor obtain, any other license, permit, or registration from the City, provided they do not establish a temporary or fixed place of business in the City.
- (4) Nothing herein is intended to interfere with or supplant any other requirement of federal, state, or other local government law regarding any license, permit, or certificate that a registered solicitor is otherwise required to have or maintain.

9-03-030 Definitions

For the purposes of this Chapter, the following definitions shall apply:

- (1) **Advocating** means speech or conduct intended to inform, promote, or support a religious belief, political position, or charitable activities.
- (2) **Appeals Officer** means the City Council or designee of the City responsible for receiving the information from the City and Appellant regarding the denial or suspension of a Certificate and issuing a decision as required by this Section.
- (3) **Appellant** means the person or entity appealing the denial or suspension of a Certificate, either personally as an Applicant or registered Solicitor, or on behalf of the Applicant or registered solicitor.
- (4) **Applicant** means an individual who is at least sixteen (16) years of age and not a corporation, partnership, limited liability company, or other lawful entity, who applies for a Certificate permitting door-to-door solicitation.

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(5) **Application Form** means a standardized form provided by the City to an Applicant to be completed and submitted as part of registration.

(6) **B.C.I.** means an original or copy, dated no older than 180 days prior to the date of the Application, of either: (1) a Utah Department of Public Safety Bureau of Criminal Identification verified criminal history report personal to the Applicant; or (2) verification by the Utah Department of Public Safety Bureau of Criminal Identification that no criminal history rising to the level of a Disqualifying Status exists for the Applicant.

(7) **Business** means a commercial enterprise licensed by the City as a person or Entity under this Section, having a fixed or temporary physical location within the City.

(8) **Certificate** means a temporary, annual, or renewal Certificate permitting door-to-door solicitation in the City applied for or issued pursuant to the terms of this Section.

(9) **Charitable Activities** mean advocating by persons or Entities that either are, or support, a charitable organization.

(10) **Charitable Organization** includes any person, joint venture, partnership, limited liability company, corporation, association, group, or other entity:

A. that is:

- i. a benevolent, educational, voluntary health, philanthropic, humane, patriotic, religious, social welfare or advocacy, public health, environmental or conservation, or civic organization;
- ii. for the benefit of a public safety, law enforcement, or firefighter fraternal association; or
- iii. established for any charitable purpose; and

B. that is tax exempt under applicable provisions of the Internal Revenue Code of 1986 as amended, and qualified to solicit and receive tax-deductible contributions from the public for charitable purposes.

Charitable organization includes a chapter, branch, area, office, or similar affiliate, or any person soliciting contributions within the state for a

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Charitable Organization that has its principal place of business outside the City or State of Utah.

(11) **Competent Individual** means a person claiming or appearing to be at least eighteen (18) years of age and of sufficiently sound mind and body to be able to engage in rational thought, conversation, and conduct.

(12) **Completed Application** means a fully completed Application Form, a B.C.I, two copies of the original identification relied on by the Applicant to establish proof of identity, and the tendering of fees.

(13) **Criminally Convicted** means the final entry of a conviction, whether by a plea of no contest, guilty, entry of a judicial or jury finding of guilt, which has not been set aside on appeal or pursuant to a writ of habeas corpus. The criminal conviction is that offense of which the Applicant or registered solicitor was convicted, without regard to the reduced status of the charge after completion of conditions of probation or parole, and charges dismissed under a plea in abeyance or diversion agreement.

(14) **Disqualifying Status** means anything specifically defined in this Section as requiring the denial or suspension of a Certificate, and any of the following:

- A. The Applicant or registered solicitor has been Criminally convicted of: (i) felony homicide, (ii) physically abusing, sexually abusing, or exploiting a minor, (iii) the sale or distribution of controlled substances, or (iv) sexual assault of any kind;
- B. Criminal charges currently pending against the Applicant or registered solicitor for: (i) felony homicide, (ii) physically abusing, sexually abusing, or exploiting a minor, (iii) the sale or distribution of controlled substances, or (iv) sexual assault of any kind;
- C. The Applicant or registered solicitor has been criminally convicted of a felony within the last ten (10) years;
- D. The Applicant or registered solicitor has been incarcerated in a federal or state prison within the past five (5) years;
- E. The Applicant or registered solicitor has been criminally convicted of a misdemeanor within the past five (5) years involving a crime of: (i) moral turpitude, or (ii) violent or aggravated conduct involving persons or property;

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- F. A Final Civil Judgment has been entered against the Applicant or registered solicitor within the last five (5) years indicating that: (i) the Applicant or registered solicitor had either engaged in fraud, or intentional misrepresentation, or (ii) that a debt of the Applicant or registered solicitor was non-dischargeable in bankruptcy pursuant to 11 U.S.C. 523(a)(2), (a)(4), (a)(6), or (a)(19);
- G. The Applicant or registered solicitor is currently on parole or probation to any court, penal institution, or governmental entity, including being under house arrest or subject to a tracking device;
- H. The Applicant or registered solicitor has an outstanding arrest warrant from any jurisdiction; or
- I. The Applicant or registered solicitor is currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction.

(15) **Door-to-Door Solicitation** means the practice of engaging in or attempting to engage in conversation with any person at a residence, whether or not that person is a competent individual, while making or seeking to make or facilitate a home solicitation sale, or attempting to further the sale of goods and or services.

(16) **Entity** includes a corporation, partnership, limited liability company, or other lawful entity, organization, society, or association.

(17) **Fees** means the cost charged to the Applicant or Registered Solicitor for the issuance of a Certificate and/or Identification Badge, which shall not exceed the reasonable costs of processing the application and issuing the Certificate and/or Identification Badge.

(18) **Final Civil Judgment** means a civil judgment that would be recognized under state law as a judgment to which collateral estoppel would apply.

(19) **Goods** means one or more tangible items, wares, objects of merchandise, perishables of any kind, subscriptions, or manufactured products offered, provided, or sold.

(20) **Home Solicitation Sale** means to make or attempt to make a sale of goods or services by a solicitor at a residence by means of door-to-door solicitation, regardless of

- A. the means of payment or consideration used for the purchase;

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- B. the time of delivery of the Goods or Services; or
- C. the previous or present classification of the Solicitor as a solicitor, peddler, hawker, itinerant merchant, or similar designation.

(21) **No Solicitation Sign** means a reasonably visible and legible sign that states No Soliciting, No Solicitors, No Salespersons, No Trespassing, or words of similar import.

(22) **Political Position** means any actually held belief, or information for, against, or in conjunction with any political, social, environmental, or humanitarian belief or practice.

(23) **Registered Solicitor** means any person who has been issued a current Certificate by the City.

(24) **Registration** means the process used by the City Licensing Officer to accept a completed application and determine whether or not a Certificate will be denied, granted, or suspended.

(25) **Religious Belief** means any sincerely held belief, or information for, against, or in conjunction with, any theistic, agnostic, or atheistic assumption, presumption or position, or religious doctrine, dogma, or practice regardless of whether or not the belief or information is endorsed by any other person or public or private entity.

(26) **Residence** means any living unit contained within any building or structure that is occupied by any person as a dwelling consistent with the zoning laws of the City, together with the lot or other real property on which the living unit is located. This does not include the sidewalk, public street, or public rights of way.

(27) **Responsible Person or Entity** means that person or entity responsible for providing the following to an applicant, registered solicitor, and the competent individual in a residence to whom a sale of goods or services is made or attempted to be made by means of a home solicitation sale:

- A. maintaining a state sales tax number, a special events sales tax number, computing the sales taxes owing from any sale of goods or services, paying the sales taxes, and filing any required returns or reports;

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- B. facilitating and responding to requests from consumers who desire to cancel the sale pursuant to applicable contractual rights or law; and
 - C. refunding any monies paid or reversing credit card charges to those persons who timely rescind any sale pursuant to applicable contractual rights or law.
- (28) **Sale of Goods or Services** means the conduct and agreement of a Solicitor and the Competent Individual in a Residence regarding a particular Good(s) or Service(s) that entitles the consumer to rescind the same within three days under any applicable federal, state, or local law.
- (29) **Services** means those intangible goods or personal benefits offered, provided, or sold to a Competent Individual of a Residence.
- (30) **Soliciting or Solicit or Solicitation** means any of the following activities:
- A. Seeking to obtain Sales or orders for the exchange of goods, wares, merchandise or perishables of any kind, for any kind of remuneration or consideration, regardless of whether advance payment is sought;
 - B. Seeking to obtain prospective customers to apply for or to purchase insurance, subscriptions to publications, or publications;
 - C. Seeking to obtain contributions of money or any other thing of value for the benefit of any person or entity;
 - D. Seeking to obtain orders or prospective customers for goods or services;
 - E. Seeking to engage an individual in conversation at a Residence for the purpose of promoting or facilitating the receipt of information regarding Religious Belief, Political Position, Charitable Conduct, or a Home Solicitation Sale; or
 - F. Other activities falling within the commonly accepted definition of Soliciting, such as hawking or peddling.
- (31) **Solicitor or Solicitors** means a person(s) engaged in Door-to-Door Solicitation.
- (32) **Submitted in Writing** means the information for an appeal of a denial or suspension of a Certificate, submitted in any type of written statement to

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the City offices by certified, registered, priority, overnight or delivery confirmation mail, facsimile, or hand delivery.

(33) **Substantiated Report** means an oral, written, or electronic report:

A. That is submitted to and documented by the City by any of the following:

- i. A Competent Individual who is willing to provide law enforcement or other City employees with publicly available identification of their name, address, and any other reliable means of contact;
- ii. City law enforcement or Licensing Officer; or
- iii. Any other regularly established law enforcement agency at any level of government;

B. That provides any of the following information regarding a Registered Solicitor:

- i. Documented verification of a previously undisclosed Disqualifying Status of a Registered Solicitor;
- ii. Probable cause that the Registered Solicitor has committed a Disqualifying Status which has not yet been determined to be a Disqualifying Status;
- iii. Documented, eye-witness accounts that the Registered Solicitor has engaged in repeated patterns of behavior that demonstrate failure by the Registered Solicitor to adhere to the requirements of this Chapter; or
- iv. Probable cause that continued licensing of the Registered Solicitor creates exigent circumstances that threaten the health, safety, or welfare of any individuals or entities within the City.

(34) **Waiver** means the written form provided to Applicant by the City wherein Applicant agrees that the City may obtain a name/date of birth BCI background check on the Applicant for licensing purposes under this Section, and which contains Applicant's notarized signature.

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9-03-040 Exemptions from This Subsection

The following are exempt from Registration under this Subsection:

- (1) Persons specifically invited to a Residence by a Competent Individual prior to the time of the person's arrival at the residence;
- (2) Persons whose license, permit, certificate or registration with the State of Utah permits them to engage in door-to-door solicitation to offer goods or services to an occupant of the residence, and such state permit that specifically articulates that requiring a City permit of license is unlawful;
- (3) Persons delivering goods to a residence pursuant to a previously made order, or persons providing services at a residence pursuant to a previously made request by a competent individual;
- (4) Persons advocating or disseminating information for, against, or in conjunction with, any Religious Belief, or Political Position, regardless of whether Goods, Services, or any other consideration is offered or given, with or without any form of commitment, contribution, donation, pledge, or purchase; and
- (5) Persons representing a Charitable Organization. The charitable exemption shall apply to students soliciting contributions to finance extracurricular social, athletic, artistic, scientific, or cultural programs, provided that the solicitation has been approved in writing by the school administration and that such student solicitors carry current picture student identification from the educational institution for which they are soliciting.

Those Persons exempt from Registration are not exempt from the duties and prohibitions outlined in Sections 9-03-160, 9-03-170, 9-03-180, and 9-03-190 while Advocating or Soliciting.

