



STAFF REPORT

To: Kearns City Council

From: Nathan Bracken, Kearns City Attorney

Re: Draft Updates to Titles 3 through 14 of Kearns Municipal Code

Date: August 18, 2025

I. INTRODUCTION

When Kearns incorporated as a metro township on January 1 2017, state law required it to follow the Salt Lake County Code provisions that were in effect as of that date. State law also authorized Kearns to replace the Salt Lake County code provisions. In short, upon its incorporation, the Salt Lake County Code became the Kearns Municipal Code (the “Code”).

Following its incorporation, Kearns has replaced several provisions of the Code. These include comprehensive restatements of Title 18 (Subdivisions) and Title (19) Zoning. The City has also made several updates and amendments to specific chapters and sections throughout the code, including portions of Title 5 regarding business licensing. Notwithstanding these updates, many “County-specific” code provisions remain, some of which are not applicable to Kearns or municipalities generally. In addition, following Kearns’s transition to a city in 2024 pursuant to H.B. 35, changes were needed throughout the Code to reflect that change (e.g., replacing “metro township” with “city,” accounting for the direct election of the Mayor, changes in the fiscal year, etc.). Although the Council has adopted some ordinance changes to make some of these changes, many changes are needed to fully reflect Kearns’s current status as a city and to remove the remaining County code provisions.

The Council authorized and directed my firm to prepare a complete restatement of the Code that will be specific to municipal operations and Kearns’s needs. This new restated code will replace the remaining Code provisions Kearns inherited from Salt Lake County, update the provisions Kearns adopted to account for its status as a city, and otherwise update and restate the Code to comply with current law.

During the Council’s August meeting, I presented draft changes to Titles 1 and 2 and indicated that I would present the proposed changes to the remaining titles at the September Council meeting, with the intent of receiving direction and feedback from the Council with goal of adopting the entire restated code in October or at least by the end of 2025.

Attached to this staff report are the draft restated versions of Titles 3 through 14. Because the Council has already updated Title 12 (Code Enforcement), I have not included that title within this draft, although we will need to make some non-substantive edits to that title (e.g., changing “metro Township” to “city”). Similarly, I have not included Title 15 (Building Code), which is governed largely by state law, or Title 17 (Flood Control and Water Quality), which is also largely governed by state law and which the Council previously updated. Similar to Title 12, these titles will also require some edits that will mostly be non-substantive.

II. SUMMARY OF RESTATEMENT OF TITLES 3 THROUGH 14

These titles govern revenue and finance (Title 3), business licensing (Title 5), animals (Title 8), health and safety (Title 9), public peace and nuisances (Title 10), vehicles and traffic (Title 11), parks and recreation (Title 13), and highways, sidewalks, and public places (Title 14).

For the most part, these titles have been largely re-written and are no longer based on Salt Lake County’s code, with the exception of Titles 8 and 14. Because Kearns receives animal control services from Salt Lake County, we assumed that some continuity with the County’s code would be required, although we anticipate that the Council will likely want to make some revisions to this title. Similarly, for Title 14, we have tried to maintain the current provisions to the extent possible to avoid disruption to the implementation of this title by the Engineering Department within the Greater Salt Lake Municipal Services District (“MSD”), although we have included several revisions updates.

In addition to the Council’s input, we will need to obtain review an input from the MSD staff before these titles, particularly titles 5, 11, and 14, can be implemented.

III. COUNCIL DIRECTION IS NEEDED

Most of the provisions within these titles pertain to the administrative day-to-day operations of the City, meaning that the MSD staff will implement them subject to the oversight of the Mayor or the City Manager, if the Council appoints one. As you read the draft restatement of these titles, you will see several comments from myself and Lisa Watts Baskin with my office regarding certain policy questions where the Council’s input would be helpful.

Please also keep the following in mind:

1. This is still very much a draft and subject to change. Among other things, the formatting, cross references, citations, and numbering are preliminary and will be revised and changed before a final version will be presented to the Council for final adoption.
2. I am currently working with the MSD on several amendments and additions with the MSD staff that are not included in this draft, including provisions regarding the responsibility to maintain and fix sidewalks, E-bikes and scooters, improvement completion assurances, and provisions governing fiber optic cable installations. These will be presented to the Council as soon as they are ready.

3. If the Council would like to impose additional conditions (e.g., limitations on the number of certain businesses allowed within Kearns), please let me know.
4. For Title 8 (Animals), I would appreciate the Council's perspective on what to keep or remove from the County's code, while keeping in mind that we will need to have some continuity with the County's Code because Kearns receives its animal services from a County agency. Nevertheless, we may be able to include language describing code enforcement actions that Kearns may take when Salt Lake County Animal Services is unable to act.
5. Does the Council want to enact a transient room tax ("**TRT**") tax? Section 3.05.020 would impose such a tax.

CHAPTER 3.01 BUDGET, ACCOUNTING, AND FINANCIAL REPORTING

3.01.010: Key Fiscal Management Practices

- A. Adoption: The Council adopts these key fiscal management practices to govern City budgeting, accounting, and financial reporting, applicable state law, federal law, and other policies, rules, and regulations as adopted by the Council.
- B. Annual Budget: A copy of the key fiscal management practices is included in the City's annual budget document.

CHAPTER 3.02 PURCHASING SYSTEM

3.02.010 Definitions

- A. “Procurement” means buying, purchasing, renting, leasing, leasing with an option to purchase, or otherwise acquiring any item of personal property, a service, a supply, a technology, or a construction project.

3.02.020 Procurement

All procurement on behalf of the City shall be conducted in accordance with Chapter 3.16.

Commented [NB1]: Kearns procurement Code will be included in this Chapter.

CHAPTER 3.03 SALES TAX

3.03.010 Levy

- A. The City levies and collects a retail tax paid on every retail sale of items as provided in Utah Code § 59-12-103, made within the City at the rate of percent (commencing retroactive to one minute after twelve o'clock (12:01) A.M., January 1, 2025).
- B. The City levies and collects an excise tax paid on the storage, use, or other consumption within the City of tangible personal property or any items as provided in Utah Code § 59-12-103 and, at the rate of percent (, commencing retroactive to one minute after twelve o'clock (12:01) A.M., January 1, 2025).

3.03.020 Adoption of State Code

- A. Utah Code § 59-12-101 et seq. is adopted and made part of this chapter.
- B. If the state is named or referred to as the “taxing entity” pursuant to Utah Code § 59-12-101 et seq., the name of the City shall be substituted therefor.
- C. Any amendments to Utah Code § 59-12-101 et seq., applicable to the City are incorporated herein by reference and shall be effective upon the effective date of the state statute.

3.03.030 State Tax Commission Services Agreement

The City has an agreement with the state tax commission to perform all functions related to the administration or operation of the sales and use tax ordinance of the City which may be supplemented to administer and collect the local sales and use tax as provided state law.

3.03.04 Exemption From Tax

In compliance with Utah Code § 59-12-204, the City may not impose a tax on the sales and uses exempted pursuant to Utah Code § 59-12-104.

3.03.050 Tax Paid Not Part Of Purchase Price

The amount of any tax paid pursuant to Utah Code § 59-12-101 et seq., may not be included as a part of the purchase price paid or charged for a taxable item.

3.03.060 Effective Date Of Tax; Continuation Of Previous Ordinances

The sales and use tax imposed pursuant to this chapter shall be retroactive to one minute after twelve o'clock (12:01) A.M., **January 1, 2025**. The provisions of the predecessor sales and use tax ordinances of the City, which are hereby repealed, shall be deemed to have continued effective until twelve o'clock (12:00) midnight, **December 31, 2024**. The provisions of this chapter which are not in conflict with the former ordinance shall be considered in effect and any rights, duties, or obligations arising thereunder shall not be abrogated or terminated.

CHAPTER 3.04 ENERGY SALES AND USE TAX

3.04.010 Purpose

To provide both a stable revenue source and create a more competitive environment for the energy industry, the City repeals its utility franchise tax levied on gas and electricity and adopts a municipal energy sales and use tax pursuant to Utah Code, Title 10, Chapter 1, Part 3, the Municipal Energy Sales and Use Tax Act.

3.04.020 Definitions

A. As used in this chapter:

1. **"Commission"** means the state tax commission.
2. **"Consumer"** means a person who acquires taxable energy for any use that is subject to the energy sales use tax.
3. **"Contractual Franchise Fee"** means:
 - a. A fee:
 - i. Provided for in a franchise agreement; and

- ii. That is consideration for the franchise agreement; or
 - b.
 - i. A fee similar to subsection A of this definition; or
 - ii. Any combination of subsections A and B of this definition.
- 4. “Delivered Value” means the fair market value of the taxable energy delivered for sale or use in the municipality and includes:
 - a. The value of the energy itself; and
 - b. Any transportation, freight, customer demand charges, service charges, or other costs typically incurred in providing taxable energy in usable form to each class of customer in the municipality.
 - c. “Delivered Value” does not include the amount of a tax paid under:
 - i. Utah Code, Title 59, Title 12, Part 1, Sales and Use Tax Act, Tax Collection; or
 - ii. Utah Code, Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act.
- 5. “De Minimis Amount” means an amount of taxable energy that does not exceed the greater of:
 - a. Five percent (5%) of the energy of supplier's estimated total Utah gross receipts from sales of property or services; or
 - b. Ten thousand dollars (\$10,000.00).
- 6. “Energy Supplier” means a person supplying taxable energy, except that the state tax commission may by rule exclude from this definition a person supplying a de minimis amount of taxable energy.
- 7. “Franchise Agreement” means a franchise or an ordinance, contract, or agreement granting a franchise.
- 8. “Franchise Tax” means
 - a. A franchise tax;
 - b. A tax similar to a franchise tax; or
 - c. Any combination of subsections A and B of this definition.
- 9. “Person” means the definition as provided in Utah Code § 59-12-102.

10. "Taxable Energy" means gas and electricity.

3.04.030 Municipal Energy Sales And Use Tax

The City imposes a municipal energy sales and use tax on the sale or use of taxable energy made within the City equaling six percent (6%) of the delivered value of the taxable energy to the consumer. This tax shall be known as the Municipal Energy Sales and Use Tax.

- A. The tax shall be calculated on the delivered value of the taxable energy to the consumer.
- B. The tax shall be in addition to any sales or use tax on taxable energy imposed by the City or by the state.

3.04.040: Exemptions From Energy Sales And Use Tax

- A. In compliance with Utah Code § 10-1-305, the City exempts the following from the Municipal Energy Sales and Use Tax:
 - 1. The sales and use of aviation fuel, motor fuel, or special fuel subject to taxation under Utah Code, Title 59, Chapter 13, Motor and Special Fuel Tax Act;
 - 2. The sales and use of taxable energy that the City is prohibited from taxing under federal law or the Constitution of the United States or the Utah Constitution;
 - 3. The sales and use of taxable energy purchased or stored in the state for resale;
 - 4. The sales or use of taxable energy to a person if the primary use is for use in compounding or producing taxable energy or a fuel subject to taxation under Utah Code, Title 59, Chapter 13, Motor and Special Fuel Tax Act;
 - 5. Taxable energy brought into the state by a nonresident for the nonresident's own personal use or enjoyment while within the State, except taxable energy purchased for use in the state by a nonresident living or working in the state at the time of purchase;
 - 6. The sales or use of taxable energy for any purpose other than use as a fuel or energy; and
 - 7. The sale of taxable energy for use outside the corporate limits of the City.
- B. The sale, storage, use, or other consumption of taxable energy is exempt from the Municipal Energy Sales and Use Tax levied by this chapter, provided:
 - 1. The delivered value of the taxable energy has been subject to a Municipal Energy Sales or Use Tax levied by another municipality in this state; and

2. The City has paid the difference between the tax paid to the other municipality and the tax that would otherwise be due under this chapter, if the tax due under this chapter exceeds the tax paid to the other municipality.
- C. No exemptions shall be granted from the Municipal Energy Sales and Use Tax imposed by this chapter except those specifically provided herein.
- D. On or before the effective date of this chapter, the City shall contract with the state tax commission to perform all functions incident to the administration and collection of the energy sales and use tax, in accordance with this chapter.

3.04.050: Existing Franchise Agreements Not Affected; Credit For Franchise Fees

- A. This chapter shall not alter any existing franchise agreements between the City and energy suppliers.
- B. An energy supplier which has entered a franchise agreement with the City shall receive credit for a contractual franchise fee paid if:
 1. The energy supplier pays the contractual franchise fee to the City pursuant to a franchise agreement which is in effect on **October 1, 2024;**
 2. The contractual franchise fee is passed through by the energy supplier to a consumer as a separately itemized charge; and
 3. The energy supplier has accepted the franchise.
- C. The City may enter into such supplementary agreements with the state tax commission as may be necessary and proper for the continued administration and operation of the energy sales and use tax ordinance enacted by this chapter.
- D. An energy supplier shall pay the energy sales and use tax revenue collected from consumers directly to the City if:
 1. The City is the energy supplier; or
 2. The energy supplier estimates that the municipal energy sales and use tax collected annually from its Utah customers equals one million dollars (\$1,000,000.00) or more; and
 - a. The energy supplier collects the energy sales and use tax.