9-03-050 Solicitation Prohibited

Unless otherwise authorized, permitted, or exempted pursuant to the terms and provisions of this Subsection, the practice of being in and upon a private residence within the City by solicitors, for the purpose of home solicitation sales or to provide goods or services, is prohibited and is punishable as set forth in this Section.

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9-03-060 Registration of Solicitors

Unless otherwise exempt under this Subsection, all persons desiring to engage in Door-to-Door Solicitation within the City, prior to doing so, shall submit a Completed Application to the Licensing Officer and obtain a Certificate.

9-03-070 Application Form

The Licensing Officer shall provide a standard Application Form for use for the Registration of Solicitors. Upon request to the Licensing Officer, or as otherwise provided, any person or Entity may obtain in person, by mail, or facsimile, a copy of this Application Form. Each Application Form shall require disclosure and reporting by the Applicant of the following information, documentation, and fee:

- (1) **Review of Written Disclosures.** An affirmation that the Applicant has received and reviewed the disclosure information required by this Subsection.
- (2) **Contact Information.**
 - A. Applicant's true, correct and legal name, including any former names or aliases used during the last ten (10) years;
 - B. Applicant's telephone number, home address and mailing address, if different;
 - C. If different from the Applicant, the name, address, and telephone number of the Responsible Person or Entity; and
 - D. The address by which all notices to the Applicant required under this Subsection are to be sent.
- (3) **Proof of Identity.** An in-person verification by the Licensing Officer of the Applicant's true identity by use of any of the following which bear a photograph of said Applicant:
 - A. A valid driver's license issued by any State;
 - B. A valid passport issued by the United States;
 - C. A valid identification card issued by any State; and

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- D. A valid identification issued by a branch of the United States military. Upon verification of identity, the original identification submitted to establish Proof of Identity shall be returned to the Applicant.
- (4) **Special Events Sales Tax Number.** The Applicant shall provide a special events sales tax number for either the Applicant, or for the Responsible Person or Entity for which the Applicant will be soliciting.
- (5) **Marketing Information.**
- A. The Goods or Services offered by the Applicant, including any commonly known, registered or trademarked names; and
 - B. Whether the Applicant holds any other licenses, permits, registrations, or other qualifications required by federal or state law to promote, provide, or render advice regarding the offered Goods or Services.
- (6) **BCI Background Check.** The Applicant shall provide:
- A. An original or a copy of a BCI background check as defined in 9-03-030 (F); and
 - B. A signed copy of a Waiver whereby Applicant agrees to allow the City to obtain a name/date of birth BCI background check on Applicant for purposes of enforcement of this Subsection.
- (7) **Responses to Questions Regarding a Disqualifying Status.** The Applicant shall be required to affirm or deny each of the following statements on the Application Form:
- A. Has the Applicant been Criminally Convicted of: (i)felony homicide, (ii) physically abusing, sexually abusing, or exploiting a minor, (iii) the sale or distribution of controlled substances, or (iv) sexual assault of any kind?
 - B. Are any criminal charges currently pending against the Applicant for: (i) felony homicide, (ii) physically abusing, sexually abusing, or exploiting a minor, (iii) the sale or distribution of controlled substances, or (iv) sexual assault of any kind?
 - C. Has the Applicant been Criminally Convicted of a felony within the last ten (10) years?

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- D. Has the Applicant been incarcerated in a federal or state prison within the past five (5) years?
- E. Has the Applicant been Criminally Convicted of a misdemeanor within the past five (5) years involving a crime of: (i) moral turpitude, or (ii) violent or aggravated conduct involving persons or property?
- F. Has a Final Civil Judgment been entered against the Applicant within the last five (5) years indicating that: (i) the Applicant had either engaged in fraud, or intentional misrepresentation, or (ii) that a debt of the Applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. ' 523(a)(2), (a)(4), (a)(6), or (a)(19)?
- G. Is the Applicant currently on parole or probation to any court, penal institution, or governmental entity, including being under house arrest or subject to a tracking device?
- H. Does the Applicant have an outstanding arrest warrant from any jurisdiction? or
- I. Is the Applicant currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction?

(8) **Fee.** The Applicant shall pay in accordance with the Kanab City Consolidated Fee Schedule.

(9) **Execution of Application.** The Applicant shall execute the Application Form, stating upon oath or affirmation, under penalty of perjury, that based on the present knowledge and belief of the Applicant, the information provided is complete, truthful, and accurate.

9-03-080 Written Disclosures

The Application Form shall be accompanied by written disclosures notifying the Applicant of the following:

- (1) The Applicant's submission of the Application authorizes the City to verify information submitted with the Completed Application including:
 - A. the Applicant's address;

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- B. the Applicant's and/or Responsible Person or Entity's state tax identification and special use tax numbers, if any; or
- C. the validity of the Applicant's Proof of Identity.
- (2) The City may consult any publicly available sources for information on the Applicant, including but not limited, to databases for any outstanding warrants, protective orders, or civil judgments;
- (3) Establishing Proof of Identity is required before Registration is allowed;
- (4) Identification of the fee amount that must be submitted by Applicant with a Completed Application.
- (5) The Applicant must submit a BCI background check with a Completed Application.
- (6) To the extent permitted by State and/or federal law, the Applicant's BCI background check shall remain a confidential, protected, private record not available for public inspection.
- (7) The City will maintain copies of the Applicant's Application Form, Proof of Identity, and Identification Badge. These copies will become public records available for inspection on demand at the City offices whether or not a Certificate is denied, granted, or renewed.
- (8) The criteria for Disqualifying Status, denial, or suspension of a Certificate under the provisions of this Chapter.
- (9) That a request for a Certificate will be granted or denied within one business day that a Completed Application is submitted.

9-03-090 When Registration Begins

The Licensing Officer shall not begin the Registration process unless the Applicant has submitted a Completed Application. The original identification submitted to establish Proof of Identity shall be returned after the Licensing Officer verifies the Applicant's identity. A copy of the identification may be retained by the Licensing Officer. If an original B.C.I. background check is submitted by the Applicant, the Licensing Officer shall make a copy of the B.C.I. and return the original to the Applicant.

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9-03-100 Issuance of Certificates

The Licensing Officer shall review the completed application submitted by the applicant and issue a certificate if the following requirements have been met:

- (1) applicant's submission of a completed application;
- (2) applicant's submission of the required fee;
- (3) applicant establishes proof of identity;
- (4) the applicant's representations on the application form do not affirmatively show a disqualifying status;
- (5) the B.C.I. does not affirmatively show a disqualifying status; and
- (6) the applicant has not previously been denied a certificate by the City, or had a certificate revoked for grounds that still constitute a disqualifying status under this Subsection.

9-03-110 Certificate Form and Identification Badge

(1) **Certificate Form.** Should the Licensing Officer determine that the applicant is entitled to a certificate, the Licensing Officer shall issue a certificate to the applicant. The certificate shall list the name of the registered solicitor and the responsible person or entity, if any, and the date on which the certificate expires. The certificate shall be dated and signed by the License Officer. The certificate shall be carried by the registered solicitor at all times while soliciting in the City.

(2) **Identification Badge.** The City shall issue each registered solicitor an identification badge that shall be worn prominently on his or her person while soliciting in the City. The identification badge shall bear the name of the City and shall contain: (a) the name of the registered solicitor; (b) the address and phone number of the registered solicitor, or the name, address, and phone number of the responsible person or entity is provided; (c) a recent photograph of the registered solicitor; and (d) the date on which the certificate expires.

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9-03-120 Maintenance of Registry

The Licensing Officer shall maintain and make available for public inspection a copy or record of every completed application received and the certificate or written denial issued by the City. The applicant's BCI background check shall remain a confidential, protected, private record not available for public inspection. The Licensing Officer may furnish to the head of the City's law enforcement agency a listing of all applicants, those denied, and those issued a certificate.

9-03-130 Non-Transferability of Certificates

Certificates shall be issued only in the name of the applicant and shall list the responsible party or entity, if any. The certificate shall be non-transferable. A registered solicitor desiring to facilitate or attempt to facilitate home solicitation sales with different: (a) goods or services; or (b) a responsible person or entity, from those designated in the originally submitted completed application, shall submit a written change request to the Licensing Officer. A new certificate based on the amended information shall be issued for the balance of time remaining on the solicitor's previous certificate before the amendment was filed. Before the new certificate is given to the registered solicitor, the registered solicitor shall obtain a revised identification badge from the City, after payment of the fee for the identification badge.

9-03-140 Denial, Suspension or Revocation of a Certificate

(1) **Suspension or Revocation.** The City shall either suspend or revoke a certificate if the information submitted by the applicant when seeking a certificate is found to be incomplete or incorrect, or if the applicant has violated any part of this Subsection.

Section 9: BUSINESS LICENSES AND REGULATIONS

(2) **Notice of Denial or Suspension.** Upon determination of the Licensing Officer to deny an applicant's completed application or to suspend a registered solicitor's certificate, the City shall cause written notice to be sent to the applicant or registered solicitor by the method indicated in the completed application. The notice shall specify the grounds for the denial or suspension, the documentation or information the City relied on to make the decision, the availability of the documentation for review by the applicant upon one (1) business day's notice to the City, and the date upon which the denial or suspension of the certificate shall take effect. It shall further state that the applicant or registered solicitor shall have fourteen (14) business days from the date of mailing from the City of the notice of denial or suspension to appeal the same. The denial or suspension of the certificate shall be effective no sooner than two (2) calendar days from the date the notice is sent, unless that suspension is because of exigent circumstances outlined in Section 9-03-030 (GG) (2) (D), in which case, the suspension is effective immediately. The denial or suspension shall remain effective unless and until the order is rescinded, overturned on appeal, or determined by a court to be contrary to equity or law. Failure to appeal the suspension of a certificate automatically results in its revocation.

9-03-150 Appeal

An applicant or registered solicitor whose certificate has been denied or suspended shall have the right to appeal to the City Council or its designee. Any appeal must be submitted by either the applicant, the responsible person or entity, or legal counsel for either who: (a) documents the relationship with the applicant or responsible person or entity; or (b) is licensed or authorized by the State of Utah to do so, and makes the assertion of an agency relationship. The following procedures and requirements shall apply:

(1) Any appeal must be submitted in writing to the City Recorder with a copy to the License Officer within ten (10) business days of the decision from which the appeal is taken. Such appeal shall describe in detail the nature of the appeal, the action complained of, and the grounds for appeal.

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(2) Upon request of the applicant or registered solicitor, within one business day, the City will make available any information upon which it relied in making the determination to either deny or suspend the Certificate.

(3) The Appeals Officer shall review, de novo, all written information submitted by the applicant or registered solicitor to the Licensing Officer, any additional information relied upon by the Licensing Officer as the basis for denial, suspension or revocation, and any additional information supplied by the City, applicant or registered solicitor. Any additional information submitted by any party to the appeal to the Appeals Officer shall be simultaneously submitted to the opposing party. If desired, any party shall have three (3) business days to submit rebuttal documentation to the Appeals Officer regarding the additional information submitted by the opposing party.

(4) The Appeals Officer will render a decision no later than fifteen (15) calendar days from the date the appeal was received by the City, unless an extension of time is agreed upon by the parties. Included in that decision shall be written findings regarding the decision. In the event that any party to the appeal submits rebuttal information as allowed in Section 9-03-150(C), the fifteen (15) calendar days shall be extended to include the additional three (3) days for rebuttal.

(5) The denial or suspension of the certificate shall be reversed by the Appeals Officer if, upon review of the written appeal and information submitted, the Appeals Officer finds that the Licensing Officer made a material mistake of law or fact in denying or suspending the applicant or registered solicitor's certificate.

(6) If the written appeal and information submitted indicate that the Licensing Officer properly denied or suspended the certificate of the applicant or registered solicitor, the denial or suspension of the Certificate shall be affirmed and constitute a determination that the suspended certificate is revoked.

(7) The decision of the Appeals Officer shall be delivered to the applicant or registered solicitor by the means designated in the completed Application, or as otherwise agreed upon when the Appeal was filed.

(8) After the ruling of the Appeals Officer, the applicant or solicitor is deemed to have exhausted all administrative remedies with the City.

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(9) Nothing herein shall impede or interfere with the applicant's, solicitor's, or City's right to seek relief in a court of competent jurisdiction.

9-03-160 Deceptive Soliciting Practices Prohibited

(1) No Solicitor shall intentionally make any materially false or fraudulent statement in the course of Soliciting.

(2) A Solicitor shall immediately disclose to the consumer during face-to-face Solicitation; (i) the name of the Solicitor; (ii) the name and address of the entity with whom the Solicitor is associated; and (iii) the purpose of the Solicitor's contact with the person and/or Competent Individual. This requirement may be satisfied through the use of the Badge and an informational flyer.

(3) No Solicitor shall use a fictitious name, an alias, or any name other than his or her true and correct name.

(4) No Solicitor shall represent directly or by implication that the granting of a Certificate of Registration implies any endorsement by the City of the Solicitor's Goods or Services or of the individual Solicitor.

9-03-170 "No Solicitation" Notice

(1) Any occupant of a Residence may give notice of a desire to refuse Solicitors by displaying a "No Solicitation" sign which shall be posted on or near the main entrance door or on or near the property line adjacent to the sidewalk leading to the Residence.

(2) The display of such sign or placard shall be deemed to constitute notice to any Solicitor that the inhabitant of the Residence does not desire to receive and/or does not invite Solicitors.

(3) It shall be the responsibility of the Solicitor to check each Residence for the presence of any such Notice.

(4) The provisions of this Section shall apply also to Solicitors who are exempt from Registration pursuant to the provisions of this Subsection.

Section 9: BUSINESS LICENSES AND REGULATIONS

9-03-180 Duties of Solicitors

(1) Every person soliciting or advocating shall check each residence for any "No Soliciting" sign or placard or any other notice or sign notifying a solicitor not to solicit on the premises, such as, but not limited to, "No Solicitation" signs. If such sign or placard is posted, such solicitor shall desist from any efforts to solicit at the residence or dwelling and shall immediately depart from such property. Possession of a certificate of registration does not in any way relieve any solicitor of this duty.

(2) It is a violation of this Subsection for any person soliciting or advocating to knock on the door, ring the doorbell, or in any other manner attempt to attract the attention of an occupant of a residence that bears a "No Solicitation" sign or similar sign or placard for the purpose of engaging in or attempting to engage in advocating, a home solicitation sale, door-to-door soliciting, or soliciting.

(3) It is a violation of this Subsection for any solicitor, through ruse, deception, or fraudulent concealment of a purpose to solicit, to take action calculated to secure an audience with an occupant at a residence.

(4) Any solicitor who is at any time asked by an occupant of a residence or dwelling to leave shall immediately and peacefully depart.

(5) The solicitor shall not intentionally or recklessly make any physical contact with, or touch another person without the person's consent;

(6) The solicitor shall not follow a person into a residence without their explicit consent;

(7) The solicitor shall not continue repeated soliciting after a person and/or competent individual has communicated clearly and unequivocally their lack of interest in the subject, goods, or services of the solicitor;

(8) The solicitor shall not use obscene language or gestures.

9-03-190 Time of Day Restrictions

It shall be unlawful for any person, whether licensed or not, to solicit at a residence before 9:00 a.m. or after 9:00 p.m. Mountain Time, unless the solicitor has express prior permission from the resident to do so.

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9-03-200 Buyer's Right to Cancel

In any home solicitation sale, unless the buyer requests the solicitor to provide goods or services without delay in an emergency, the seller or solicitor shall present to the buyer and obtain the buyer's signature to a written statement that informs the buyer of the right to cancel within the third business day after signing an agreement to purchase. Such notice of "Buyer's right to cancel" shall be in the form required by §70C-5-103, Utah Code Annotated, 1953, or a current version thereof or any State or Federal law modifying or amending such provision.

9-04 Mass Gatherings

- 9-04-010 Rules Governing Temporary Mass Gatherings
- 9-04-020 Fees for Exhibitions, Concerts and Performances

9-04-10 Rules Governing Temporary Mass Gatherings

(1) "Temporary Mass Gathering" means an actual or reasonably anticipated assembly of 500 or more people, which continues or can reasonably be expected to continue for two or more hours per day, at a site for a purpose different from the designed use and usual type of occupancy. A temporary mass gathering does not include an assembly of people at a location with permanent facilities designed for that specific assembly, unless the designed occupancy levels are exceeded.

(2) All mass gatherings taking place within the incorporated area of Kanab City shall comply with the Utah Department of Health, Temporary Mass Gathering Sanitation Rule as adopted by the Southwest Public Health Department.

(3) No permit or license to so gather shall be issued unless the gathering has been approved by the Southwest Public Health Department; nor shall any "Owner" or "Operator" (as defined by the existing Southwest Public Health Department rule governing temporary mass gatherings) permit a "Temporary Mass Gathering" as defined by such rule to take place within the City or any

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part thereof, unless the gathering is in compliance with the rules or rules adopted by the Southwest Public Health Department.

(4) A license pursuant to this section shall not be issued until arrangements are made to conduct such activity on private property, and until liability insurance acceptable to the City in accordance with internal policies to protect and indemnify Kanab City against any loss or liability arising from such activity.

9-04-020 Fees for Exhibitions, Concerts and Performances

Individuals or groups putting on performances, exhibitions, concerts or other entertainment activities for which a fee is charged, either to the public or to the hiring entity, shall pay a license fee in accordance with the Kanab City Consolidated Fee Schedule each 24-hour period during which they present a public performance, concert or exhibition. If the group to be entertained consists of more than 300 persons, based upon seating capacity, number of tickets sold, or any other reasonable criteria, the license fee shall set through the Kanab City Consolidated Fee Schedule for each 24-hour period in which exhibitions, concerts, or performances are presented. This license shall be required of all performers and groups engaging in business within the City of Kanab, including musical aggregations, circuses, carnivals, rodeos, fight promoters, racing promoters, displays and exhibitions, live shows and entertainers of any kind. No fee shall be required for the license issued to any person or group in this category which is non-profit or which is raising funds exclusively for religious or charitable purposes.

9-05 Special Sales Events and Promotions

(1) **Definitions:** A Special Sales Event or Promotion, hereby referred to as a Sales Event, is a commercial activity conducted by businesses currently operating within Kanab City. They may be conducted on or off-premise, on the public sidewalk, or on private or publicly owned parking lots.

(2) **Permit Required:** No person shall operate a Sales Event without the required permit.

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- (3) **Application:** Application must be made at least 48 hours prior to the Sales. Application is submitted to the Kanab City Police Department, which grants the permit.
- (4) **Permit:** The license shall state the dates of the event sale. The Sales Event shall not extend for more than 3 consecutive working days nor more than 4 times a year.
- (5) **License Fee:** None.
- (6) **Sales Event:**
- A. Must be conducted in a commercial zone.
 - B. If extension cords are utilized, they must be outdoor rated and placed in a manner to not create a hazard.
 - C. Must be operated in a manner so as not to block traffic into or out of adjacent businesses or structures. Trucks and trailers may be used for storage of merchandise or inventory but may not be entered by the customer.
 - D. Are limited to the use of one sign of 15 square feet or less. No other means of advertising, such as flashing lights, loud speakers, or calling out, are permitted. Permanent signs on trucks or semi-truck trailers are not considered part of the signage.
 - E. Before a license is issued, the applicant must: If the event is off-premise from the original business location, the applicant must provide written evidence that restroom facilities for employees will be provided by another business within 300 feet and provide evidence that the owner of the premises upon which the event will be conducted has given approval to do so.

9-06 ~~Non-Profit-Special Events~~

~~Non-profit sponsoring units of Special Events may apply for a Special Events Permit to conduct business and have concession stands in connection with the requested event. If the event and the activities comply with all local and state ordinances, law, and regulations, a permit will be issued.~~

~~The sponsoring unit will be assessed a permit fee set through the Kanab City Consolidated Fee Schedule for each business and/or concession stand~~

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~~for each day that the business and/or concession stand operates. Additionally, the sponsoring unit must provide evidence from the IRS of Non-profit status and ensure that all businesses and concession stands have a temporary sales tax number and collect the appropriate sales tax. All business activities in connection with said event shall be at locations approved by both the sponsoring unit and the city administrative officer assigned by the mayor to overview the special event. The permit issued shall entitle each individual business or concession to operate without acquiring an independent license, but the duration of the business activity shall not exceed seven calendar days. A business or concession stand that is non-profit, or that already has a Kanab City business license, is exempt from paying the permit fee indicated above.~~

~~1) Purpose: The purpose of this ordinance is to regulate temporary special events in Kanab City in a way that promotes community spirit, cultural enrichment, tourism, and economic development while ensuring the protection of public health, safety, welfare, and property. Regulations herein apply neutrally with respect to content, focusing strictly on time, place, and manner restrictions. This ordinance aims to provide clear, fair processes for the review, approval, and management of events conducted on public or private property that affect city resources, services, or infrastructure.~~

~~2) Definitions: For the purposes of this chapter, the following words and phrases shall be defined as set forth in this section:~~

~~a) Applicant: The individual event organizer and the organization responsible for the event and the payment of fees.~~

~~b) Athletic/Recreation Event: An organized competitive or recreational event in which a group of people collectively engage in a sport or form of physical exercise, including, but not limited to, running, jogging, walking, bicycling, or skating, racing, or fighting held on any public or private property, including events occurring at a venue specifically designed for the purpose of that sport or activity such as baseball/softball, soccer, tennis, pickleball, rodeo, etc~~

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- c) Camping: The temporary occupation or use of public or private property for the purpose of sleeping, lodging, or residing overnight in tents, recreational vehicles (RVs), campers, trailers, or other temporary shelters in connection with a special event. Camping may include the use of amenities such as campfires, generators, or sanitation facilities, and must be explicitly approved as part of the special event permit. Camping is only allowed in designated areas and must comply with applicable fire, health, and safety regulations, as well as any limitations imposed by the City or property owner.
- d) City Event: An event of any variety that is planned, organized, and operated by the city, whether directly or by contract with a third-party operator.
- e) City Partner Event: An event coordinated by a third-party organization in collaboration with Kanab City where the City provides significant financial, in-kind, or logistical support; the event aligns with official city goals or initiatives; and the partnership is formalized through a memorandum of understanding (MOU), agreement, or Council resolution. While not solely produced by the City, these events are recognized as serving a public purpose and may qualify for modified fee, insurance, or resource requirements as determined by the City Council or City Manager.
- f) City Sponsored Event: A special event for which the city council has agreed to provide financial, in-kind, or other support or remuneration in exchange for the city's name and logo to be added as a sponsor of the event in all print, video, or internet publications, advertising, or signs. The use of the city's name or logo without sponsorship is prohibited.
- g) Completed Application: An application will be considered complete when all information and documents necessary for review and approval have been provided to the city, including all application fees paid, site layouts, security plans, venue, and vendor information, etc. An insurance certificate and a facility use agreement are not required prior to review by ERC but shall be required prior to any permit being issued.