3.04.060 Incorporation Of State Code Tax Collection Provisions

- A. The state tax commission shall collect, enforce and administer the municipal energy sales and use tax from energy suppliers in compliance with Utah Code, Title 59, Chapter 12, Part 1, Tax Collection, adopted and incorporated by reference as a part of this chapter. This

adoption and incorporation by reference shall include any amendments to those provisions that relate to the levying or collecting of a municipal energy sales and use tax.

- B. The name of the City shall be substituted for all references to the "taxing agency" in Utah Code, Title 59, Chapter 12, Part 1.

3.04.070 Additional License For Collection Of Tax Not Required

If the energy supplier collecting the tax has a license issued pursuant to Utah Code § 59-12-106, an additional license to collect the energy sales and use tax levied by this chapter is not required.

CHAPTER 3.05 MUNICIPAL TRANSIENT ROOM TAX

3.05.010 Authority

The City adopts the Municipality Transient Room Tax as provided in Utah Code § 59-12-352 *et seq.*

3.05.020 Imposition Of Tax

The tax imposed by this chapter shall be one percent (1%) on charges for tourist homes, hotels, motels pursuant to Utah Code § 59-12-353, or trailer court accommodations and services that are regularly rented for less than thirty (30) consecutive days.

Commented [NB2]: Does the City want to impose a TRT tax?

3.05.030 State Tax Commission

The Utah state tax commission shall collect the tax imposed under this chapter in compliance with Utah Code §§ 59-12-354 and 10-3-103

CHAPTER 3.06 TELECOMMUNICATIONS SERVICE PROVIDERS TAX

3.06.010 Definitions

- A. As used in this chapter:
 - 1. "Commission" means the state tax commission.
 - 2. "Customer" means
 - a. Subject to subsections (2)(b) and (c), of this definition, "customer" means the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract.
 - b. For purposes of this chapter, "customer" means
 - i. The person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract; or

- ii. If the end user is not the person described in subsection (2)(b)(i) of this definition, the end user of telecommunications service.
- 3. "Customer" does not include a reseller:
 - a. Of telecommunications service; or
 - b. For mobile telecommunications service, of a serving carrier under an agreement to serve the customer outside the telecommunications provider's licensed service area.
- 4. "End User" means:
 - a. The person who uses a telecommunications service.
 - b. For purposes of telecommunications service provided to a person who is not an individual, "end user" means the individual who uses the telecommunications service on behalf of the person who is provided the telecommunications service.
- 5. "Gross Receipts from Telecommunications Service" means the revenue that a telecommunications provider receives for telecommunications service rendered, except for amounts collected or paid as:
 - a. A tax, fee or charge:
 - i. Imposed by a governmental entity;
 - ii. Separately identified as a tax, fee or charge in the transaction with the customer for the telecommunications service; and
 - iii. Imposed only on a telecommunications provider;
 - b. Sales and use taxes collected by the telecommunications provider from a customer under Utah Code, Title 59, Chapter 12, Sales and Use Tax Act; or
 - c. Interest, a fee or a charge that is charged by a telecommunications provider on a customer for failure to pay for telecommunications service when payment is due.
 - d. "Gross receipts for telecommunications service" includes a charge necessary to complete a sale of a telecommunications service.
- 6. "Mobile Telecommunications Service" means as the definition in the Mobile Telecommunications Sourcing Act, 4.U.S.C. Sec. 124.
- 7. "Municipality" means Kearns City.

8. "Place of Primary Use" means

- a. For telecommunications service other than mobile telecommunications service, the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:
 - i. The residential street address of the customer; or
 - ii. The primary business street address of the customer; or
- b. For mobile telecommunications service, the definition in the Mobile Telecommunications Sourcing Act, 4.U.S.C. Sec. 124..

9. "Service Address" means, notwithstanding where a call is billed or paid,

- a. If the location described in subsection 8.a. of this definition is known, the location of the telecommunications equipment:
 - i. To which a call is charged; and
 - ii. From which the call originates or terminates;
- b. If the location described in subsection 8.a. of this definition is not known but the location described in subsection 8.b. of this definition is known, the location of the origination point of the signal of the telecommunications service first identified by:
 - i. The telecommunications system of the telecommunications provider; or
 - ii. If the system used to transport the signal is not a system of the telecommunications provider, information received by the telecommunications provider from its service provider; or
- c. If the locations described in subsections 8.a. or b. of this definition are not known, the location of a customer's place of primary use.

10. "Telecommunications Provider" means

- a. Subject to subsections 9.b. and c. of this definition, "telecommunications provider" means a person that:
 - i. Owns, controls, operates, or manages a telecommunications service; or

- ii. Engages in an activity described in subsection 9. a. of this definition for the shared use with or resale to any person of the telecommunications service.
- b. A person described in subsection 9.a.of this definition is a telecommunications provider whether or not the public service commission of Utah regulates:
 - i. That person; or
 - ii. The telecommunications service that the person owns, controls, operates or manages.
- c. "Telecommunications provider" does not include an aggregator as defined in Utah Code § 54-8b-2.

11. "Telecommunications Service" means:

- a. Telecommunications service, as defined in Utah Code § 59-12-102, means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between two points, other than mobile telecommunications service that originates and terminates within the boundaries of this state; and
- b. Mobile telecommunications service, as defined in Utah Code § 59-12-102:
 - i. That originates and terminates within the boundaries of one state; and
 - ii. Only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
- c. An ancillary service as defined in Utah Code § 59-12-102.
- d. Except as provided in 11.b., "telecommunications tax or fee" means any of the following imposed by a municipality on a telecommunications provider:
 - i. a tax;
 - ii. a license;
 - iii. a fee;
 - iv. a license fee;

- v. a license tax;
 - vi. a franchise fee; or
 - vii. a charge similar to a tax, license, or fee as described in subsections 11.a.i. through vi.
- e. “Telecommunications tax or fee” does not include:
- i. the municipal telecommunication’s license tax authorized by this part; or
 - ii. a tax, fee, or charge, including a tax imposed under Utah Code, Title 59, Revenue and Taxation, that is imposed:
 - A. on telecommunications providers; and
 - B. in persons who are not telecommunications providers.

3.06.020 Levy Of Tax

The City levies a municipal telecommunications license tax on the gross receipts from telecommunications service attributed to this City.

3.06.030 Rate

The tax levy rate is three and one-half percent (3.5%) of the telecommunication provider's gross receipts from telecommunications service that are attributed to the City, subject to applicable state law.

3.06.040: Rate Limitation And Exemption

The tax levy rate may not exceed three and one-half percent (3.5%) of the telecommunication provider's gross receipts from telecommunication service attributed to the City unless a higher rate is approved by a majority vote of the voters in Kearns that vote in:

- A. A municipal general election;
- B. A regular general election; or
- C. A local special election.

3.06.050 Effective Date Of Tax Levy

This tax levy begins the earlier of October 1, 2024, or the first day of any calendar quarter after a seventy five (75) day period beginning on the date the commission received notice pursuant to Utah Code§ 10-1-403 that the City has enacted this ordinance.

3.06.060 Changes In Rate Or Repeal Of Tax

The City shall comply with Utah Code § 10-1-403, including the posting of the appropriate notice if the tax rate is changed or the tax is repealed..

3.06.070 Interlocal Agreement For Collection Of Tax

On or before the effective date of this ordinance, Kearns shall enter into an uniform interlocal agreement with the commission pursuant to Utah Code § 10-1-405 for the collection, enforcement, and administration of the City’s municipal telecommunications license tax.

3.06.080 Repeal Of Inconsistent Taxes And Fees

- A. The City repeals any tax or fee enacted under authority of Utah Code § 10-1-203 or Utah Code, Title 11, Chapter 26, Limitations on Local Taxes and Fees
- B. Nothing in this ordinance shall be interpreted to repeal any municipal ordinance or fee which provides that the City may recover from a telecommunications provider the management costs of the City caused by the activities of the telecommunications provider in the rights of way of the City, if the fee is imposed pursuant to Utah Code § 72-7-102, is not related to the City’s loss of use of a highway as a result of the activities of the telecommunications provider in a right-of-way or increased deterioration of a highway as a result of the activities of the telecommunications provider in a right-of-way. This chapter does not limit the City’s right to charge fees or taxes on persons that are not subject to the municipal telecommunications license tax under this chapter and locate telecommunications facilities, as defined in Utah Code Annotated § 72-7-108, in this municipality.

3.06.090: Limitation On Causes Of Action For Taxes Erroneously Collected

A customer may not bring a cause of action against a telecommunications provider on the basis that the telecommunications provider erroneously recovered from the customer municipal telecommunications license taxes authorized by this chapter unless the customer meets the following requirements:

- A. Customer shall provide the telecommunications provider written notice if:
 - 1. The customer requests a refund or credit of any amount the customer overpaid in taxes and the telecommunications provider collected under this chapter; and
 - 2. The request contains the information necessary for the telecommunications provider to determine the validity of the request; and
- B. Sixty (60) days have elapsed from the day on which the telecommunications provider received the written notice from the customer.

CHAPTER 3.16 PROCUREMENT OF SUPPLIES, MATERIALS, EQUIPMENT, AND CONTRACTUAL SERVICES; DISPOSAL OF PUBLIC PROPERTY

[Kearns revised purchasing process will be included here]

TITLE 4 (RESERVED)

TITLE 5 BUSINESS LICENSES AND REGULATIONS

1. Title 5 is repealed and replaced in its entirety, effective 2025.
2. Severability. If any provision of this title is held to be invalid or unconstitutional by a court of competent jurisdiction, the decision of invalidity or unconstitutionality shall not affect the other provisions of this title which shall continue in full force and effect without the invalid or unconstitutional provision.

CHAPTER 5.01 LICENSE OFFICE AND LICENSE OFFICIAL

5.01.010 Definitions

- A. As used in this title, the following definitions are in addition to the definitions in Section 1.02.060 and shall control:
 1. “Administrative law judge” means the same as that term is defined in Section 1.02.060.C.
 2. “Arcade” means an indoor or outdoor area containing video games that require payment to play.
 3. “Amusement device” means any video game, pinball, or other machine, whether mechanically or electronically operated that complies with all applicable laws, regulations, and ordinances and, upon insertion of a coin, trade-token, slug, or similar object, or upon payment of money or other consideration through use of a metered or similar device, operates or may be operated as a game or contest of skill or amusement of any kind or description. An amusement device is further defined as any machine, apparatus, or contrivance that is used or that may be used as a game of skill or amusement wherein or whereby the player initiates, employs, or directs any force generated by the machine. An amusement device shall exclude billiard, pool, or bagatelle tables.
 4. “Amusement facility” means facility that: (1) is located in a building or structure that is owned, leased, or occupied for the primary purpose of providing amusement and entertainment to the general public; (2) offers more than four amusement devices; (3) receives the majority of its gross receipts from the operation of the

amusement devices; and (4) does not offer any form of gambling. An amusement facility includes an “arcade.”

5. “Applicant” means any person or entity that submits a business license application under this title.
6. “Application” means business license application submitted under this title.
7. “Alcoholic beverages” means and includes beer and liquor, as they are defined herein.
8. “Beer” means and includes “light beer,” “malt liquor,” or “malted beverages,” and all products that contain 63/100 of one percent of alcohol by volume or one-half of one percent of alcohol by weight, but not more than four percent of alcohol by volume or 3.2 percent by weight, and are obtained by fermentation, infusion or decoction of any malted grain. Beer may or may not contain hops or other vegetable products.
9. “Business” means any activity, occupation, or enterprise involved in the manufacture or sale of products or goods at wholesale or retail or the rendering of service or activity to or from another person for compensation by a person engaged in any profession, trade, craft, business, occupation, or other vocation, except the acts of employees rendering services to the employer under any contract of personal employment. The term “business” shall also include nonprofit corporations but may not include the acts of employees rendering services to their employers unless otherwise specifically prescribed.
10. “Beer-only restaurant” means a place of business in connection with a bona fide restaurant wherein beer is sold for consumption on the premises in open containers in any size not to exceed two liters capacity and on draft, in conjunction with an order of food that is prepared, sold and served at the restaurant.
11. “Club, Dining” means a club that has dining facilities and maintains at least sixty percent of its sales from food, and which operates under a State Club Liquor License issued pursuant to Utah Code 32B-6 Part 4.
12. “Club, Equity” means a club that is owned by its members and run by a board of directors elected by the members, such as a country club, and which operates under a State Club Liquor License issued pursuant to Utah Code 32B-6 Part 4.
13. “Club, Fraternal” means a mutual benefit or patriotic association that is organized under a lodge system, and which operates under a State Club Liquor License issued pursuant to Utah Code 32B-6 Part 4.