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h) Entertainment or Performance Event: A special event organized for the purpose of providing live or recorded amusement, artistic display, or cultural expression to an audience. This includes but is not limited to concerts, plays, recitals, dance performances, comedy shows, talent showcases, film screenings, or other live stage productions. Events may occur indoors or outdoors, with or without amplified sound, and may involve the construction of temporary stages, seating, or lighting. Entertainment or performance events typically require coordination of public safety, crowd management, and sound control measures.

i) Event Tiers

i) Tier 1: Small neighborhood or private events with minimal city impact and fewer than 100 attendees. These events typically do not require street closures or city services beyond a basic facility reservation.

ii) Tier 2: Medium-scale public events such as local markets, community concerts, or fairs expecting 100 to 500 attendees. These may include minor city services, require traffic plans, and involve vendors, entertainment, or sound amplification.

iii) Tier 3: Large regional events such as festivals, races, or major concerts expecting more than 500 attendees. These typically require significant city coordination, traffic control, public safety presence, and infrastructure support.

j) Fee Waiver: A decision by the city council to waive some or all application fees or facility use fees requested by applicants for a special event. The grant of a fee waiver alone does not act as a sponsorship for the event. The City Manager is authorized to approve full or partial fee waivers for other governmental entities, including but not limited to school districts, county departments, and interlocal partners operating within Kane County.

k) Filming Event: Any organized activity involving the recording of still or moving images on public property, or in a manner that affects public spaces, services, or traffic, for commercial or promotional purposes. This includes productions for television, motion picture,

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advertising, digital media, or professional content creation that requires the use of streets, parks, sidewalks, or other city-managed areas, or that impacts normal public access or city operations. This definition does not include casual or non-commercial filming or photography for personal use, such as family videos, student projects without city impact, or incidental social media content not requiring city services, equipment, or closures.

- l) Market or Vendor Event: An organized event primarily intended to create a sales marketplace for vendors to offer goods, products, crafts, services, or food to the public. Such events may include displays, exhibitions, farmers' markets, artisan or craft fairs, outdoor sales, tent sales, or similar activities, and may also incorporate entertainment, demonstrations, or food services incidental to the primary sales activity. Market or Vendor Events may occur on public or private property and must comply with applicable health, safety, and licensing requirements.
- m) Parade/Moving Event: A special event that involves the organized movement of people, vehicles, animals, or other elements along public streets, sidewalks, trails, or other public rights-of-way in a planned, scheduled manner. Parade Events may include processions such as marches, motorcades, fun runs, or ceremonial walks, and typically require traffic control, public safety coordination, or temporary closure of public access areas.
- n) Permittee: The "applicant," as defined herein, becomes a "permittee" upon approval and issuance of a special event permit. As the permit holder, a permittee becomes the sole proprietor and responsible party for the event, including all fees, insurance provisions, and violations.
- o) Person: Any individual, natural human being, partnership, corporation, firm, company, association, society, or group.
- p) Private Social Events: Invitation only gatherings such as weddings, family reunions, or corporate parties. Private events may vary in size and impact and must comply are categorized by Tier based on anticipated attendance.

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g) Special Event: An event which impacts the city by involving the use of or having an impact on public property or facilities, including rights-of-way, or which requires city licensing, land use approval, or services beyond the scope of normal business and/or special liquor regulations, or creates public impact through bringing a group of people together in one or more locations for a limited period of time for a particular activity, including:

(i) Any athletic event, entertainment event, carnival, circus, dance, musical event, rodeo event, fighting event, racing event, live shows, fairs, concerts, or outdoor sales event, whether held for profit, nonprofit or charitable purposes held on public property within the city, other than specific venue events;

(ii) Any gathering event at any public park, public square, or other city property which uses more services, amusement devices such as stages, inflatable devices, temporary structures, tables, lighting, or equipment, whether provided by the city or a third party, than normally provided to groups which reserve park facilities or other city-owned facilities;

(iii) Use or creation of amplified sound;

(iv) Events on private property which are not consistent with the allowed uses of the property's zoning designation;

(v) Any event which requires an event permit or license from the Utah Department of Alcohol and Beverage Services as set forth in Utah Code Title 32B, Chapter 9;

(vi) Filming Events involving commercial or promotional photography, video production, or media creation on public property or in a manner that affects city operations, services, or access;

(vii) Parade Events involving organized movement of people, animals, or vehicles along public rights-of-way, such as parades, marches, motorcades, ceremonial

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walks, or races that require traffic control or impact public access

r) Sponsor: A person, group, or business which has contracted to provide financial or logistical support to any special event. The sponsor agreement may provide for advertising rights, product promotion, logo promotion, exclusivity of rights, products, or logos.

s) Substantial Change: Any change to a previously held special event or new permit application which adds:

- (i) Additional security;
- (ii) Amplified sound;
- (iii) Sale of alcohol
- (iv) Additional participants changing the event tier, or more than 150 participants;
- (v) Additional road closures or other encroachments
- (vi) Inclusion of artificial lighting or other aspects that present the potential for nuisance or impact to neighboring property owners;
- (vii) Change of venue requested by the applicant; or
- (viii) Additional burden on city resources, staff time, or operational capacity, including demands on public safety, sanitation, parks, or administrative functions.

t) Vendors: A person engaging in business at a permitted special event, city event, or city-sponsored event.

u) Venue: The location or locations at which a special event is held, which may include the ingress and egress route, protest zones, or other affiliated areas as approved in the special event permit.

3) Permit Required: It is unlawful for any person, corporation, partnership, association, or other entity, public or private, to hold a special event without first obtaining a special event permit. Permits must include:

- a) Contact and organizer information
- b) Site plan
- c) Security and traffic plan
- d) Proof of insurance
- e) State sales tax ID if applicable

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- f) Description of activities
 - i) Summary
 - ii) Amplified sound
 - iii) Alcohol
 - iv) Estimated attendance
 - v) Parking plan
 - vi) Public safety plan
 - g) Requested city services
 - h) Tier classification
 - i) Written authorization from the property owner authorizing the event to occur.
 - j) Dates and Hours of Operation
 - k) Event map and traffic plan
 - l) Proof of business license
 - m) Acknowledgement of ordinance, waiver of liability, and commitment to compliance with ordinance.
- 4) Application Submission:
- a) a completed electronic application on the city form, including the payment of application fees and the submission of corrected or additional information as required, shall be submitted to the city at least forty-five (45) calendar days, but no more than three hundred sixty-five (365) days, before the event is scheduled to take place in order to allow sufficient time to process the application, to review the preparation and setup of the event, for any inspection to occur, and to allow timely appeal in the event the application is denied. Complete applications shall be processed as outlined in this section, from the date of application so long as the application submitted is complete and timely.
 - b) If an application is determined to be incomplete or if substantial changes are made to an existing application or event, the forty-five (45) day deadline shall not begin until the application is resubmitted and determined to be a complete application. Applicants are strongly encouraged to submit a complete application for a special event permit well in advance of the forty-five (45) day application deadline.

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c) Applications for events that submit the application less than forty-five (45) calendar days prior to the scheduled event shall not be accepted. Applications for Tier 1 events may be accepted with a minimum of fourteen (14) calendar days' notice provided that the event does not require additional city services.

d) The city shall issue a written decision, in the form of a use agreement for approved permits or a letter of explanation for denied applications, on all complete special event permit applications no less than ten (10) business days prior to the event. The City will make reasonable efforts to issue a written decision on Tier 1 events accepted after the forty-five (45) day deadline no later than five (5) calendar days prior to the scheduled event.

e) Once received, completed applications for an event permit shall be forwarded to the Events Review Committee (ERC). The events review committee shall be composed of City staff and officials with relevant expertise necessary to evaluate the impact and requirements of special event applications. While the ERC typically includes representatives from the following areas: City Council, Risk Management, Legal, Police, Fire, Community Development, Parks, Facilities, and Streets. Participation may be adjusted based on the scope, size, location, and complexity of the event under review. The City reserves the right to designate alternate or additional staff as needed to ensure appropriate review.

f) Special event permits that are approved or approved with conditions shall enter into a written use agreement for the event. The use agreement, once executed, shall serve as the permit and authorization to hold the event. The applicant shall sign the use agreement and return it to the city for execution. Upon the city manager's signature on the agreement, the special event permit shall be considered approved, and the special event may be held once a sufficient certificate of insurance has been received by the city.

5) Insurance Requirements

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- a) Hold Harmless and Indemnification: All special event applicants shall sign a Hold Harmless and Indemnification Agreement holding Kanab City, its officers, employees, agents, and volunteers harmless from and against any and all claims, damages, injuries, liabilities, losses, costs, or expenses (including attorney's fees) arising out of or resulting from the permitted event. Submission of a special events permit is acknowledgement of this hold harmless.
- b) Minimum Coverage Amounts:
- i) All events using public property, requesting city services, or classified as Tier 2 or Tier 3 must maintain commercial general liability insurance with a minimum limit of \$1,000,000 per occurrence and \$4,000,000 general aggregate.
 - ii) Events involving fireworks, explosives, or pyrotechnics must maintain coverage of \$5,000,000 per occurrence and \$10,000,000 general aggregate.
- c) All insurance policies must:
- i) Name Kanab City as an additional insured by way of a separate, signed endorsement.
 - ii) Be primary and non-contributory with respect to any insurance or self-insurance maintained by the City.
 - iii) Include a waiver of subrogation in favor of Kanab City
 - iv) List the insured party exactly as named in the special event permit application.
- d) Notice of cancellation or material change: The policy or applicant must provide at least thirty (30) days' advance written notice to Kanab City of any cancellation, nonrenewal, or material modification. If such notice is not provided by the insurer, the applicant shall notify the City within 24 hours of receiving such notice.
- e) Excess or Umbrella Policies: If applicable, excess or umbrella insurance shall extend to Kanab City on the same terms as the primary policy, including additional insured status and waiver of subrogation.
- f) Self-Insured Retention (SIR): If the insurance policy includes a self-insured retention (SIR) greater than \$25,000, the applicant shall submit documentation

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demonstrating their financial capacity to satisfy the retention. Acceptable documentation may include audited financial statements, a letter of credit, or other evidence deemed acceptable by the City Manager or City Attorney.

g) Responsibility for Compliance:

- i) It is the sole responsibility of the applicant to obtain and submit valid, compliant insurance documentation.
- ii) Approval of a permit does not waive or reduce insurance obligations, even if the City does not identify deficiencies during review.
- iii) The applicant remains fully liable for all claims and losses arising from noncompliance, including incomplete, inaccurate, expired, or nonconforming coverage.
- iv) The City shall not be deemed to have accepted or approved any noncompliant insurance, regardless of permit issuance.

h) Tier 1 Events – Alternative Risk Requirements: Tier 1 events—defined as private or neighborhood events with fewer than 100 attendees and minimal city impact—are not required to carry commercial general liability insurance unless otherwise determined by the City Manager or Risk Management staff. However, the City shall require the following:

- i) Signed Waiver of Liability: All Tier 1 applicants must sign a City-provided Waiver of Liability and Hold Harmless Agreement, acknowledging and accepting all responsibility for any injury, property damage, or loss arising from the event, and releasing Kanab City from liability to the fullest extent permitted by law.
- ii) Tier 1 events are generally exempt from commercial insurance requirements. However, at the discretion of the City Manager or Risk Manager, insurance may be required if the event includes features that substantially increase risk (e.g., alcohol service, amplified sound, inflatables, or exclusive use of public facilities).

- (1) The City reserves the right to increase, reduce, or adjust insurance requirements based on the nature, location, scope, or risk level of the event, and based on recommendations from legal counsel or the City's risk manager.

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- i) Acknowledgement of requirements: All applicants shall sign a written Acknowledgment of Insurance and Liability Requirements provided by Kanab City, confirming they have read, understand, and agree to comply with all terms outlined in this section. The signed acknowledgment shall be submitted with the event application and retained in the City's records.
- 6) Application Fees:
 - a) Applicants shall be required to pay the following fees:
 - i) A nonrefundable special event application fee;
 - ii) A nonrefundable facility use deposit fee, representing ten percent (10%) of the required fee for the location sites as well as any equipment.
 - b) Invoice and Payment: No permit shall be issued without the payment of all fees prior to the tenth business day before the scheduled event.
 - i) Prior to issuing the permit, the city shall deliver to the applicant, via email or other methods, an invoice detailing all costs including the application fee, facility fees, and cost recovery fees.
 - ii) Any facility use fees paid at the time of application shall be credited towards the overall fee total for the issuance of a special event permit. If the total amount exceeds the city cost recovery fees paid in advance, the applicant shall pay the unpaid portion of the invoice. If the amount is less than the application fees paid prior to issuance of the permit, then the remaining amount shall be returned to the applicant.
 - iii) In the event force majeure prevents the event from occurring, the cost recovery fees may be refunded to the applicant or applied to a future event.
 - iv) Application fees and deposits are nonrefundable.
- 7) Fee Waivers and sponsorships: Fee waivers may be considered under the following conditions:
 - a) Public Entities: Kanab City Manager is authorized to approve full or partial fee waivers for public entities located within Kane County, including but not limited to school districts, local government departments, and interlocal partners.
 - b) Non-Profit and For-Profit Applicants: All other fee waiver or sponsorship requests must be reviewed and approved by the Kanab City Council during a

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public meeting. Council approval may consider the event's public benefit, impact on city resources, and alignment with city goals. Applicants should allow for up to 30 additional days for council consideration beyond standard application review timelines.

- 8) City Parks, Sites, and Facilities used for Special Events: In order to best accommodate larger gatherings, parking, and impacts on neighborhoods, special events may take place generally only within community parks or neighborhood parks and facilities identified in Table 1. City properties or specific event facilities (not listed herein) are generally not available for special events but may require a special event permit if triggered by the allowed activity.
- a) Athletic events shall not be limited to the park sites and facilities identified in Table 1 when occurring at a facility specifically designed and intended for the sport or activity of the event. Athletic events involving races that will utilize city roads and rights-of-way shall be allowed to do so outside of the park sites and facilities identified in Table 1 so long as the basecamp for the event is located within and complies with the park sites and facilities identified in Table 1.
- b) Special events using city parks, sites, and facilities shall be subject to a maximum number of availability days per month to ensure appropriate access for the general public. The maximum number of days per month, regardless of days of the week, that a city park, site, or facility shall be eligible for reservation for special events shall be as identified in Table 1.
- 9) Grounds for Denial: An application for a special event permit may be denied by the city if:
- a) The proposed special event violates a federal, state, or local law.
- b) The proposed special event is not consistent with the intended nature and use of the requested park or facility as set forth in Table 1.
- c) The proposed special event is scheduled at a place and time that could disrupt or interfere with an already approved special event or park/facility reservation.
- d) The proposed location or building is not adequate to accommodate the proposed special event such as parking, sanitation facilities, and health or safety codes, or the nature of the proposed special event is such that the city,

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- or the applicant does not have sufficient resources available to ensure the health, safety, and welfare of special event participants or the general public.
- e) The permit application contains a material falsehood or misrepresentation.
 - f) The applicant has failed to pay a debt to the city including costs incurred during a prior special event.
 - g) Incomplete permit applications.
 - h) The applicant or any person on whose behalf the application for a permit was made has on prior occasions:
 - i) Damaged city property, if the applicant is for an event on city property;
 - ii) Made material misrepresentations regarding the nature or scope of an event or activity previously permitted;
 - iii) Has violated the terms of prior permits issued to or on behalf of the applicant; or
 - iv) Had violations of state or local laws at a prior event.
 - i) Unavailability of the site or facility identified for the event.
 - j) The proposed event presents a zoning conflict inconsistent with applicable land use regulations.
- 10) Appeal procedure: Applicants may appeal a denial or conditions of a permit through the City's standard appeals process as outlined in the Kanab City Code. Appeals must be submitted in writing within 10 business days of the decision.
- a) Applicants may alternatively request an expedited appeal process through the Kanab City Manager in lieu of the standard process. This option may be exercised by any applicant, particularly when the event is scheduled to occur within 30 days. The City Manager shall review the expedited appeal, gather relevant information, and issue a written decision within 15 business days. The City Manager's decision in the expedited process shall be final.
- 11) Inspections: Authorized law enforcement officers, fire control officers, and other government personnel performing inspections pursuant to this chapter shall be permitted free access to the event to make inspections to ensure compliance with all city, state, and federal laws. All government personnel shall comply with the Fourth Amendment of the United States Constitution at all times during an inspection.

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- 12) Neighborhood Notification: For events affecting nearby residents or businesses through closure, noise, or other impacts, organizers must:
- a) Notify affected parties in advance using a flyer or letter approved by the city.
 - b) Provide a map of the notification area.
 - c) Recurring public events organized by Kanab City or Kane County are exempt from the neighborhood notification requirement, provided there are no changes to the areas impacted by the event. If the route, location, noise levels, or scope of the event change in a way that would affect additional properties, notification must be completed as required.
- 13) Sale tax collection by applicant or vendors: Unless exempted by Utah law, an applicant for a special event that includes vendors sales or concessions shall either:
- a) Provide proof that all vendors have a Utah State sales tax identification number and agree to be responsible for direct remittance of all sales tax proceeds from the event to the State; or
 - b) Provide proof that the applicant has a valid Utah State sales tax identification number and that it will require all vendors to execute a sales tax remittance agreement whereby the vendor delivers sales tax proceeds to the applicant for remittance to the State under the applicant's sales tax identification number.
- 14) Violation: Any admission to, finding of civil responsibility for, or finding of guilt for violations of federal, state, or local laws during the course of the event, by the permittee or attendees of the event, including the provisions of Utah Code Title 76, Chapter 7, Parts 1 and 7, or titles 3 and 5 of this code, shall also be deemed a violation of this chapter and subject to the penalties set forth in this section.
- a) A violation of any provision of this chapter shall be a class B misdemeanor and subject to the civil penalty set forth in subsection C of this section.
 - b) Events and/or permittees that are found to have violated the terms of this chapter shall be barred from applying for another special event permit for the same or another event for a period of two (2) years (seven hundred thirty (730) calendar days from the date of the violation). Events and/or permittees which are barred a second time shall be permanently prohibited from applying for a special event permit.

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General Ordinances

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15) Use Chart: In order to preserve the intended use, safety, and capacity of Kanab City parks, facilities, and public spaces, the following chart categorizes the types of events that may be permitted at each location.

a) No special event, regardless of type, may be scheduled or approved for a location in a manner that exceeds the number of available days allocated to that location within a calendar month. For the purposes of this section, each day in which a special event is active at a location, including setup or breakdown days that limit regular public access or facility availability, shall count toward the monthly total.

Table 1

Location	Maximum Tier Event	Athletic / Recreation	Market or Vendor	Entertainment or Performance	Community Event	Parade/Moving Event	Filming	Private Social Events	Camping	Fireworks	Available Days/Month
Jacob Hamblin Park	3	X	X	X	X	X	X	X	-	X	15
Kanab Municipal Pool	2	X	-	X	X	-	X	X	-	-	10
Jacob Hamblin Field	3	X	X	X	X	X	X	X	X	-	10
Jacob Hamblin Baseball	3	X	-	-	X	-	X	X	X	X	10
Skate Park	2	X	X	X	X	-	X	X	-	-	10
Library	2	X	X	X	X	-	X	X	-	-	10
Garkane Pavilion	2	X	X	X	X	-	X	X	-	-	10
Cemetery	2	-	-	-	X	-	-	X	-	-	10

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General Ordinances

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Ranchos Park	3	X	X	X	X	X	X	X	X	-	15
Kanab Museum	1	-	-	X	X	-	X	X	-	-	10
Heritage House	2	X	X	X	X	-	X	X	-	-	10
Kanab Airport	2	-	-	-	X	-	-	-	X	-	10
Dog Park / Connector Trail	1	X	-	-	X	-	X	X	-	-	10
City Owned Open Space	3	X	X	X	X	X	X	X	X	-	15
-	-	-	-	-	-	-	-	-	-	-	-
Kanab Center	3	X	X	X	X	X	X	X	X	-	31
Kane County Rodeo Grounds	3	X	X	X	X	X	X	X	X	X	31
Jackson Flat Reservoir	3	X	X	X	X	X	X	X	X	X	15
Old Elementary School Property	3	X	X	X	X	X	X	X	X	-	10
Kanab Elementary	3	X	X	X	X	X	X	X	-	-	10
Kanab Middle School	3	X	X	X	X	X	X	X	X	-	10
Kanab High School	3	X	X	X	X	X	X	X	X	-	10
-	-	-	-	-	-	-	-	-	-	-	-
405 N	3	X	X	X	X	X	X	X	-	-	31

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General Ordinances

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100 E	3	-	X	X	X	X	-	-	-	-	5
Arterial Streets (UDOT Permit)	3	-	-	-	X	X	X	-	-	-	5
Major Collectors	2	X	X	X	X	X	X	X	-	-	5
Minor Collectors	2	X	X	X	X	X	X	X	-	-	5
Local Roads	1	X	X	X	X	X	X	X	-	-	10

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9-06 Seasonal Businesses

Section 9: BUSINESS LICENSES AND REGULATIONS

- (1) **Definitions:** Seasonal Businesses are the following: Christmas Tree Sales, Firework Sales, Shaved Ice Stands, Nurseries, Florists and Produce Stands, and other seasonal uses.
- (2) **License required:** No person shall operate a Seasonal Business without a license.
- (3) **Application:** Application must be made at least 48 hours prior to the operation of the seasonal business.
- (4) **License:** The license shall state the period of operation, up to six months in any calendar year, which may be renewed yearly.
- (5) **License Fees:** The license fee shall be set in accordance to the Kanab City Consolidated Fee Schedule.
- (6) **Fireworks:** Any business selling Class (c) fireworks shall obtain a permit from the Fire Department, and must have commercial general liability insurance, including premises and operations liability and products and completed operations liability in the amount of one million dollars per occurrence and one million dollars for products and completed operations aggregate. If the business is seasonal, then it shall pay an additional fee in accordance with the Kanab City Consolidated Fee Schedule. If the business is not seasonal, but permanent, then it shall pay the regular fee plus the Fire Inspection fee.
- (7) It is unlawful to operate a seasonal business on days other than those covered by the license.
- (8) **Seasonal Sales:**
 - A. Shaved Ice Stands and Firework Stands must be conducted from a structure consisting of at least three walls and a roof and having no more than 1000 square feet of floor space.
 - B. Must be conducted in a commercial zone.
 - C. Must be serviced by an approved electrical hook-up if electricity is to be used in connection with said operation. Extension cords from other structures will not be approved. Electrical hook-ups must conform to the currently adopted Electrical Code and must be inspected and approved by the City Building Department prior to the conducting of any business from business premises.

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- D. Must not obstruct pedestrian walkways. Seasonal businesses are not allowed in areas where curb and gutter do not exist.
- E. Must be operated in a manner so as not to block traffic into or out of adjacent businesses or structures.
- F. Are limited to use of one sign of 15 square feet or less. No other means of advertising such as flashing lights, loud speakers, or calling out are permitted.
- G. Must meet all local and state health and safety requirements applicable to the type of business being carried on.
- H. Must remove the temporary structure within five days after the seasonal business license expires. If the structure is not removed within the specified period of time, the licensee will be guilty of a Class B Misdemeanor and the City will be authorized to remove the structure and charge the licensee for the cost of removal plus storage expenses. Application for a Seasonal Business License shall constitute authority to so remove the structure and an agreement to reimburse the City for removal and storage fees.
- I. Before a license is issued the applicant must:
 - i. Provide written evidence that restroom facilities for employees will be provided by another business within 300 feet of the seasonal structure;
 - ii. Provide written evidence that the owner of the premises upon which the portable structure is to be placed has given his consent for the placement of the structure and has approved the type of business to be conducted; and
 - iii. Provide a sales tax license number.