14. "Club, Social" means a general-purpose club, which includes a nightclub that serves liquor, in which a variety of food is prepared and served in connection with dining accommodations, and which operates under a State Club Liquor License issued pursuant to Utah Code 32B-6 Part 4.
15. "Director" means the director of Kearns planning and development services, or a designated agent of the director.
16. "Employee" means the operator, owner, or manager of a place of business and any persons employed by such person in the operation of that place of business, in any capacity, and also any salesman, agent, or independent contractor engaged in the operation of that place of business, in any capacity.
17. "Engaging in business" means, but is not limited to, the sale of tangible personal property at retail or wholesale, the manufacturing of goods or property, and the rendering of personal services for others for a consideration by persons engaged in any profession, trade, craft, business, occupation, or other calling, except the rendering of personal services by an employee to an employer under any contract of personal employment.
18. "Gross sales" means and includes the amount of any manufacturer's or importer's excise tax included in the price of the property sold, even though the manufacturer or importer is also the wholesaler or retailer thereof, and whether or not the amount of such tax is stated as a separate charge.
 1. The amount of any federal tax, except excise taxes imposed upon or with respect to retail or wholesale sales, whether imposed upon the retailer, wholesaler, jobber, or the consumer, and regardless of whether the amount of federal tax is stated to customers as a separate charge; and
 2. The amount of net Utah state sales tax.
19. "License department" means the license office of the Kearns planning and development services division of Public Works and Municipal Services.
20. "License" means a license or permit issued by the City to engage in a business.
21. "Licensee" means a person to whom the City has granted a business license.
22. "License official" means the director of the Kearns planning and development services, or a designated agent of the director.
23. "Liquor" means:

- a. Alcohol, or an alcoholic, spirituous, vinous, fermented malt or other liquid, or combination of liquids, a part of which is spirituous, vinous, or fermented, and all other drinks or drinkable liquids that contain more than one-half of one percent of alcohol by volume and are suitable to use for beverage purposes.
 - b. “Liquor” does not include any beverage defined as a beer, malt liquor, or malted beverage that has an alcohol content of less than four percent alcohol by volume.
24. “Number of employees” means the average number of employees engaged at the place of business each regular working day during the preceding calendar year.
25. “On-premises beer tavern” means a tavern, beer bar, parlor, lounge, cabaret, or nightclub where only beer is sold for consumption on the premises in any size of open container not exceeding two liters, on draft, and where the revenue from the sale of beer exceeds the revenue of the sale of food, although food need not be sold in such establishments.
26. “Person” means any individual, receiver, assigner, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, joint stock company, business trust, corporation, association, society, or other group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise.
27. “Place of business” means any location maintained or operated by a licensee within the City limits from which business activity is conducted or transacted.
28. “Resort license establishment” means a resort building affiliated with a ski area that abuts the building, which building has at least four hundred thousand square feet, and one hundred fifty dwellings or lodging accommodations of which fifty percent must be owned by a person other than the resort licensee, and which has a state license for the storage, sale, service, and consumption of alcoholic beverages on the premises.
29. “Vending machine” means any device or other contrivance that is:
- a. not an amusement device;
 - b. is legal under all applicable laws, regulations, and ordinances; and
 - c. dispenses merchandise, gift cards, tokens, or any other thing of value.

Commented [LWB3]: There are a few other definitions Kearns might want such as employee, engage in business, place of business, and contingent/temporary business license.

5.01.020 Office Created—Personnel

There is hereby created a license office within the planning and development services division under the charge of the license official pursuant to the provisions of this chapter.

5.01.030 License Official—Powers And Duties

The license official shall assess each licensee pursuant to this title and applicable statutes of Utah, shall receive all license fees required herein to be paid, and shall keep and maintain an index of licensees.

CHAPTER 5.02 BUSINESS LICENSE – REQUIREMENTS - PROCEDURES

5.02.010 License—Required To Carry On Business

Except as otherwise provided by this title, it is unlawful for any person to engage in business within the City without first obtaining a business license from the City. It is unlawful to continue to engage in a business without maintaining a valid license with the City. It is unlawful for a person to engage in business using a name other than the name in which the City issued or renewed the license or to continue engaging in business after the City has suspended or revoked a license for such business.

- A. This title shall not apply to lemonade stands and similar operations run by minors.

5.02.020 Persons Subject To Licensing

Any person or corporation engaged in a business or occupation, or which performs or attempts to perform a business or occupation in the City, is subject to the requirements of this chapter if, either personally or through an agent, employee, or partner, the person or corporation actively or passively solicits patronage therefor. Independent contractors are individually subject to this chapter.

- A. For purposes of this section, a business includes rental of three or more residential dwellings at the same location.

5.02.030 License—Application—Contents

- A. An application for a license shall be in writing to the license official, except as provided otherwise in this title. Each application shall include the following information:
 1. The name of the business;
 2. The name of the applicant;
 3. The license or permit sought;
 4. The business location to be used, if any;

5. The licensure period and the fee to be paid;
 6. The name and address of the business agent residing in the City;
 7. The designated person authorized to receive service of process and to receive any communication regarding applicant's license via certified mail, return receipt requested;
 8. The proof of name registration with the Utah Department of Commerce;
 9. The Employee Identification Number, if applicable;
 10. The business's sales tax identification number issued by the Utah State Tax Commission or, if the business is exempt from sales tax, official documentation from the Utah State Tax Commission verifying that the business is not subject to sales tax;
 11. The written authorization from the legal owner, lessee, or operator of the place of business if the applicant is not the legal owner, lessee, or operator of the place of business.
 12. For an amusement device or vending machine, a site plan showing how the machine or device will be situated in the proposed location of the place of business;
 13. For an amusement facility, information showing that the amusement device to be operated at the amusement facility does not qualify as gambling under all applicable laws, regulations, and ordinances; and
 14. Any additional information requested by the license official reasonably necessary to assist the license official in reviewing an application and determining to issue the license.
- B. An application that does not include the information required in Section 5.02.030(A) is not complete for the purposes of this chapter and the license official is not required to process the application until the applicant has provided all of the required information. The applicant shall forward any change in the application in writing, within ten calendar days of the application change, to the license official.
- C. The forms for any license or permit, and applications therefor, shall be prepared, maintained, and stored on file by the license official.

5.02.040: License—Application Fees, Penalties and Waivers

- A. The applicant shall pay the license fee required for the designated license under this title. .

- B. In addition to the license fee, any applicant who has commenced doing business prior to obtaining a valid license shall be assessed a penalty fee equal to:
1. Twenty-five percent of the license fee if the applicant has operated without a license for less than thirty days, or
 2. One hundred percent of the license fee if the applicant has operated without a license for more than thirty days..
- C. Any license which has been issued pursuant to payment by means of a check shall be void if such check is not honored.
- D. An application received by the license official shall be numbered in the order of its receipt.
- E. Notwithstanding the provisions of subsection (B), the imposition of penalty fees may be waived for:
1. A new businesses which has located in the City and has not obtained a business license; and
 2. An existing business which has been licensed by the license official but has been purchased by a new owner who has not applied for a business license.
 3. Penalty fees may be waived only upon the following conditions:
 - a. The business submits the application for a business license within seven calendar days after being notified by the license official that such a license is required; or the business voluntarily submits the application for a business license prior to notification by the license official; and
 - b. The place of business has been located in the City for less than two years or the purchase of the business occurred less than two years prior to the business application.
- F. A business license fee which is due for the current year or for prior years in which the business operated may not be waived under any circumstances.

5.02.050 Fees Not To Be Refunded

No license fee, or any part thereof, may be refunded for any reason whatsoever after the City grants or issues a license.

5.02.060 Application Fee Refunds

- A. If a license is denied for any reason, the applicant is entitled to a refund equal to the amount that accompanied the application.

- B. If, prior to license approval or issuance, the applicant withdraws the license application for any reason, the license official shall retain the application fee of twenty-five dollars, or the total amount paid if less than twenty-five dollars, to offset the cost of processing the application. However, the Council may exercise discretion to refund the entire application fee if considered appropriate under the circumstances.

5.02.070 Investigation Of Applicant

- A. Subject to section (B), if a City ordinance requires an inspection or investigation before issuance of a license, the license official shall conduct such investigation within seven calendar days of the applicant's filing of the application.
- B. Except as provided in subsection (B)(1) in this section if the license official's investigation requires correspondence with other agencies or other sources of information outside the planning and development services division, or the license applicant is not ready to be inspected, the investigation shall be completed within fifteen calendar days of the applicant's filing of the application, or as soon as the license applicant is ready to be inspected.
 - 1. If local law enforcement investigates the applicant, the local law enforcement official shall complete the investigation within thirty calendar days of the applicant's filing of the application. For such investigations, the applicant shall provide a current copy of a criminal background check conducted by the Utah Bureau of Criminal Identification (BCI).
- C. An agency charged with conducting the investigation or inspection shall report its findings and recommendations to the license official within seven calendar days after conducting the investigation or inspection.

5.02.080 License—Application Submitted to Another Agency

- A. An applicant shall submit the license application to the license official, unless ordinances or policies of the City require that the application be submitted to another agency first, such as the law enforcement agency, Salt Lake County Health Department, local fire agency, or other appropriate official or body for investigation.
- B. Within seven calendar days after receipt of the application, the license official may submit the application for additional investigation or inspection to one or more of the agencies listed in section A, if, in the opinion of the license official, further investigation or inspection is warranted. Any submittal for additional investigation or inspection shall include the license official's specific concerns warranting further investigation or inspection. The purpose for the investigation or inspection may include:

1. The general reputation of the licensee, including whether licensee has any outstanding arrest warrants;
2. If the business is or has been conducted in a lawful manner;
3. The health and safety of the premises or persons on which the business is conducted;
4. Any other facts that the license official should know in acting upon the application, or
5. The specific concerns identified by the license official under Section 5.02.080(B).

5.02.090 Report Of Investigation- Recommendation

Upon the license official's request, the law enforcement agency, Salt Lake County Health Department, local fire agency, or any other official or department, within the time required by Section 5.02.070, shall conduct the investigation or inspection and submit a written report on such investigation or inspection to the license official, which may provide a recommendation about whether or not to grant or deny the business license.

5.02.100 License—Application—Action By License Official

- A. Upon receipt of the investigation or inspection report, and if applicable, the recommendation of the law enforcement agency, Salt Lake County Health Department, local fire agency, or other official or body, the license official shall grant or deny the application or may defer making final decision to order further information or an investigation if necessary.
- B. If the agency charged with conducting an investigation or inspection has not issued a report of its findings and recommendations to the license official within the time required by this chapter, the license official may grant or deny the application without the report.

5.02.110 Compliance With Building And Zoning Requirements

- A. A license may not be issued to conduct any business or a permit may not be issued for any activity if the premises and building to be used for the purposes of the business or activity do not fully comply with the ordinances and requirements of the City.
- B. A license or permit may not be issued for the conduct of any business or performance that would violate any building, zoning, or other ordinances of the City.
- C. The applicant is responsible to establish that the business complies with all applicable laws, regulations, and ordinances.

D. The license official may not issue a business license until all applicable building inspections have been completed. The applicant is responsible to schedule all applicable building inspections.

5.02.120 License—Application—Approval

The license official shall sign the license certificate after the license official approves the application.

5.02.130 License-Application-Denial Conditions-Appeals

- A. The license official shall deny a license or a license renewal if the applicant:
 - 1. Obtained a license by fraud or deceit;
 - 2. Failed to pay personal property taxes, Utah state sales taxes, or other required fees;
 - 3. Violated the laws of the state, the United States Government, the ordinances of the City, or the rules and regulations of any local government or Utah state agency governing operation of the business holding the license or permit;
 - 4. Been named in an outstanding warrant for his or her arrest;
 - 5. Committed a crime of moral turpitude or has been convicted of a felony; or
 - 6. Violated one or more of the provisions of Section 5.07.020, as applicable.
- B. The license official shall endorse the reason for denial of the license or renewal application and shall return to the applicant, via certified mail, any excess fees deposited with the application.
- C. The license official shall provide notice to the applicant that the applicant may appeal a denial in accordance with **[insert]** and appear before the administrative law judge pursuant as provided in chapter to present reasons to set aside the denial of a license or renewal.

5.02.140 License—Effect Of Denial

- A. If a license or renewal is denied pursuant to this chapter, it shall be unlawful for any person to engage in, operate, or use, or permit to be operated or used, any property for the business for which Kearns 5.08 the license or renewal has been denied, until a license or renewal shall be granted by the licensing official.
- B. The license official may not grant a license to a person denied a license under the provisions of this chapter for the same licensed purpose for a period of six months after the denial has occurred.