9-08 Alcoholic Beverage Control

- 9-08-010 Definitions
- 9-08-020 License Required
- 9-08-030 License Classifications
- 9-08-040 License Fee
- 9-08-050 Licensing Requirements

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- 9-08-060 Inspection and Enforcement
- 9-08-070 Restrictions
- 9-08-080 Suspension and Revocation
- 9-08-090 Appeals
- 9-08-100 Implementation
- 9-08-110 Penalties

9-08-010 Definitions

In addition to the definitions set forth in Utah Code Annotated §32B-1-102, 1953, as amended, or its successor statute, adopted and incorporated herein by this reference, the following definitions apply:

- (1) "Alcohol or alcoholic beverage" means both "beer," "wine," and "liquor" collective when referenced in this chapter, unless otherwise distinguished.
- (2) "Alcoholic Beverage Control Act" means Title 32B of the Utah Code Annotated, or its successor statute.
- (3) "Annual" means a calendar year.
- (4) "Enforcement officer" means any law enforcement officer or any other person designated by the city to enforce this chapter.
- (5) "Food" means an appetizer, entrée, or meal of substantive food customarily served to a patron at a dine-in restaurant.
- (6) "Local authority" means Kanab City.
- (7) "Licensing authority" means the city official designated by the city administrator to issue a license under this chapter.

9-08-020 License Required

In accordance with Utah Code Annotated §11-10-1, no person may operate an association, restaurant, club, business, or similar establishment that allows a person to purchase, possess, or consume an alcoholic product on the premises of said association, restaurant, club, business, or similar establishment without a valid alcohol license as provided in this chapter. In addition to the requirements of this chapter, an association, restaurant, club, business, or similar establishment shall comply with the requirements

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of Utah Code Annotated §32B entitled the "Alcoholic Beverage Control Act" and other applicable laws and regulations.

9-08-030 License Classifications

An applicant within the City may apply for the following six (6) classes of license subject to availability as provided in this part:

- (1) Class "A" retail licenses. This license is issued by the licensing authority subject to compliance with this Subsection and shall:
 - A. Entitle the licensee to sell beer on the premises licensed in original containers for consumption off-premise in accordance with the Utah Alcoholic Beverage Control Act.
 - B. This class of license is appropriate for grocery and convenience store type establishments.
 - C. There is no limit on the number of this class of license that may be issued.
- (2) Class "B" retail licenses. This license is issued by the licensing authority subject to compliance with this Subsection and shall:
 - A. Entitle the licensee to sell a patron beer in original containers and/or wine served on-premise for consumption by a legal patron on-premise in conjunction with the sale of food in accordance with the Alcoholic Beverage Control Act.
 - B. This class of license is appropriate for dine-in restaurant establishments.
 - C. There is no limit on the number of this class of license that may be issued.
- (3) Class "C" retail license. This license is issued by the licensing authority subject to compliance with this Subsection and shall:
 - A. Entitle the licensee to sell draft beer for consumption on- or off-premises and to sell beer, wine, and/or alcohol in accordance with the Alcoholic Beverage Control Act.
 - B. This class of license is appropriate for restaurant establishments that make specialty beer (micro-brewery with food service).

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- C. There is a maximum limit of three (3) licenses for this class available for issuance.
- (4) Class "D" retail license. This license is issued by the licensing authority subject to compliance with this Subsection and shall:
 - A. Entitle the licensee to sell alcohol for consumption on-premises in accordance with the Alcoholic Beverage Control Act.
 - B. This class of license is appropriate for bars or clubs.
 - C. There is a maximum limit of three (3) licenses for this class available for issuance.
- (5) Class "E" retail or wholesale license. This license is issued by the licensing authority subject to compliance with this Subsection and shall:
 - A. Entitle the licensee to manufacture, warehouse, store, and sell an alcoholic beverage for off-premise consumption in accordance with the Alcoholic Beverage Control Act.
 - B. This class of license is appropriate for beer manufacturing and beer distribution facilities.
 - C. There is no limit on the number of this class of license that may be issued.
- (6) Class "F" temporary license. This license is issued by the licensing authority subject to compliance with this Subsection and shall:
 - A. Entitle the licensee to sell beer for on-premise consumption for a period of time not to exceed thirty (30) days. This class of license in non-renewable during a calendar year.
 - B. This class of license is appropriate for special events.
 - C. There is no limit on the number of this class of license that may be issued.

9-08-040 License Fee

In accordance with Utah Code Annotated §11-10-3, in addition to the general business license fee, an annual alcohol license fee is hereby imposed in the Kanab City Consolidated Fee Schedule.

9-08-050 Licensing Requirements

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The local authority shall only issue a license for the sale or distribution of alcohol based upon the license classifications authorized in this Section.

- (1) **State requirements.** Applicant complies with the provisions of Utah Code Annotated §11-10-2, as amended.
- (2) **License required.** It is unlawful for any person to engage in the business of selling an alcoholic beverage within the city without first obtaining the licenses required by this Subsection.
- (3) **Administration.** The licensing authority shall administer this subsection under the direction of the city administrator.
- (4) **Application and fee.** Any person seeking a license to sell an alcoholic beverage shall submit a written application to the City License Officer as provided for in this Section which shall be accompanied by the appropriate application/license fee required. The application/license fee is not refundable in the event that the application is denied. However, the applicant is given thirty (30) days after notice from the city of a deficiency to cure a denied or defective application without the requirement of repayment of the application/license fee.
- (5) **Information required.** All applications for a license to sell an alcoholic beverage shall be made in writing upon the form provided by the city recorder. The application shall state:
 - A. The name of the person desiring a license to sell an alcoholic beverage.
 - B. The name of the business.
 - C. The location where business is to be conducted.
 - D. The names of all partners holding more than a twenty percent (20%) interest in the business.
 - E. The class of license sought.
 - F. Other information specified on the application as determined by the city administrator, or any other information required by ordinance or statute.
- (6) **Review and approval.** An application that complies with this Section shall be issued by the City Recorder after review and approval by the licensing

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authority. An application that does not meet the requirements of this Section shall be denied by the licensing authority.

(7) **License owner.** A license for the sale of alcohol is issued in the name of the business operator or owner rather than the name of the business. In the event of a change of the business operator or ownership, a new application and license is required along with the application fee.

(8) **Nontransferable.** Licenses issued under this Section are not transferable.

(9) **Renewal.** A license issued under this Subsection shall be renewed annually in conjunction with the renewal schedule for business licenses.

(10) **Display.** The holder of a license issued under this Subsection shall display in a conspicuous location the license issued by the licensing authority along with any license issued by the governing state agency for the sale of any alcoholic beverage.

(11) **Time limit on operation.** If a holder of a license issued under this Subsection fails to open or to conduct business within the jurisdiction of the local authority for a period of one (1) year after issuance of the license, then said license is void, and a new application and fee must be submitted and approved by the licensing authority.

9-08-060 Inspection and Enforcement

The licensing official or enforcement official may conduct an inspection regarding any license issued under this Subsection to assure compliance with applicable law. The holder of a license issued under this chapter, by accepting said license, irrevocably consents to allow the inspection and search of the licensed premises by any licensing officer and/or the enforcement officer for any alcoholic beverage or for any other goods illegally possessed or kept, or for any evidence of any alleged alcohol-related crime under investigation by law enforcement. The licensee further consents to the seizure of alcohol that exceeds that classification limits set upon the license holder or alcohol-related property in violation of this Subsection.

9-08-070 Restrictions

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The following restrictions in this section apply to all license classes and persons.

- (1) **State law.** It is unlawful to sell alcohol in violation of the Utah Alcoholic Beverage Control Act, or its successor.
- (2) **Compliance.** It is unlawful for an applicant or licensee to violate Utah Code Annotated §11-10-1, this Subsection, the municipal code, or any terms under which a license was issued.
- (3) **Limits on hours.** It is unlawful for a person or any class of licensee to sell or otherwise furnish a patron or other person with an alcoholic beverage during the hours from one o'clock (1:00) A.M. to six o'clock (6:00) A.M.
- (4) **Exceed license.** It is unlawful to sell an alcoholic beverage except in the manner for which he/she has been so licensed pursuant to the provisions of this Subsection.
- (5) **Licensed premises.** It is unlawful for any licensee to sell an alcoholic beverage anywhere within the city, except upon or within the premises licensed for such sale.
- (6) **Advertising and promotions limitations.** It is unlawful to advertise the sale of an alcoholic beverage, except in full compliance with the Alcoholic Beverage Control Act and regulations duly made thereunder by the state. It is unlawful for any licensee to give away or offer a free lunch, free food, or similar promotion in connection with the sale of an alcoholic beverage.
- (7) **Intoxicated person.** It is unlawful to sell an alcoholic beverage to a person who appears to be intoxicated by drugs or alcohol, or who is under the influence of any intoxicating beverage.
- (8) **Underage.** It is unlawful to sell an alcoholic beverage to any person under the age of 21, or allow a person under the age of 21 years to sell the same.
- (9) **Unlawful product.** It is unlawful for any licensee to purchase or acquire or allow to be kept upon the licensed premises any alcoholic beverage not lawfully acquired from a brewer or wholesaler licensed under the provisions of the Alcoholic Beverage Control Act, or as part of a duly approved micro-brewery. It is unlawful for any licensee to keep any liquor product on the

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licensed premises that exceeds the scope of the license class or violates the Alcoholic Beverage Control Act.

(10) **Access.** It is unlawful for any serving area, door, or entryway to be locked or barricaded in any way so as to interfere with the free entrance to the licensed premises by any enforcement officer at any time while the premises is occupied or open to the public. However, licensee may maintain upon the premises a locked storeroom for the keeping of goods and supplies used in the business.

(11) **Lookouts and warning devices.** It is unlawful for any person commonly known as a "A Lookout" to be stationed or maintained to give warning of an approach of any enforcement officer. It is unlawful to maintain or operate any device which is used or capable of being used to give warning to persons of the approach of an enforcement officer.

(12) **Respondeat superior.** The licensee shall be responsible under this Subsection for all of the activities of his employees and hereunder, the licensee unconditionally guarantees to the city that neither he nor his employees will violate the terms of this Subsection, and for breach of such guarantee, the license may be revoked. It is unlawful for the owner or any licensee to:

- A. Fail to maintain full control of the conduct of the business upon the licensed premises.
- B. Fail to inform employees of the requirements of law relating to the sale of alcohol in the state of Utah.
- C. Fail to maintain control of employees.

(13) **Adverse action.** It is unlawful for any person to sell an alcoholic beverage after the revocation or suspension of any license issued to said person.

(14) **Set-backs.** It is unlawful to operate a business where an alcoholic beverage is sold at retail for off-premise consumption within the set-back distance of a "community location" as defined in Utah Code Annotated §32B-1-102, according to the specified set-back distances for each class of license set forth in Utah Code Annotated §32B-1-202, or otherwise in state law, unless the establishment pre-existed this Subsection.

Section 9: BUSINESS LICENSES AND REGULATIONS

(15) **Restricted activities.** It is unlawful to sell or provide an alcoholic beverage at:

- A. A dance or dance hall that is not classified or defined as a club.
- B. On public property.
 - i. Exception: Upon the approval and issuance of a special event permit and proper licensure from the city pursuant to this Section, and the Department of Alcoholic Beverage Services, Alcoholic Beverage Services Commission, or other state agency, as required, the permittee may sell or provide alcoholic beverages on public property, subject to the conditions of the permit.
 - ii. The exception of this subsection does not apply to city parks or within city buildings (i.e., they are considered restricted locations at which it is unlawful to sell or provide alcoholic beverages, notwithstanding the approval of a special event permit).
- C. A sexually-oriented business.
- D. A theater or cinema.

9-08-080 Suspension and Revocation

In accordance with Utah Code Annotated §11-10-1(4), an enforcement officer may suspend or revoke a license issued under this Subsection as follows:

(1) **Suspension.** If a licensee has been issued a warning or citation for a violation of this Subsection and a second violation occurs within a one (1) year period, then the enforcement officer may suspend a license for up to thirty (30) days. In lieu of a suspension, the enforcement officer may issue a civil penalty not to exceed \$1,000.00 for a violation of this chapter.