Commented [NB4]: This represents a change over the current practice, in which the license official will prepare the license and send it to the Mayor to execute.

Our initial thinking here is that the City is required by law to approve a business license application if it meets the legal criteria, meaning that any signature by the Mayor is a formality and that the Mayor does not have legal authority not to sign a license, in which case it seems like an extra step that requires more time from the Mayor and slows down the approval process. In addition, the license staff have always had authority to deny business licenses.

However, requiring the Mayor's signature gives the Mayor the opportunity to double-check the staff's work.

Does the City want the licensing staff to sign business licenses or have the mayor sign the licenses?

CHAPTER 5.03 [Reserved]

CHAPTER 5.04 INSPECTIONS

5.04.010 Officers Authorized To Examine And Inspect Businesses—Power And Duties

- A. The members of the law enforcement agency, the license official, the members of the Salt Lake County Health Department, and the head of the local fire agency or designated representative, are designated as the ex officio license deputy who, in addition to the duties of their respective offices, has authority to inspect, observe, and report on any business under the deputy's oversight authority. Any deputy may report to the license official the names of any person doing business without a license.

5.04.020 Inspections—Right Of Entry—Sampling Of Materials

Any authorized representative of the license office may enter at reasonable times upon the premises of businesses or occupations regulated under this title to perform inspections or to obtain sufficient samples of material or commodity for analysis to insure compliance with the City's business license ordinances.

5.04.030 Citations and Complaints For Violations

In the discharge of official duties, the license official and authorized representatives of the license office may issue citations for the violation of the City's business license ordinances. The license director shall cooperate with the City Attorney to file complaints against any licensed person in violation of the City's business license ordinances.

CHAPTER 5.05 LICENSE CERTIFICATES AND REGULATIONS

5.05.010 Business Rules And Regulations

The City may adopt rules and regulations to promote the health, safety, prosperity, moral well-being, peace, order, comfort, or convenience of the general public to govern business licensure in this title.

Commented [LWB5]: This list of general welfare topics is mirrored from elsewhere in city code.

5.05.020 Businesses That Require Additional Regulation

Some business types based upon nature and operations may require additional regulation. The license official shall notify those licensees on the license application forms about additional regulations and other fees with other agencies, including the Unified Fire Authority, local law enforcement agencies, the Salt Lake County Health Department, Planning and Development

Services, the Department of Agriculture, and the Bureau of Alcohol, Tobacco, Firearms and Explosives.

5.05.030 License Certificate To Be Shown To Officials

Any business licensee shall show the certificate of license when reasonably requested to do so by the license official, local fire agency official, Salt Lake County Health Department, or local law enforcement officer.

5.05.050 Unlawful Use Of Certificates

- A. It is unlawful to:
1. Counterfeit a license certificate;
 2. Deface or mutilate a license certificate ; or
 3. Use or permit to be used a license certificate at any place other than the licensed premises as designated on the license certificate.

CHAPTER 5.06 TRANSFERABILITY OF LICENSES

5.06.010 License Transfer Limitations

- A. Any license granted or issued under the provisions of this title may not:
1. Be assignable or transferable;
 2. Authorize any person other than the licensed person identified on the license certificate to conduct the business, except for licensee’s employees; or
 3. Authorize any other business than the identified business on the license certificate to conduct or transact business, except for licensee’s employees.

CHAPTER 5.07 LICENSE SUSPENSION OR REVOCATION

5.07.010 Enforcement Powers

A. The license official may investigate and gather evidence of violations of the licensing provisions of this title, independently or in response to complaints referred from the general public, state agencies, local law enforcement, or local government agencies.

B. The license official shall be responsible for the enforcement of this title.

5.07.020 Grounds For License Suspension Or Revocation

- A. In addition to any fine imposed, any license or permit issued by the license official may be revoked or suspended by the license official for the following reasons:
1. Licensee or permittee has been convicted of a felony or any crime involving moral turpitude;
 2. Licensee or permittee has obtained, or aided another to obtain, a license by fraud or deceit;
 3. Licensee or permittee has failed to pay personal property taxes, Utah state sales taxes, or other required fees;
 4. Licensee or permittee has refused to permit authorized officers or employees to make an inspection or to take a sample of a commodity, or has interfered with such officer or employee while making such inspection;
 5. Licensee or permittee has filed or encouraged another to file false information with the license office, the law enforcement agency, or any other agency as part of the license application;
 6. Licensee or permittee has contracted with two or more independent contractors whose business licenses were subsequently revoked in final unappealable decisions during a twelve-month period for engaging in unlawful conduct under the Utah Massage Therapy Practice Act or Prostitution under the Utah Criminal Code on the licensee or permittee's leased or owned premises;
 7. Any conduct or act on the business premises, or any conduct, act, or condition permitted by the licensee, permittee, or any employee on the business premises, which renders or tends to render such business or its premises:
 - a. a public or private nuisance, as defined by applicable law, regulation, or ordinance; or
 - b. a menace to the health, peace, safety, morals, or general welfare of the City or its residents;
 8. Licensee or permittee is responsible for unlawful activities conducted on the business premises that are contrary to the laws of the United States, the State of Utah, the ordinances of the City, or the rules and regulations of any agency or another governmental entity governing the operation of the business holding the license or permit;
 9. Licensee or permittee has permitted its employees, agents, or patrons to engage in illegal activities on the business premises or to use the premises for any unlawful

purpose or enterprise or the maintenance of a public or private nuisance, as defined by applicable law, regulation, or ordinance;

10. Licensee's or permittee's business activities or premises are conducted or kept in an illegal, disorderly, unsanitary, hazardous, or ill-governed manner;
11. Licensee or permittee has failed to comply with any condition or requirement under local, state, or federal law; or
12. Any other reason, not arbitrary or capricious and permitted by law under the City's police power, that justifies suspension or revocation of a license or permit.

5.07.030 License Suspension Or Revocation—Procedure

A. If the license official has good cause to believe that a license or permit should be suspended or revoked, the license official shall hold a hearing and provide notice to the licensee and permittee which notice shall contain the following:

Commented [NB6]: Should this be the license official or someone else in the MSD (e.g., Trent Sorensen)?

1. The time, place, and date of the hearing;
2. A statement of the purpose of the hearing; and
3. A reasonably definite statement setting forth the alleged grounds under Section 5.07.020 justifying suspension or revocation of the license or permit.
 - a. The hearing shall take place at least fourteen (14) days and not more than thirty (30) days from the date written notice is sent.
 - b. At the hearing, the licensee or permittee shall have the right:
 - i. to appear personally or by counsel;
 - ii. to hear the evidence against him;
 - iii. to confront and cross examine any witnesses;
 - iv. to present evidence and witnesses on his behalf; and
 - v. to state his case as to why the license or permit should not be suspended or revoked.
 - c. After conducting a hearing pursuant to this section, the license official may suspend or revoke any license or permit if the licensee or permittee fails to show cause by a preponderance of the evidence that the license or permit should not be suspended or revoked.
 - d. If the licensee or permittee fails, neglects, or refuses to appear at the hour and date set for such hearing, the license official may proceed to determine

the matter in the absence of the licensee or permittee, or may, in its sole discretion, continue the date of such hearing to some later date, and at the later date proceed to act on the matter without further notice to the licensee or permittee.

- e. After due deliberation, the license official shall announce its decision, and shall issue a written decision with findings of fact and conclusions of law notifying the licensee or permittee of its findings and determination and an explanation of how the licensee or permittee may appeal the Council's The filing of an appeal does not automatically stay the decision of the license official; however, the administrative law judge has the authority to stay the decision while the appeal is pending.

- A. A decision issued by the administrative law judge to this section is a final administrative order that is appealable to the district court

5.07.040 Effect Of Revocation

- A. If a license or permit is suspended or revoked pursuant to Chapter 5.07.010 through 5.07.030, it shall thereafter be unlawful for any person to engage in or use, or permit to be used, any property for any business with respect to which the license or permit has been suspended or revoked.
- B. In the event of suspension or revocation as provided in this chapter, there shall be no refund or rebate of any part of the original license or permit fee paid by the licensee or permittee.

5.07.050 Waiting Period For New License

- A. A person whose license or permit has been suspended or revoked under the provisions of this chapter, may not be granted a license or permit for the same purpose for a period of six months after the suspension or revocation has occurred.

Commented [LWB7]: The licensee is culpable but the associate or connected person cannot be culpable without due process and separate findings and conclusions.

CHAPTER 5.08 APPEALS

5.08.010 Filing of Appeals

- A. **Who May File an Appeal**: Any applicant adversely affected by a final decision of the license official, may appeal the decision pursuant to this chapter. .
- B. **Time To File Appeal**: The City shall only consider appeals properly filed pursuant to this section within fourteen (14) calendar days of the date the license official issued the disputed final written decision.
- C. **Application**: Appellants shall file their appeals in writing by submitting an appeal application to the Recorder. The Recorder may only accept an appeal if the applicant submitted a complete application filed the appeal within the timeframe set forth under Section 5.01.010.B. An appeal application is complete if it includes:
 - 1. Payment of applicable fees, including those shown on the current year City fee schedule; and
 - 2. A written statement that concisely identifies the alleged error that is the grounds for appeal.
- D. **Notice Of Hearing**: After receiving an appeal application from the Recorder, the administrative law judge shall fix a reasonable time and place for hearing the appeal.
- E. **Stay of Appeal**: The filing of an appeal does not automatically stay the decision of the license official; however, the administrative law judge has the authority to stay the decision while the appeal is pending.

5.08.020 Appeal Hearings

- A. The administrative law judge shall have the power and authority to preside at and conduct hearings on appeal to consider the suspension, revocation, or denial of licenses issued by the license official, including the power to administer the oath, examine witnesses and receive evidence, compel the attendance of witnesses, and compel the production of documents.
- B. The applicant may appear in person, or through an officer, agent, or attorney, to introduce evidence on the applicant's behalf, and to confront and cross-examine witnesses. Any oral or documentary evidence may be received, but all privileged, irrelevant, immaterial, or unduly repetitious evidence may be excluded.
- C. The administrative law judge shall provide the Council a certified tape recording of the entire proceedings. The certified tape recording may be transcribed upon applicant's written request and cost.

Commented [NB8]: This appeal process represents a change. Currently, the code requires business license appeals to be handled by the Council, which is not advisable. Rather than use an administrative law judge, another option would be to have the planning and zoning director or city manager (if one is appointed) preside over appeals, with their decisions being appealable to the ALJ.

5.08.030 Administrative Law Judge Powers And Duties

- A. The administrative law judge shall have authority to stay the business license official's decision while the appeal is pending.
- B. The administrative law judge shall review the record and may not accept or consider any evidence outside the record unless the evidence was offered to and was excluded by the license official and the administrative law judge determines that it was improperly excluded.
- C. The administrative law judge shall review the license official's actions to determine whether the license official rendered a decision that was arbitrary, capricious, or illegal, or that applicant has provided adequate justification that requires reversal, alteration, or remand of the license official's decision. Adequate justification may include:
 - 1. The passage of a long period of time since the inappropriate or illegal act was committed;
 - 2. Youth or immaturity of the applicant when the inappropriate or illegal act was committed;
 - 3. Acts committed by others over whom the applicant lacked control.
 - 4. Any error by the license official relating to taxes or other required fees or in determining that any law or ordinance has been violated;
 - 5. A disaster or act of god precluding timely payment of taxes or other required fees, or making compliance with any law or ordinance impossible; or
 - 6. A good faith and reasonable dispute, not yet resolved, between the licensee seeking renewal and the license official regarding the imposition or amount of taxes or other required fees, or of the application of a particular law or ordinance.
- D. The administrative law judge shall enter findings of fact, conclusions of law, and the final orders based upon the evidence and testimony received. The administrative law judge shall transmit the findings, conclusions, and final order to the applicant and the Council.
- E. After reviewing the record and written and oral argument on both sides, the administrative law judge shall affirm, reverse, alter, or remand the license official's decision for further review and consideration.

5.08.040 Appeals to District Court

- A. A decision issued by the administrative law judge to this section is a final administrative order that is appealable to the district court.

- B. If the City or the applicant seeks judicial review of the administrative law judge's decision, they shall file an appeal to the district court within 30 days of the decision.
- C. Upon the district court's request, the Council shall promptly provide a certified copy of the appeal hearing to the reviewing court.

CHAPTER 5.09 GENERAL BUSINESS LICENSE FEES

5.09.010 License—Required—Period Of Validity—Expiration

- A. It is unlawful for any person to engage in business within the City without first procuring a general business license required by this chapter. Unless provided otherwise, all general business licenses are valid for one year from the date issued and shall expire annually on the last day of the month in which the license was originally issued.
- B. In addition to the requirements above, decisions regarding the grant or denial of a general business license shall be made in accordance with the procedures established in Sections 5.02.010 through 5.02.140 of this title.
- C. A general business license is subject to suspension or revocation for any violation of this chapter, or for any of the reasons contained in Section 5.07.020 of this title. Decisions to revoke or suspend a general business license shall be made in accordance with the procedures outlined in Sections 5.07.010 through 5.07.030 of this title.
- D. Appeals of any decision to deny, suspend, or revoke a general business license shall be heard and decided in accordance with the procedures established in Chapter 5.08.