(2) **Revocation.** An enforcement officer may revoke a license issued under this Subsection if a license has another violation of this Subsection where a suspension has been made within a one (1) year period prior to the violation. Any revocation made under this Subsection shall continue for a period of one

Section 9: BUSINESS LICENSES AND REGULATIONS

(1) year, after which an applicant may resubmit an application under this Subsection.

(3) **Educational requirement.** An enforcement officer may issue a suspension to any licensee for a violation of educational requirements set forth in Utah Code Annotated §32B-1-701, et seq. In lieu of suspension, and, based upon the facts and circumstances, the enforcement officer may impose a fine of up to \$250.00 for a violation of this part.

(4) **Operational requirements.** It is cause for immediate revocation or suspension for a licensee who violates the operational requirements set forth in Title 32B of the Utah Code Annotated, depending upon the severity of a violation(s).

9-08-090 Appeals

Any person adversely affected by the decision of the city's licensing authority or enforcement official, which decision was made within their role of administering or interpreting one or more provisions of this Section, may, within the time period provided by this ordinance, appeal that decision to the appeal authority by alleging that there is an error in any order, requirement, decision, or determination made by the licensing authority or enforcement official in the administration or interpretation of this ordinance. The standard of review shall be limited to an examination of the underlying administrative record to determine only whether or not the decision issued by the licensing authority or enforcement official was arbitrary, capricious, or illegal.

All appeals shall be made as follows:

(1) **Time for written appeal.** Any person may appeal a decision made under this Subsection to the city's appeal authority by filing a written appeal (i.e., "Notice of Appeal") with the City Clerk within ten (10) days of any final adverse decision. The person filing the Notice of Appeal shall pay the appeal fee in accordance with the Kanab City Consolidated Fee Schedule.

(2) **Appeal authority.** The appeal authority shall be the same appeal officer designated retained or individual designated by the city for the purpose of

Section 9: BUSINESS LICENSES AND REGULATIONS

hearing land use appeals, in accordance with Chapter 2, Kanab City Land Use Ordinance, unless otherwise designated by resolution or ordinance.

(3) The appeal authority shall:

- A. Hear and decide all appeals under this chapter.
- B. Act in a quasi-judicial manner and serve as the final arbiter of issues involving the interpretation or application of applicable law.
- C. Exercise other powers and duties prescribed by law or assignment.
- D. Include as part of its decision written findings.

(4) **Appeal Process and Procedure.** The appeal process and procedure shall follow the provisions outlined in Chapter 2 of the Kanab City Land Use Ordinance, except as modified herein or where provisions of that Ordinance only apply to land use issues.

(5) **Appeal generally.** No person may challenge in district court any decision of the city or its enforcement officer(s) until that person has complied with the appeal procedure of this Subsection and has exhausted all administrative remedies pertaining to such appeal. No adversely affected party shall present a theory of relief in district court that was not first presented to the appeal authority. Adversely affected parties are precluded from pursuing duplicate or successive appeals before the appeal authority as a condition of the adversely affected party's duty to exhaust administrative remedies.

9-08-100 Implementation

The city administrator may establish forms and rules of procedure consistent with this Subsection for the effective implementation of this Subsection.

9-08-110 Penalties

The following penalties apply and are not mutually exclusive:

(1) **Civil.** Each violation of this Subsection constitutes a civil fine not to exceed \$1,000. Each day a violation continues constitutes a separate offense. The city may seek any civil remedy provided by law including abatement and

General Ordinances

Section 9: BUSINESS LICENSES AND REGULATIONS

injunctive relief for a violation of this Subsection or for situations that constitute a public nuisance relating to alcoholic beverages.

(2) Criminal. Each violation of this Subsection is a class B misdemeanor.

9-09 Construction Permits

- 9-09-010 Violations
- 9-09-020 Permits and Inspections
- 9-09-030 Building Official
- 9-09-040 Review of building inspection

9-09-010 Violations

It shall be unlawful for any person, firm, or corporation, whether as owner, lessee, sublessee, or occupant, to erect, construct, enlarge, alter, repair, move, improve, remove, demolish, equip, use, occupy, or maintain any building or premises, or cause or permit the same to be done, contrary to or in violation of any of the construction or fire codes adopted by State law or any order issued by the building official pursuant thereto.

9-09-020 Permits and Inspections

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure, cause or allow the same to be done, without first obtaining a separate building permit for each such building or structure from the building official in the manner and according to the applicable conditions prescribed by State law regarding Construction and Fire codes.

9-09-030 Building Official

There is hereby created the position of building official who shall also be known as the municipal building inspector.

9-09-040 Review of building inspection

Section 9: BUSINESS LICENSES AND REGULATIONS

- (1) In accordance with Utah Code Section §15A-1-210, the City provides for review of an inspection conducted by the city's building inspector for a single-family residential building permit.
- (2) Upon request by a person seeking a single-family residential building permit, a chief executive officer of the municipality or county issuing the single-family residential building permit, or the chief executive officer's designee, shall, with reasonable diligence, review an inspection described in Subsection (1) to determine whether the inspection constitutes a fair administration of the State Construction Code.
- (3) A review described in this section:
- A. is separate and unrelated to an appeal under the International Residential Code;
 - B. may not be used to review a matter that may be brought by appeal under the International Residential Code;
 - C. may not result in the waiver or modification of an International Residential Code requirement or standard;
 - D. may not conflict with an appeal, or the result of an appeal, under the International Residential Code; and
 - E. does not prohibit a person from bringing an appeal under the International Residential Code.
- (4) A person who seeks a review described in this section may not be prohibited by preclusion, estoppel, or otherwise from raising an issue or bringing a claim in an appeal under the International Residential Code on the grounds that the person raised the issue or brought the claim in the review described in this section.
- (5) As used in this section, "International Residential Code" means the International Residential Code as adopted under the State Construction Code.

9-10 Offensive Businesses and Facilities

- Section 9-10-010 Commencement of Offensive Business
- Section 9-10-020 Issuance of Permits

Section 9: BUSINESS LICENSES AND REGULATIONS

Section 9-10-010 Commencement of Offensive Business

- (1) No person shall commence or change the location of any offensive business or establishment in or within one mile of the limits of this municipality without first filing an application for a permit to do so with the recorder/clerk.
- (2) Offensive businesses, within the meaning of this part, shall include but not be limited to, packing houses, dairies, tanneries, canneries, renderies, junk or salvage yards, bone factories, slaughterhouses, butcher shops, soap factories, foundries, breweries, distilleries, livery stables, blacksmith shops, or any other enterprise or establishment which creates excessive odors, fumes, smoke gases, or noises.
- (3) The application for a permit shall specify the location at which the business or establishment is to be operated and maintained or the new location to which it is to be moved. The application shall describe the type of activity which will be conducted and describe the manner in which the business or establishment shall eliminate, control, or modify the emission by the business of the undesirable odors, fumes, noises, and other noisome features and the manner in which it shall be screened from public view, if its appearance is offensive.

Section 9-10-020 Issuance of Permits

- (1) The recorder/clerk shall cause a study to be made of the proposed business or relocation of any offensive business or establishment by the board of health and personnel engaged in the inspection of buildings and other facilities. A report and recommendation shall be made to the governing body. The governing body, after review, may grant the applicant an opportunity to be heard and present additional facts. Thereafter the governing body may:
- A. Deny the application.
 - B. Recommend a modification thereof.
 - C. Grant a limited permit to enter into the business or make the change of location subject to the requirement that the business or facility conform to standards established by the governing body

Section 9: BUSINESS LICENSES AND REGULATIONS

with reference to controlling the offensive features of the business.

(2) In the event a permit is granted, it shall be subject to revocation either upon failure of the operator or owner to conduct his business in the manner specified by the governing body at the time of the granting of the permit, or because a change of circumstances makes the continued operation or maintenance of the business or facility a public nuisance.

(3) The governing body shall have the power to revoke or modify the permission to operate and maintain the business in such a manner as it deems necessary for the public good.

9-11 Short-Term Rental Property

It is unlawful for any person to keep, conduct, operate or maintain a "short-term rental property" as defined in section 4 of the Kanab Land Use Ordinance within the city without a business license. The following requirements are in addition to the requirements of this section, and apply to both residential and commercial short term rental properties:

(1) License Not Transferable: A short term residential rental property business license is not transferable between persons or structures. When an owner has more than one Short Term Rental, each dwelling unit must have its own business license. Any person holding such license shall give written notice within thirty (30) days to the business license official after having transferred or otherwise disposed of legal or equitable control of any short-term residential rental dwelling unit licensed under this article.

(2) Transient Room Tax: All short term residential rental properties shall be subject to the collection of the municipality transient room tax as allowed under Utah code.

(3) The business license number shall be included, in plain view, on any booking website and at each property.

(4) Local Property Manager Required: All short-term residential rental properties shall designate a local property manager that resides within one (1) hour travel time of the property. The local property manager shall be available twenty-four (24) hours per day to respond to questions or

Section 9: BUSINESS LICENSES AND REGULATIONS

concerns. Each short term residential rental property shall have a clearly visible sign within the unit containing the following information: the name and phone number of the local property manager, and the maximum occupancy of the unit (look to Chapter 4-6 for occupancy limits).

(5) Owner and Property Manager Responsible: The owner and property manager shall be jointly and severally liable for any violations of this article. Any short-term rental which is found in violation of this section or any other requirement of this ordinance may be subject to revocation of the short-term residential rental properties business license, as well as any other remedies outlined in this Business License section.

Mayor
T. Colten Johnson
City Manager
Kyler Ludwig
Treasurer
Danielle Ramsay



City Council
Arlon Chamberlain
Scott Colson
Chris Heaton
Boyd Corry
Peter Banks

Kanab City Planning Commission Staff Report **File # PLANZONE25-002**

Date:	October 6, 2025
Meeting Date:	October 7, 2025
Agenda Item:	PUBLIC HEARING to discuss and recommend a zone change to City Council from R-1-8 [Single Family Zone] to RM [Multi-Family Residential] for parcel K-45-9
Subject Property Address:	322 E 200 S
Property Owner:	Joshua Beazer
Applicant Agent:	Iron Rock Engineer
General Plan Designation:	Medium Density Residential/High Density Residential
Parcel #:	K-45-9

Attachments:

Exhibit A: Subject/Vicinity Property

Exhibit B: Site Plan

Summary:

Property Owner, Josh Beazer, is requesting a zone change to rezone parcel K-45-9 from R-1-8 (Single Family Zone) to a RM (Multi-Family Residential). The property owner would like to change the use of the building to have the option of platting the two-family dwelling.

Site Description:

The subject property is approximately 0.25-acres. The parcel has an existing two-family dwelling unit. Surrounding zoning designations and the density designations are as follows:

North	South	East	West
Single-Family R-1-8	Single-Family R-1-8	Single-Family R-1-8	Single-Family R-1-8
Medium Density Residential (MDR) / High Density Residential (HDR)	Medium Density Residential (MDR) / High Density Residential (HDR)	Medium Density Residential (MDR) / High Density Residential (HDR)	Medium Density Residential (MDR) / High Density Residential (HDR)

— A Western Classic —

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Kanab City Land Use Ordinance, General Plan and Zoning Map Analysis:

Zoning designations and zone changes are regulated by the Kanab City Land Use Ordinance, Chapter 15 – Establishment of Zoning Districts regulates zoning designations within Kanab City. Section 15-7 Transitioning and Maintaining Balance, states:

It is the objective of the City to encourage and provide for proper transition and compatibility between zones and intensity of uses, which should be regulated by the City Land Use Code, the General Plan, Future Land Use Map and the Kanab City Annexation Policy Plan. The City also seeks to maintain a healthy balance and mix of land uses within the community, representing the atmosphere of existing development. Areas for growth have been planned with a balance for all uses, including agriculture, residential, commercial and industrial uses, as demonstrated in the Kanab City General Plan and Future Land Use Map. Future decisions regarding land use and zoning in Kanab should be guided by this map.