5.09.020 Exemptions

- A. A business license fee may not be imposed under this chapter upon any business which is exempt from both property taxes and privilege taxes.
- B. A business license fee may not be imposed upon a person engaged in a business that is specifically exempt from licensure by political subdivisions under the laws of the state or that is otherwise exempt pursuant to City ordinance, written interlocal cooperation agreement, or other legal means.

5.09.030 License—Fee

An annual license fee is levied upon any business within the City pursuant to the consolidated fee schedule approved by the Council and on file with the licensing official.

5.09.040 License—Branch Establishments

A business with multiple branch establishments or locations within the City must obtain a separate license for each branch or location within the City as if such branch or location were a separate business, and each license shall authorize the licensee to engage only in the business licensed thereby at the location or in the manner designated in such license; provided, that warehouses and distributing places used in connection with or incident to a business licensed under this title shall not be deemed to be separate places of business or branch establishments.

5.09.050 Chapter Provisions Not Exclusive

The general business license required under this chapter is in addition to all other licenses and permits that the City may require or that may be required by other applicable government entities, including the state, county, and federal government. No person shall engage in business without first procuring the necessary licenses and permits that are required by other provisions of the ordinances, in addition to the license required by this chapter.

5.09.060 Business Recordkeeping Requirements

A person required to make payment of any license fee imposed by this chapter shall maintain books and records for a period of three years to accurately identify the number of employees for the determination of the amount of any license fee in Section 5.08.050..

5.09.070 Fee Payments—Constructive Notice Of Time Periods—Delinquency Penalties

- A. The business license applicant shall pay the license fee to the license office prior to license approval. The business licensee shall pay the license fee prior to the last day of the month in which the license was originally issued, unless provided otherwise in this title.
- B. A business, owner, licensee, or applicant is required to know of and is considered to have constructive notice of any time period or deadline for business license renewal and the effect of non-compliance to the time period or deadline as provided in this title, relating to the application, issuance, renewal, expiration, appeal, or other action regarding business licenses, alcohol licenses, or any other licenses as identified in this title. The title may not be construed to require the license office to take any affirmative action to notify a business, owner, licensee, or applicant of any time period or deadline or the effect of non-compliance thereto as provided in this title, relating to the application, issuance, renewal, expiration, appeal, or other action relating to business licenses, alcohol licenses, or any other licenses as identified in this title.
- C. If a renewal fee is not received by the license office: 1. within thirty days of the date the fees are due, the licensee may be required to reapply for a business license and shall pay a penalty of twenty-five percent of the fees due as part of the reissuance fee; or 2. within sixty days of the date that the fees are due, the licensee may be required to reapply for a

business license and shall pay a penalty of one hundred percent of the fee due as part of the reissuance fee.

- D. If any person, firm or corporation engages in any occupation or adds anything to an existing business which requires an additional fee, without first paying the required license fee, the license official shall impose a penalty of one hundred percent of the amount of such license fee in addition to the original fee amount, except as provided in subsection 1. and 2.
1. The license official may waive the imposition of penalties for the late payment of the business license fees for good cause. "Good cause" means exceptional circumstances of a material and substantial nature beyond the licensee's control, and demonstrated by the following:
 - a. Any error by the license official affecting the amount or imposition of the license fee;
 - b. Medical circumstances or other incapacity of the licensee;
 - c. A disaster or Act of God precluding timely payment; or
 - d. A good faith and reasonable dispute, not yet resolved, between the licensee and the license official regarding the need for a license or the imposition or amount of a license fee.
 2. An applicant may appeal the license official's decision regarding a fee waiver to the administrative law judge pursuant to Chapter 5.08.

Commented [NB9]: Alternatively, appeals could be filed with the Mayor or City Manager if there are concerns about the costs of using the ALJ to hear fee appeals.

5.09.080 Civil Actions To Recover Fees

- A. The City may bring a civil action against the person failing to pay a license fee, in any court of this state having jurisdiction, to recover the unpaid license fee and any penalty that may attach or to enjoin further operation by the licensee.
- B. If several amounts for license fees remain due and unpaid by any person, the amounts owed may be joined as separate causes of action in the same complaint in a civil action.

5.09.090 License Application—Public Records—Exceptions

- A. A license application is a public record and information contained therein shall be public except for data that the license official designates or classifies as private, controlled, or protected consistent with Government Records Access and Management Act (GRAMA), Utah Code, Title 63G, Chapter 2.
- B. Any income tax return or sales tax return filed with a license application to the license official that is or may be required by this title, may not be made public or subject to the

inspection of any person except the City license official or the official's authorized agent, or to those persons authorized to do so by order of the Council.

- C. It is unlawful for any person to make public or to inform any other person of the contents of any information contained therein or permit the inspection of any income tax return or state sales tax return, except as authorized under state law.

5.09.100 Filing False Return Prohibited

It is unlawful to knowingly file a false license application, accompanying tax return, or any other information required to be submitted to the license official in conjunction with a license application and shall be a class B misdemeanor.

Commented [LWB10]: Do you want criminal penalties to attach?

CHAPTER 5.10 TEMPORARY AND SEASONAL LICENSES

5.010 License—Required

- A. It is unlawful for any person to conduct a sale for or to operate a temporary or seasonal business without first applying for and obtaining a license from the license official pursuant to the provisions of this chapter
- B. A decision to grant or deny a temporary or seasonal license application shall be made in accordance with the procedures provided in Chapter 5.02.
- C. A temporary or seasonal license is subject to suspension or revocation for any violation of this chapter or title. Decisions to revoke or suspend a temporary or seasonal license shall be made in accordance with the procedures provided in Chapter 5.07.
- D. An appeal of any decision to deny, suspend, or revoke a temporary or seasonal license shall be heard and decided as provided in Chapter 5.08.

5.10.020 Seasonal License—Period Of Validity—Number Issued Per Year

A seasonal license authorizes a seller to conduct a sale for up to one hundred eighty consecutive calendar days. Only one seasonal license will be issued per year to any seller or seller's associate. The seasonal license shall specify the location at which the sale may be conducted. A sale by the licensee may not be conducted at a location other than that identified in the seasonal license.

5.10.030 Temporary License—Period Of Validity

A temporary license authorizes a seller to conduct a sale for up to ten consecutive calendar days. The temporary license shall specify the location at which the sale may be conducted. A sale by the licensee may not be conducted at a location other than that identified in the temporary license.

5.10.040 Inspection Of Merchandise

The law enforcement agency may inspect any merchandise to be sold under a temporary or seasonal license during normal business hours.

5.10.050 Compliance With Laws

Seasonal and temporary license holders shall comply with the applicable laws and ordinances of the City and the state governing the operation of their business.

5.10.060. Alcoholic Beverage Control Act

The City shall be governed and comply with the Alcoholic Beverage Control Act, Utah Code, Title 32B, Chapters 1 through 18.

5.10.070 Alcoholic Beverages—Sale To Minors Prohibited

- A. A person may not sell, offer for sale, or furnish an alcoholic product to a minor.
- B. 1. As provided in Utah Code § 32B-4-403, a person is guilty of a class B misdemeanor if the person who violates subsection (A) negligently or recklessly fails to determine whether the recipient of the alcoholic product is a minor.
2. Except as provided in subsection (C), a person is guilty of a class A misdemeanor if the person who violates subsection (A) knows the recipient of the alcoholic product is a minor.
- C. This section does not apply to the furnishing of an alcoholic product to a minor in accordance with Utah Code, Title 32B, for 1. medicinal purposes by the parent or guardian of the minor or the health care practitioner of the minor, if the health care practitioner is authorized by law to write a prescription; or 2. As part of a religious organization's religious services.

CHAPTER 5.11 LICENSES FOR LARGE-SCALE EVENTS OF STATE, NATIONAL, OR INTERNATIONAL IMPORTANCE/RECOGNITION

5.11.010 Definition And Application Of Chapter

- A. This chapter shall apply only to licenses required for use during, or in connection with, large-scale events of state, national, or international importance or recognition.
- B. A large-scale event of state, national, or international importance or recognition is a temporary event with anticipated attendance in excess of one thousand people.
- C. Large-scale event licenses shall not be subject to the provisions of Section 5.08.090(1).

Commented [LW11]: Do these license provisions get specifically exempted for the Olympics? UCA 63G-28-301.

5.11.020 License—Period Of Validity—Number Issued

- A. A large-scale event license will permit a vendor holding the license to conduct business operations for which the license is issued for a period beginning thirty calendar days before the officially established date for the opening of the large-scale event and ending thirty calendar days following the officially established closing date of the large-scale event.
- B. Any large-scale event license shall not be valid for more than one hundred and eighty consecutive calendar days.
- C. There shall be no limit to the number of large-scale event licenses issued to any one person; provided however, that a separate license shall be required for each large-scale event.
- D. A license duly issued shall authorize business activity at any and all additional locations specified therein, provided that the holder has complied with all requirements of this title.

5.11.030 Location Of Business Activity

- A. The business activity conducted by each person awarded a license under this chapter shall be only that business for which the license is issued and may be conducted only in such place or places specified in the license.
- B. Applicants may specify the location or locations desired. However, the licensing official shall have the final determination as to the location or locations of the permitted business activity, taking into consideration such factors, including the zoning designation, traffic flow, pedestrian flow, parking, audio/visual equipment, tents, temporary structures, or hours of operation.

5.11.040 Applications—Compliance With Laws—Appeals

- A. Those applying for a large-scale event business license shall comply with the provisions of Chapter 5.02.
- B. In addition, license holders shall comply with all other applicable laws and ordinances of the City, the state of Utah, and the United States of America governing the operation of their business.
- C. Failure to comply with this section may result in the immediate revocation of the large-scale event business license, in addition to any penalties imposed by the provisions of the ordinance or law violated.
- D. The final determination whether to immediately revoke a large-scale event business license under the authority of this section shall in any event be made in accordance with the provisions of Section 5.07.020 through 5.07.030 of this title.

- E. Any appeal of a decision to deny, revoke or suspend a large-scale event business license shall be heard and decided in accordance with the provisions of Chapter 5.08.

CHAPTER 5.12 CHECK CASHERS PROHIBITIONS

5.12.010 Definitions

- A. As used in this chapter:
 - 1. "Check casher" or "check cashing business" means a person or an entity engaged in the business of check cashing.
 - 2. "Check cashing" means cashing a check for consideration or extending a deferred deposit loan as defined in the Check Cashing and Deferred Deposit Lending Registration Act, Title 7, Chapter 23, Utah Code, but does not restrict the activities of depository institutions or persons who cash a check in a transaction that is incidental to the retail sale of goods or services for consideration that does not exceed the greater of one percent of the amount of the check or one dollar.
 - 3. "Title loan" means a loan secured by the title to a motor vehicle, mobile home, or motor boat, as defined by Utah Code § 7-24-102. "Title loan" does not include a purchase money loan or loan made in connection with the sale of a motor vehicle, mobile home, or motorboat.

5.12.020 Check Casher Regulation

- A. The city council finds that the regulation of check cashers is:
 - 1. A serious matter which affects the prosperity and welfare of the residents of the City;
 - 2. The responsibility of the governments of the United States and of the state of Utah; and
 - 3. Inadequately performed by the federal and state governments so as to protect the welfare of the citizens of the City.

5.12.030 Limitations

In addition to state statutes and federal provisions that govern check cashing and deferred deposit lending, Utah Code, Title 7, Chapter 23, the City provides:

- A. The total number of check cashers in the City shall not exceed one check casher per ten thousand population of the City.
- B. Any check casher shall provide to patrons a complete written description of the services provided by the check casher, which description is approved by the Utah State Department of Financial Institutions.

Commented [NB12]: Further direction from Council is needed on this Chapter. Among other things, we want to make sure the Council's direction aligns with the Check Cashing and Deferred Deposit Lending Registration Act and its provisions regarding check cashing and title loans.

- C. A business engaged in offering title loans is not subject to the provisions of this section unless it engages in a check casher business at the same location.

CHAPTER 5.14 ALARM BUSINESSES

5.14.010 Purpose And Scope

The purpose of this chapter is to:

- A. Protect the emergency services of the City from the occurrence of false alarms which cause local law enforcement significant unwarranted expense; and
- B. Preserve the public interest in the expenditure of public resources as they related to false alarm responses while maintaining a sufficient level of law enforcement services.

5.14.020 Definitions

- A. For the purposes of this chapter, the following definitions shall apply:
 - 1. "Alarm business" means any individual, partnership, corporation, or other entity in the business of selling, leasing, maintaining, monitoring, repairing, planning, or assisting in the installation of any alarm system in the City.
 - 2. "Alarm site" means each individual home in the case of a single-family residence or each unit of a home, duplex, or apartment if the structure is a multifamily dwelling, or each business within a building.
 - 3. "Alarm system" means any mechanism, equipment, or device which is designed to detect an unauthorized entry into any building or onto any property, or to direct attention to a robbery, burglary, or other emergency in progress, and to signal the law enforcement agency of the above occurrences either by a local or audible alarm or by a silent or remote alarm.
 - 4. "Alarm system" includes a "duress alarm" and an "intrusion alarm."
 - 5. "Alarm system" does not include any:
 - a. Device which does not register alarms that are audible, visible, or perceptible outside the protected premises; and
 - b. Device which is not installed, operated or used for the purpose of reporting an emergency to the law enforcement agency.
 - 6. "Alarm user" means the person, firm, partnership, association, corporation, company or organization thereof of any kind in control of a building, structure, or facility where an alarm system is maintained, including the homeowner, for alarm systems in single-family residences, and the tenant, for alarm systems in an apartment building.

7. "Apartment building" means any building containing two or more residential rental units.
8. "Automatic dialing device" means a device which is interconnected to a telephone line and is programmed to select a predetermined telephone number and transmit by voice message or code signal any emergency message indicating a need for emergency response.
9. "Duress alarm" means an alarm system signaling a robbery or other physical endangerment.
10. "Enhanced call verification" means that an alarm business will make a second call to a responsible party to verify a business intrusion alarm drop prior to requesting a response from the law enforcement agency.
11. "False alarm" means an alarm signal eliciting a response by peace officers when a situation requiring a response by them in fact does not exist, excluding an alarm signal caused by extraordinary violent conditions of nature not reasonably subject to control.
12. "Holdup alarm" means a silent alarm generated by the manual activation of a device intended to signal a robbery in progress.
13. "Intrusion alarm" means an alarm system signaling an entry or attempted entry into an area protected by the system.
14. "One-plus duress alarm" means the manual activation of a silent alarm signal by entering at a keypad a code that adds one to the last digit of the normal arm/disarm code.
15. "Panic alarm" means an audible alarm signal generated by the manual activation of a device intended to signal a life threatening or emergency situation.
16. "Responsible party" means any of the three persons designated by the residential permit holder to respond in place of the permit holder if an alarm is generated at the permit holder's alarm site, or, in the case of a business, the name of the owner or designated person(s) to respond to the business in the event an alarm is generated at the permit holder's alarm site.

5.14.030 Alarm Business Permits

- A. It is unlawful for any alarm business to install an alarm system in or on any building or other property within the City without an alarm business permit.

- B. No alarm business permit will be issued unless the applicant has a current state license under Utah Code § 58-55-301 and is licensed by the Utah State Division of Professional Licensing.

5.14.040 Alarm User Permits

- A. An alarm user shall have on the alarm user's premises or in the alarm user's possession an alarm user permit, which shall be issued at no charge upon filing a completed alarm permit application as provided by Section 5.14.050 of this chapter. The permit application shall be submitted prior to the operation of the alarm system or prior to the assumption of an existing system by a different alarm user or business.
- B. A separate permit shall be required for each alarm site.
- C. An alarm user permit shall continue in effect until there is a change in ownership of the alarm system, at which time the permit shall expire. Alarm permits are not transferable.
- D. An alarm business shall notify local law enforcement of any alarm user who has cancelled or otherwise terminated their alarm services with the business.
- E. A homeowner is required to possess an alarm user permit for alarm systems installed in single-family residences.

5.14.050 Alarm Information

- A. An alarm user permit application shall be submitted prior to the operation of the alarm system and shall be completed by the alarm user and submitted prior to operation of the system.
- B. The alarm user permit applicant shall complete the alarm user permit application, including the full name, address, and telephone number of both the alarm user on whose premises the system will be installed, operated, connected, monitored, or maintained, and the name of the contact person of the alarm business installing, monitoring, maintaining, or servicing the system.
- C. The alarm user permit shall contain such additional information to properly identify the responsible parties.
- D. To the extent permitted under the Utah Government Records Access and Management Act, Utah Code, Title 63G, Chapter 2, any alarm user permit application and permit information relating to specific alarm sites shall be designated as a private record or protected record.

5.14.060 Records Of Local Law Enforcement Agency Calls

Any alarm business which requests response from the law enforcement agency to alarm signals shall maintain a record of the law enforcement agency [or police department] calls, stating the time, date, and location of the alarm and the name, address, and phone number of the alarm user. Any alarm business shall maintain these records for one year. The records shall indicate the cause of the alarm, if known. This record shall be kept current and shall be made available to the law enforcement agency at any time during normal business hours.

5.14.070 User Instructions

Every alarm business shall furnish the alarm user with written instructions and training that provide information to enable the alarm user to operate the alarm system properly and avoid false alarms, maintain written operating instructions and the phone number of the alarm business monitoring station at each alarm site, and notify the alarm user of the alarm permit requirements and of the provisions of this alarm chapter.

5.14.080 Apartment Buildings

- A. A tenant in an apartment building shall obtain an alarm permit before operating or causing the operation of an alarm system in the tenant's rental unit and shall identify three responsible parties listed on the permit application who can respond to the tenant's rental unit if the tenant is not available to respond.
- B. A tenant in an apartment building who has contracted with an alarm business to monitor an alarm system at the tenant's alarm site shall be responsible for any false alarms or fines arising from the alarm system at such alarm site.

5.14.090 Alarm System Requirements And Prohibitions

- A. Any audible or visual alarm system shall be equipped with an automatic cutoff device which will terminate the alarm signal within thirty minutes.
- B. An alarm business may not install or program alarm systems to be capable of sending one plus duress alarms after the effective date of this chapter.
- C. It is the responsibility of the alarm business to prevent false alarms during installation, system repairs, or system service. The alarm business shall provide proper notification to the law enforcement agency and alarm user that the system is in a test mode to avoid dispatching law enforcement.
- D. It is unlawful for any person to install or use an alarm system or device that emits or produces real or simulated smoke, fog, vapor, or any other substance that obscures vision.
- E. A person may not knowingly activate any false intrusion or duress alarm .

- F. An alarm business may not request the law enforcement agency to respond to an alarm when monitoring equipment indicates an alarm system malfunction.
- G. An alarm business shall make a second attempt to verify a business intrusion alarm through enhanced call verification prior to contacting the law enforcement agency for a response.
- H. An alarm business shall verify a residential alarm user or responsible party is responding to an intrusion alarm prior to contacting the law enforcement agency for a response.

5.14.100 City Liability Limitations

- A. The City may not be liable for any defects in the operation of any alarm system, any alleged failure or neglect to respond appropriately upon the receipt of an alarm, or the failure or neglect of any person or business registered or issued a permit pursuant to this section in connection with the installation, operation, or maintenance of the equipment necessary or incident to the operation of such system.
- B. In the event it is necessary to order an alarm system disconnected based on repeated and uncontrolled false alarms, the City shall incur no liability for such action.

5.14.110 False Alarms And Fines

- A. A fine may be assessed against the owner of a business or residence for the activation of an intrusion, duress, panic, or holdup alarm which is determined to be false. The fines shall be assessed as follows:
 - 1. A fine may not be charged for the first or second incident of a false alarm within a calendar year;
 - 2. A fine of fifty dollars shall be charged for the third incident of a false alarm within a calendar year;
 - 3. A fine of one hundred dollars shall be charged for the fourth incident of a false alarm within a calendar year, and for each additional false alarm within each calendar year.
- B. The alarm user shall be responsible for false alarms caused by any person having authorized access to the premises from the alarm user.

5.14.120 Defenses To False Alarm Violation

- A. It shall be an affirmative defense to a false alarm violation that:
 - 1. The false alarm did not originate at the premises of the alarm user who was assessed the fine;
 - 2. The alarm was correct and is the result of actual or attempted burglary, robbery, or other emergency; or

3. The alarm user or alarm business notified the law enforcement agency dispatch that the alarm was cancelled prior to the arrival of a peace officer to the subject premises.

5.14.130 Penalties

- A. An actor commits a class B misdemeanor if the actor knowingly provides false information to the alarm coordinator or fails to comply with the requirements of this chapter which shall be punishable by law.
- B. Any fine assessed under this chapter shall be due and payable within thirty days after written notice is issued.
- C. Any fine not paid within thirty days may be assessed a late fee of ten percent of the original fine. Such late fee may be assessed each thirty-day period that the fine remains unpaid.
- D. If any fine is not paid within ninety days of the due date, the City may exercise lawful means to collect such fines or suspension of the alarm user's permit.

5.14.140 Appeal Procedure

- A. Any alarm user may file a written appeal of the assessed fine within fourteen calendar days from the date of written notice of the fine in accordance with Chapter 5.08.
- B. A late fee may not accrue for the period between the filing of a written appeal and the time when a final decision is made upon appellate review..
- C. The administrative law judge shall schedule and conduct the appeal hearing in accordance with Chapter 5.08. Following issuance of the decision, late fees shall accrue until paid, as provided in Section 5.14.130
- D. The law enforcement agency or designee may attempt to mediate and negotiate an agreement with the appellant and is authorized to reduce or dismiss fines for good cause shown, such as excusable user error. A fine may also be reduced or dismissed if an appellant agrees to attend a class or other training on the use of an alarm system.
- E. If the law enforcement agency or designee finds that no violation of this chapter occurred, or that a violation occurred but one or more of the defenses set forth in this section is applicable, the City Manager, or the Mayor in the absence of a City Manager, shall dismiss the fine and release the alarm user from liability after consulting with the law enforcement agency.
- F. If the law enforcement agency or designee finds that a false alarm occurred and no applicable defense exists, the Mayor or designee may, in the interest of justice, enter into an agreement for the timely periodic payment of the applicable fine and late fees.

Commented [NB13]: Alternatively, we could check with UPD to see if they would like the precinct chief to exercise this authority.

- G. If an appellant is dissatisfied with the decision rendered by the law enforcement agency or designee, the appellant may file an appeal in writing, within fourteen calendar days of the decision with the hearing officer, and the hearing officer shall hear the matter in compliance with the procedures in Sections 5.02.140-5.02.180.

5.14.150 Authority Of The City Council To Implement Provisions Of Chapter

The Council shall have the authority to adopt policies implementing the provisions of this chapter and may establish response priorities to any alarm.

CHAPTER 5.15 MASSAGE ESTABLISHMENTS

5.15.010 Definitions

- A. For the purposes of this chapter, the following definitions shall apply:
1. "Massage" means the same as "practice of massage therapy" as defined in Utah Code § 58-47b-102.
 2. "Massage apprentice" means the definition d in Utah Code § 58-47b-102.
 3. "Massage assistant" means the definition in Utah Code § 58-47b-102.
 4. "Massage assistant in-training" means an individual licensed pursuant to Utah Code § 58-47b-302.
 5. "Massage establishment" means any place where a massage therapist conducts or carries on the business of the practice of massage therapy for a fee, gratuity, or free demonstration.
 6. "Massage therapist" means the definition in Utah Code § 58-47b-102.

Commented [LW14]: I presume that Kearns wants its own code on massage parlors?

5.15.020 License—Required

In compliance with Utah Code § 58-47b-305, it is unlawful for any person to operate, conduct, carry on, or maintain a massage establishment in the City without first obtaining a business license from the license official.

5.15.030 License—Applications And Issuance Restrictions

- A. Any individual desiring to operate a massage establishment shall:
1. Submit a license application with a certificate from the state signifying the applicant is licensed by the state as a massage therapist; and

2. Submit the location, including the street, building, and room number of the place where the applicant proposes to operate a massage establishment.

5.15.040 License—Display Required

- A. Every massage establishment licensed under this chapter shall display its massage establishment license in a conspicuous place on the premises.
- B. Every person, while working as a massage therapist or apprentice, shall maintain the person's massage therapist or apprentice license in the person's possession or immediate presence.
- C. In compliance with Utah Code § 58-47b-306, the massage establishment shall display prominently to the public a sign that states certain massage services offered at the massage establishment are performed by a massage assistant or massage assistant in-training.
- D. In compliance with Utah Code § 58-47b-306, if an individual requests a massage service that is performed by a massage assistant or a massage assistant in-training, the licensee performing or the massage therapy supervisor supervising the massage service shall ensure that the individual is notified before scheduling or agreeing to the massage service that it will be performed by a massage assistant or massage assistant in-training.