The City promotes orderly growth, with an emphasis for new developments to occur in the core community areas first. Rezoning of adjacent undeveloped property should be compatible with developed property.

Public Comment:

The Public Hearing will be held on October 7, 2025. Public notices have been posted on the City and State websites.

Findings:

1. The application was initiated by the owner.
2. The property is zoned as R-1-8 and approximately 0.25-acres.
3. The City Council is the decision-making authority for a zoning application. The Council may adopt or reject the request as it deems appropriate or may assign a different zoning designation.
4. Assigning an RM zone is consistent with the Kanab City Future Land Use Map that shows the area designated as MDR/HDR.
5. The requested zone of RM is not consistent with the adjacent/surrounding properties.

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City Manager
Kyler Ludwig
Treasurer
Danielle Ramsay



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Peter Banks

Suggested Motion(s):

I move that we send a positive recommendation to the City Council to assign zone RM to Parcel K-45-9 based on the findings and conditions outlined in Staff Report PLANZONE 25-002.

I move that we send a positive recommendation to the City Council to assign zone _____ to Parcel K-45-9 based on the findings and conditions outlined in Staff Report PLANZONE 25-002 and the following _____.

I move that we send a negative recommendation to the City Council to assign zone RM to Parcel K-45-9 based on the findings and conditions outlined in Staff Report PLANZONE 25-002.

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Mayor

T. Colten Johnson

City Manager

Kyler Ludwig

Treasurer

Danielle Ramsay



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Exhibit A: Subject Property

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Mayor

T. Colten Johnson

City Manager

Kyler Ludwig

Treasurer

Danielle Ramsay



City Council

Arlon Chamberlain

Scott Colson

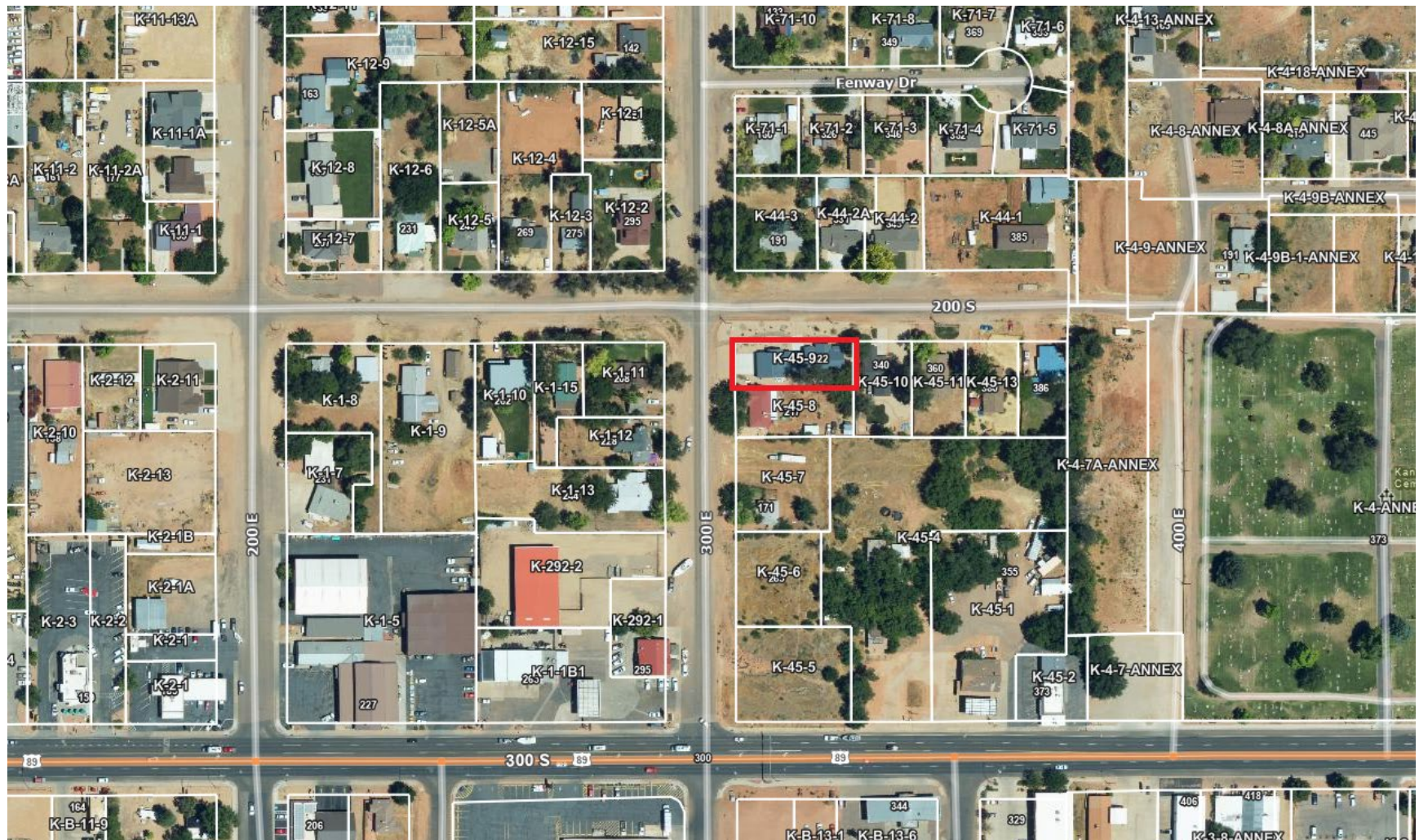
Chris Heaton

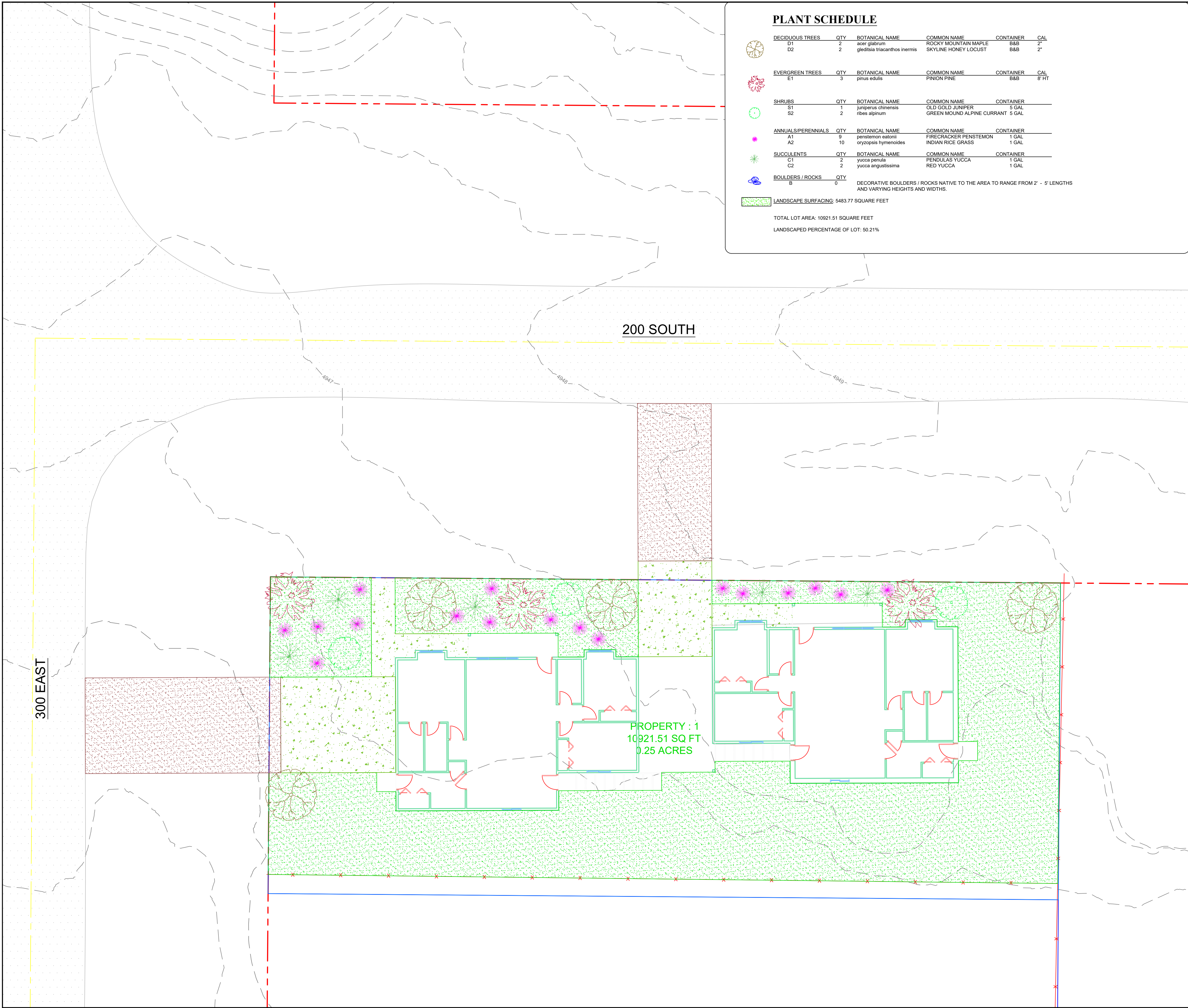
Boyd Corry

Peter Banks








Exhibit B: Applicant's Statements

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PLANT SCHEDULE

	DECIDUOUS TREES	QTY	BOTANICAL NAME	COMMON NAME	CONTAINER	CAL
	D1	2	acer glabrum	ROCKY MOUNTAIN MAPLE	B&B	2"
	D2	2	gleditsia triacanthos inermis	SKYLINE HONEY LOCUST	B&B	2"
	EVERGREEN TREES	QTY	BOTANICAL NAME	COMMON NAME	CONTAINER	CAL
	E1	3	pinus edulis	PINION PINE	B&B	8' HT
	SHRUBS	QTY	BOTANICAL NAME	COMMON NAME	CONTAINER	
	S1	1	juniperus chinensis	OLD GOLD JUNIPER	5 GAL	
	S2	2	ribes alpinum	GREEN MOUND ALPINE CURRANT	5 GAL	
	ANNUALS/PERENNIALS	QTY	BOTANICAL NAME	COMMON NAME	CONTAINER	
	A1	9	penstemon esaloni	FIRECRACKER PENSTEMON	1 GAL	
	A2	10	oryzopsis hymenoides	INDIAN RICE GRASS	1 GAL	
	SUCCULENTS	QTY	BOTANICAL NAME	COMMON NAME	CONTAINER	
	C1	2	yucca penula	PENDULAS YUCCA	1 GAL	
	C2	2	yucca angustissima	RED YUCCA	1 GAL	
	BOULDERS / ROCKS	QTY	DECORATIVE BOULDERS / ROCKS NATIVE TO THE AREA TO RANGE FROM 2' - 5' LENGTHS AND VARYING HEIGHTS AND WIDTHS.			
	B	0				
 LANDSCAPE SURFACING: 5463.77 SQUARE FEET						
TOTAL LOT AREA: 10921.51 SQUARE FEET						
LANDSCAPED PERCENTAGE OF LOT: 50.21%						

10 0 10
SCALE IN FEET
SCALE 1" = 10'





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INITIAL	SUBMITTAL	1/30/2023
REV#	DATE	DESCRIPTION

NOT FOR
CONSTRUCTION

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DRAWN BY: **RLB**

SCALE: **1"=10'**

SHEET:

L100