5.15.050 Investigation Of Applicant And Premises

- A. Any application for massage establishment licenses shall be referred to:
 1. The planning and development services division for zoning approval, and for a search of outstanding arrest warrants;
 2. The local fire agency for inspection to determine compliance with the provisions of the fire code; and
 3. The Salt Lake County Health Department for investigation to determine the sanitary condition of the premises and compliance with applicable health regulations.
- B. Upon completion of the review by each of the agencies identified in subsection A., the license application for a massage establishment shall be submitted to the license official for further review and approval or denial pursuant to Sections 5.02.010 through 5.02.140 of this title.
- C. An applicant who is denied a license for a license massage establishment may appeal the decision of the license official pursuant to Sections 5.02.140 through 5.02.180 of this title.

5.15.060 Unlawful Conduct And Activities

- A. It is unlawful for any person who is not licensed as a massage therapist or apprentice by the state to:
 - 1. Practice or engage in massage therapy, or
 - 2. Attempt to practice or engage in massage therapy, or
 - 3. Falsely advertise or represent authority to practice or engage in massage therapy.
- B. It is unlawful to serve, store, or allow any alcoholic beverages to be served or consumed on the premises of any massage establishment.

5.15.070 Exemptions

The provisions of this chapter may not apply to those individuals as provided in Utah Code § 58-47b-304.

5.15.080 License—Revocation Or Suspension—Appeals

- A. It shall be grounds for the revocation or suspension of the license of a massage establishment pursuant to Sections 5.07.020 and 5.07.030 if the license official finds that:
 - 1. The massage establishment has been operated or maintained contrary to state statute or City ordinance;
 - 2. Any employee of a massage establishment has performed massage contrary to state statute or City ordinance;
 - 3. The massage establishment has been operated contrary to the public health department's regulations, to the health of the patrons or customers of the establishment, or without due regard to proper sanitation or hygiene; or .
 - 4. The massage establishment has violated any of the requirements of Section 5.07.020.
 - 5. Any appeal of a decision to suspend or revoke the license of a massage establishment shall be heard in accordance with the procedures established in Sections 5.02.140 through 5.02.180.

CHAPTER 5.16 RESIDENTIAL SOLICITATION

5.16.010 Purpose

- A. Any person who resides in the City has an inalienable interest in well-being, tranquility, personal safety, and privacy in the person's residence, and in the ability to provide or

Commented [LWB15]: Upon review of city codes, few have solicitation ordinances that address missionary work and identify first amendment rights. For example, South Jordan, a leader in good code, has only reserved a section but has not enacted any provision since 2006.

receive information regarding matters of personal belief, political positions, or charitable activities, and goods and services lawfully in commerce.

- B. 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 trespass upon residential property.
- C. The City has a substantial interest in protecting citizens from fraud or otherwise unfair consumer sales practices and from criminal activity.
- D. The City intends to balance the substantial interests of the City and its residents, and the rights of regulated persons. City officials, law enforcement officers, and the license official have collective experience to regulate business activity, protect persons and property from criminal conduct, and respond to the inquiries of residents regarding door-to-door solicitation. Judicial decisions outline the boundaries of constitutional protections afforded persons seeking to engage in door-to-door solicitation. The City adopts this chapter to promote the City's substantial interests to:
 - 1. Respect citizens' decisions regarding privacy in their residences;
 - 2. Discourage criminal conduct;
 - 3. Provide equal opportunity to persons to advocate on any viewpoint; and
 - 4. Permit lawful and accurate door-to-door solicitation of lawful goods or services in intrastate or interstate commerce.
- E. The City finds that the procedures, rules, and regulations set forth in this chapter are narrowly tailored to preserve and protect the substantial interests of the City's residents and the rights of those regulated persons who engage in door-to-door soliciting. .
- F. The provisions of this chapter shall apply only to activities and persons located within the City.

5.16.020 Definitions

- A. For the purposes of this chapter, the following definitions shall apply:
 - 1. "Advocating" means speech or conduct intended to inform, promote, or support religious belief, political position, or charitable activities.
 - 2. "Appellant" means the person or entity appealing the denial or suspension of an identification badge, either personally as an applicant or registered solicitor, or on behalf of the applicant or registered solicitor.

3. "Applicant" means an individual who is at least sixteen years of age. It shall not mean an entity which applies for an identification badge permitting door-to-door solicitation.
4. "Application form" means a standardized form provided by the license official to an applicant to be completed and submitted as part of registration.
5. "BCI report" means an original or copy, dated no older than one hundred eighty 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.
6. "Business" means a commercial enterprise licensed by the license official as a person or entity under this, or other provisions of the Kearns Code, having a fixed or temporary physical location within the City.
7. "Charitable activities" means advocating by persons or entities that either are, or support, a charitable organization.
8. "Charitable organization" means and includes any person, joint venture, partnership, limited liability company, corporation, association, group, or other entity:
 - a. That is:
 - i. Voluntarily performing a benevolent, educational, health-related, philanthropic, humane, patriotic, religious, or eleemosynary activity; and/or is involved with a social welfare or advocacy group, public health project, environmental or conservation activity, or civic organization; or
 - ii. For the benefit of a public safety, law enforcement, or firefighter fraternal association; and
 - iii. Established for any charitable purpose,
 - 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. Current Internal Revenue Code provision for such status is found at 26 U.S.C. 501 (c)(3).
9. "Charitable organization" includes a chapter, branch, area, office, or similar affiliate, or any person soliciting contributions within the state of Utah for a charitable organization that has its principal place of business outside the state of Utah. "Charitable organization" shall be as defined herein and by Utah Code, Title 13, Chapter 22, Charitable Solicitations Act.

10. "Competent individual" means a person reasonably claiming or appearing to be at least eighteen years of age and of sufficiently sound mind and body to be able to engage in rational thought, conversation, and conduct.
11. "Completed application" means a fully completed application form, a BCI report, two copies of the original identification relied on by the applicant to establish proof of identity, and the tendering of fees.
12. "Criminally convicted" means the final judgment of a conviction, whether by a plea of no contest, a plea of nolo contendere, a plea of guilty, or 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, or charges dismissed under a plea in abeyance or diversion agreement.
13. "Disqualifying status" means anything specifically defined in this chapter as requiring the denial or suspension of an identification badge, and any of the following as relates to the applicant or registered solicitor:
 - a. A criminal conviction for:
 - i. Homicide or manslaughter of any type, class, or degree,
 - ii. Physically abusing, sexually abusing, or exploiting a minor,
 - iii. The sale or distribution of controlled substances,
 - iv. Sexual assault of any type, class, or degree,
 - v. Theft of any type, class, or degree,
 - vi. Robbery,
 - vii. Burglary, or
 - viii. Assault of any type, class, or degree;
 - b. A criminal conviction of a felony within the last ten years;
 - c. Confinement or imprisonment in a federal or state prison within the past five years;
 - d. Criminal conviction of a misdemeanor within the past five years involving a crime of:
 - i. Moral turpitude, or
 - ii. Violent or aggravated conduct involving persons or property;

- e. A final civil judgment within the last five years indicating the applicant or registered solicitor had either engaged in fraud or intentional misrepresentation;
 - f. Parole or probation to any court, penal institution, or governmental entity, including being under house arrest or subject to a tracking device;
 - g. An outstanding arrest warrant from any jurisdiction; or
 - h. Any protective order, based on physical or sexual abuse, issued by a court of competent jurisdiction.
14. "Door-to-door solicitation" means the practice of engaging in or attempting to engage in conversation with any person at a residence, regardless of said person's competency, while making or seeking to make or facilitate a home solicitation sale, or attempting to further the sale of goods and/or services.
15. "Entity" means and includes a corporation, partnership, limited liability company, or other lawful entity, organization, society, or association.
16. "Exigent circumstances" means those circumstances requiring immediate action or aid to prevent or alleviate harm or threats to public health, safety, or welfare.
17. "Fees" means the cost charged to the applicant or registered solicitor for the issuance of an identification badge, which shall not exceed the reasonable costs of processing the application and issuing the identification badge. Fees shall be established and updated on a yearly basis by the Council, with input from the license official.
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;
 - 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. "Identification badge" means a document permitting door-to-door solicitation in the City applied for or issued pursuant to the terms of this chapter.

22. "Moral turpitude" means so extreme a departure from ordinary standards of honesty, good morals, justice, or ethics as to be shocking to the moral sense of the community.
23. "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.
24. "Political position" means any actually held belief, or information for, against, or in conjunction with any political, social, environmental, or humanitarian belief or practice.
25. "Registered solicitor" or "solicitor" means any person who has been issued a current identification badge by the license official.
26. "Registration" means the process used by the license official to accept a completed application and determine whether an identification badge will be granted.
27. "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. In determining the presence of a sincerely held belief, the license official may consider:
 - a. Whether the professor of such belief is part of a recognized religious body or denomination,
 - b. Whether said body is an entity recognized by the Internal Revenue Service as an organization qualified under 26 U.S.C. 501 (c)(3),
 - c. Whether the professed belief is part of a larger scheme of beliefs relied upon by the adherents of the beliefs as a pattern for their life's activities, and
 - d. The lawfulness of the activities deemed to be part of the adherents' beliefs.
 - e. The number of adherents to a particular belief shall not, by itself, form a basis for determination by the license official whether the belief is sincerely held.
28. "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 a sidewalk, public street, or public rights-of-way.
29. "Responsible person or entity" means that person or entity responsible to provide 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;
 - 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.
30. "Sale of goods or services" means the conduct and agreement of a solicitor and the competent individual in a residence regarding a particular good or service that entitles the customer to rescind the same within three days under any applicable federal, state, or local law.
31. "Services" means those intangible goods or personal benefits offered, provided, or sold to a competent individual of a residence.
32. "Solicitor" or "solicit" or "solicitation" means any person who performs the following activities, including home solicitation sales in compliance with Utah Code § 70C-5-101 et seq.:
- 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, publications, or subscription(s) to 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; or
 - e. Other activities falling within the commonly accepted definition of soliciting, such as hawking or peddling.
33. "Submitted in writing" means the information for an appeal of a denial or suspension of an identification badge, submitted in any type of written statement to the license official by certified, registered, priority, overnight or delivery confirmation mail, facsimile, or hand delivery.
34. "Substantiated report" means an oral, written, or electronic report:
- a. That is submitted to and documented by any of the following:

- i. A competent individual who is willing to provide law enforcement or the license official with publicly available identification of their name, address, and any other reliable means of contact,
 - ii. A local law enforcement or the license official, 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 event which has not yet been determined to result in 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 individual or entity within the City.

35. "Waiver" means the written form provided to an applicant by the license official wherein the applicant agrees that the license official may obtain a name/date of birth SCI background check on the applicant for licensing purposes under this chapter, and which contains the applicant's notarized signature.

5.16.030 Exemptions From Chapter

The following person is exempt from registration under this chapter:

- A. A person specifically invited to a residence by a competent individual prior to the time of the person's arrival at the residence;
- B. A person whose license, permit, identification badge, or registration with the state of Utah permits the person to engage in door-to-door solicitation to offer goods or services to an occupant of the residence;
- C. A person delivering goods to a residence pursuant to a previously made order or providing services at a residence pursuant to a previously made request by a competent individual;
- D. A person 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; or

- E. A person 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.
- F. A person exempt from registration is not exempt from the duties and prohibitions as provided in Sections 5.16.140 through 5.16.160 while advocating or soliciting.

5.16.040 Solicitation Prohibited

Unless otherwise authorized, permitted, or exempted pursuant to the terms and provisions of this chapter, the solicitor's practice of being in and upon a private residence within the City for the purpose of home solicitation sales or to provide goods or services is prohibited and is punishable as provided in this chapter.

5.16.050 Registration Of Solicitors

Unless otherwise exempt under this chapter, a person may not engage in door-to-door solicitation within the City without first submitting a completed application to the license official and obtaining an identification badge.

5.16.060 Application Form And Procedures

- A. The license official shall provide a standard application form for use for the registration of solicitors.
- B. Upon submission to the license official of all information required by Section 5.16.060, and a review of the required information by the license official pursuant to Section 5.02.070, the license official may approve the application or recommend denial in accordance with the procedures established by Sections 5.02.010 through 5.02.140.
- C. Upon request to the license official, 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 chapter.
 - 2. Contact Information:

Commented [LWB16]: This refers back to 5.02.010 which was amended to give discretion to the license official.

- a. Applicant's true, correct and legal name, including any former names or aliases used during the last ten years;
 - b. Applicant's then-current telephone number, local address and home address, if different, and local mailing address and permanent mailing address, if different;
 - c. If different from the applicant, the permanent name, address, and then-current telephone number of the responsible person or entity; and
 - d. The address to which all notices to the applicant required under this chapter are to be sent.
3. Proof of Identity. An in-person verification by the license official of the applicant's true identity by use of any of the following, which must bear a recent photograph of said applicant:
- a. A valid driver's license issued by any state:
 - i. Only a valid driver's license issued by a state shall be acceptable proof of identity, which does not include a driver's privilege card;
 - ii. A valid identification card issued by any state to its residents who are nondrivers and who are also lawful citizens of the United States.
 - b. A valid passport issued by the United States.
 - c. A valid identification issued by a branch of the United States Armed Forces.
 - d. If the photograph of the applicant contained within or as part of any of the evidences of identity in subsections (3)(a) through (e) was taken prior to the immediately preceding twelve months, the applicant shall also submit a photograph taken within the immediately preceding twelve months. Upon verification of identity, the original identification submitted to establish proof of identity shall be returned to the applicant.
4. Proof of Registration with Department of Commerce. The applicant shall provide proof that either the applicant or the responsible person or entity has registered with the Utah State Department of Commerce.
5. 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.
6. Marketing Information.

- a. The goods or services offered by the applicant, including any commonly known, registered or trademarked names;
- b. If 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.

7. BCI Background Check:

- a. An original or a copy of a Utah Bureau of Criminal Investigation (BCI) file as defined in the Utah Code § 53-10-102 pertaining to the applicant; and
- b. A signed copy of a waiver whereby the applicant agrees to allow the license official to obtain a name/date of birth BCI background check on the applicant for purposes of enforcement of this chapter.

8. Responses to Questions Regarding "Disqualifying Status." The applicant shall be required to answer each of the following questions on the application form:

- a. Has there been a criminal conviction of:
 - i. Homicide or manslaughter of any type, class, or degree,
 - ii. Physically abusing, sexually abusing, or exploiting a minor,
 - iii. The sale or distribution of controlled substances, as said offenses are described in Utah law,
 - iv. Sexual assault of any type, class, or degree,
 - v. Theft of any type, class, or degree,
 - vi. Robbery,
 - vii. Burglary, or
 - viii. Assault of any type, class, or degree.
- b. Any criminal conviction of a felony within the last ten years.
- c. Any confinement or imprisonment in a federal or state prison within the past five years;
- d. Any criminal conviction of a misdemeanor within the past five years involving a crime of:
 - i. Moral turpitude, or

- ii. Violent or aggravated conduct involving persons or property;
 - e. A final civil judgment within the last five years indicating fraud or intentional misrepresentation;
 - f. Parole or probation from any court, penal institution, or governmental entity, including being under house arrest or subject to a tracking device;
 - g. An outstanding arrest warrant from any jurisdiction; and
 - h. Any protective order, based on physical or sexual abuse, issued by a court of competent jurisdiction.
9. Fee. The applicant shall pay the fee as provided in the consolidated fee schedule approved by the Council and on file with the license official.
10. 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.

5.16.070 Written Disclosures

The application form shall be accompanied by written disclosures notifying the applicant of the following:

- A. The applicant's submission of the application authorizes the license official to verify information submitted with the completed application including:
 - 1. The applicant's address;
 - 2. The applicant's or responsible person's or entity's state tax identification and special use tax numbers, if any;
 - 3. The validity of the applicant's proof of identity.
- B. The license official may consult any data source for information on the applicant, including databases for any outstanding warrants, protective orders, or civil judgments.
- C. The license official shall establish proof of identity before registration is allowed.
- D. The applicant shall submit the fee with a completed application.
- E. The applicant shall submit a BCI background check report with a completed application.
- F. To the extent permitted by state or federal law, the applicant's BCI background check report shall remain a confidential, protected, or private record not available for public inspection.

- G. The license official shall maintain copies of the application form, proof of identity, and identification badge or card. These copies will become public records available for inspection on demand at the license official's office whether an identification badge is denied, granted, or renewed.
- H. The license official shall maintain the criteria for disqualifying status, denial, or suspension of an identification badge.
- I. Unless the license official determines that further investigation is necessary to comply with Sections 5.02.090 and 5.02.110, the license official shall grant or deny a request for a temporary identification badge within a reasonable period of time after a completed application is submitted.

5.16.080 When Registration Begins

- A. The license official shall not begin the registration process until the applicant has submitted a completed application.
- B. The original proof of identity shall be returned after the license official verifies the applicant's identity. A copy of the proof of identity will be retained by the license official.
- C. The license official shall make and keep a copy of any BCI report submitted by the applicant and return the original to the applicant.

5.16.090 Form Of Identification Badge Or Card

- A. Identification Badge or Card.
 - 1. Each registered solicitor shall be issued an identification badge by the license official to be displayed at all times while soliciting in the City, and which is to contain the following:
 - a. The name "Kearns City;"
 - b. The name address and phone number of the registered solicitor;
 - c. The name, address, and phone number of the responsible person or entity, if any;
 - d. A recent photograph of the registered solicitor; and
 - e. The date on which the identification badge expires.

5.16.100 Maintenance Of Registry

The license official shall maintain and make available for public inspection a copy or record of every completed application received and the identification badge or written denial issued by the

license official. The license official may furnish to the head of the law enforcement agency a listing of all applicants, both those denied and those issued an identification badge.

5.16.110 Nontransferability Of Identity Badges

- A. An identification badge may not be transferred.
- B. A registered solicitor shall submit a written change request to the license official if the solicitor:
 - 1. Desires to engage in home solicitation sales of different goods or services from those designated in the original application, or
 - 2. Desires to designate different responsible persons or entities from those designated in the original application.
- C. If approved, the license official shall issue a new identification badge based on the written change request for the balance of time remaining on the registered solicitor's previous identification badge before the written change request was filed.
- D. Before the new identification badge is given to the registered solicitor, the registered solicitor shall obtain a revised identification badge or card from the license official, after payment of the fee for the identification badge or card.

5.16.120 Denial, Suspension, Or Revocation Of An Identification Badge—Appeals

- A. In addition to the grounds for suspension or revocation as provided in Chapter 5.07, any identification badge may be revoked or suspended for the following reasons:
 - 1. The application form is not complete or correct;
 - 2. The applicant fails to:
 - a. Establish proof of identity,
 - b. Provide a BCI report, or
 - c. Pay the fees.
 - 3. The completed application or BCI report establishes that the applicant has a disqualifying status.
 - 4. An identification badge was previously denied or revoked by the City on grounds that still constitute a disqualifying status under this chapter.
 - 5. Since the submission of the completed application:

- a. The applicant has become subject to a previously undisclosed or unknown disqualifying status;
 - b. The City has received a substantiated report regarding the past or present conduct of the applicant that discloses a disqualifying status;
 - c. The City or another governmental entity has either criminally convicted or obtained a civil injunction against the applicant for violating this chapter or similar federal, state, or municipal laws or ordinances in a manner rising to the level of a disqualifying status; or
 - d. A final civil judgment has been entered against the applicant, proving the applicant engaged in fraud or intentional misrepresentation.
- B. Suspension or Revocation.
1. The license official may suspend or revoke an identification badge if any of the reasons warranting the denial of an identification badge occurs.
- C. The license official shall comply with Sections 5.07.020 through 5.07.030 in determining decisions to revoke or suspend an identification badge.
- D. The administrative law judge shall hear any appeal of a decision to deny, suspend, or revoke an identification badge pursuant to Sections 5.02.140 through 5.02.180.

5.16.130 Deceptive Soliciting Practices Prohibited

- A. A solicitor may not intentionally make any materially false or fraudulent statement in the course of soliciting.
- B. A solicitor shall immediately disclose to the consumer during face-to-face solicitation:
1. The name of the solicitor;
 2. The name and address of the entity with whom the solicitor is associated, if any; and
 3. The purpose of the solicitor's contact with the consumer or competent individual. This requirement may be satisfied through the use of the identification badge or card and an informational flyer.
- C. Solicitors shall not use a fictitious name, an alias, or any name other than the solicitor's true and correct name.
- D. No solicitor shall represent directly or indirectly that the City's issuance of an identification badge is an endorsement by the City of the solicitor's goods or services or of the individual solicitor.

5.16.140 “No Solicitation” Notice

- A. Any occupant of a residence may 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.
- B. The display of such sign or placard shall constitute notice to any solicitor that the inhabitant of the residence does not desire to receive or to invite solicitors.

5.16.150 Duties Of Solicitors

- A. Every registered solicitor shall check each residence for a "No Solicitation Sign."
- B. A registered solicitor engaging in a home solicitation sale, door-to-door soliciting, or soliciting may not:
 - 1. Knock on the door, ring the doorbell, or make any other attempt to attract the attention of an occupant of a residence that bears a "No Solicitation Sign."
 - 2. Delay departure when asked by an occupant of a residence or dwelling to do so.
 - 3. Make any unreasonable physical contact or touch another person without the person's consent.
 - 4. Follow a person into a residence without the person's explicit consent.
 - 5. Continue repeated soliciting after a person has communicated a lack of interest in the subject, goods, or services of the solicitor.
 - 6. Use obscene language or gestures or "fighting words" within the presence of any person to whom the solicitor is attempting to sell goods or services.
 - 7. Use any ruse, deception, or fraudulent concealment to solicit or to take action to secure an audience with an occupant at a residence.
- C. It is a violation of this chapter for a registered solicitor to take any action prohibited under subsection (B) of this section. Possession of an identification badge does not relieve a solicitor of this prohibition

5.16.160 Time Of Day Restrictions

It is unlawful for any solicitor to solicit at a residence before 9:00 a.m. or after 9:00 p.m. local time, unless the solicitor has express prior permission from the resident to do so.

5.16.170 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 agreement or offer to purchase which designates the date of the transaction as the date on which the buyer actually signs and contains a statement of the buyer's right with cancel if the right to cancel is exercised within three business days after signing an agreement to purchase. The notice of "Buyer's right to cancel" shall be in the form required by the Utah Uniform Commercial Code as contained in the Utah Code § 70C-5-103 or a current version thereof, or any state or federal law modifying or amending such provision.

5.16.180 No Other City License Or Approval Required

- A. Any registered solicitor or person exempt from registration is not required to apply for or obtain any other license, permit, or registration from the City to engage in door-to-door solicitation.
- B. Any business licensed by the license official 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 an identification badge, unless otherwise exempt from registration.
- C. The responsible person or entity associated with registered solicitors is not required to apply for or obtain any other license, permit, or registration from the license official, provided the responsible person or entity does not establish a temporary or fixed place of business in the City.
- D. The provisions of this chapter may not interfere with or waive any other requirement of federal, state, or other local government law or ordinance regarding any license, permit, or certificate that a registered solicitor is otherwise required to obtain or maintain.

5.16.190 Penalties

- A. Any person who violates any term or provision of this chapter shall be guilty of a Class B misdemeanor for each violation and shall be punished by a fine not to exceed one thousand dollars or a jail sentence not to exceed six months for each violation.
- B. Any entity which violates any term or provision of this chapter shall be guilty of a Class B misdemeanor for each violation and shall be punished by a fine not to exceed one thousand dollars for each violation.

5.16.200 Savings Clause

If any portion of this chapter should be declared void, illegal, unconstitutional, or ultra vires by the final decision of a court of competent jurisdiction, the remaining portions of this chapter shall remain in full force and effect, and enforceable.

CHAPTER 5.17 SHORT-TERM RENTALS

5.17.010 Short-Term Rental Defined

"Short-term rental" means any residential unit or any portion of a residential unit that the owner of record or the lessee of the residential unit offers for occupancy for fewer than 30 consecutive days, to be used for accommodations or lodging of guests who pay a fee or other compensation for said use.

5.17.020 License—Required

It is unlawful to conduct or operate a short-term rental without first having obtained a license..

5.17.030 License—Application—Contents

- A. Applications shall contain the following information:
1. The location of the short-term rental,
 2. The number of rooms therein contained,
 3. The number of persons the short-term rental will accommodate,
 4. The name of a property manager,
 5. A sales tax collection and accounting number,
 6. The name, address, and telephone number of a local responsible party who is available by telephone twenty-four hours per day, and
 7. Such other information as the license official shall from time to time require in compliance with Utah Code § 10-8-85.4.
- B. The application shall include a statement by the applicant affirming that the applicant is currently in compliance with all legal requirements and has paid all applicable taxes, fees, and other charges, including but not limited to the transient room tax.

5.17.040 License—Application—Investigation

- A. The license official shall refer an application to the local fire agency, Salt Lake County Health Department, or other agency as the license official may consider appropriate to make or cause to be made an investigation of the short-term rental premises, the applicant, and other relevant matters. Agency recommendation as to the issuance or denial of the license, based on the above inspections, shall then be referred to the license official for approval or denial in compliance with Sections 5.02.010 through 5.02.140.

- B. The license official may suspend or revoke a license for any violation of the provisions of this chapter or pursuant to Section 5.07.020.
- C. Any appeal of a decision to deny, suspend, or revoke a license shall be heard in compliance with Sections 5.02.140 through 5.02.180.

5.17.050 License—Fee

The annual fee for a short term rental license shall be the same as the general business license fee as provided in Section 5.08.040. A licensee shall pay the applicable fee required for each separate short-term rental property.

5.17.060 Inspections For Compliance

After a license has been granted, the license official may make periodic inspections of a short-term rental to ensure compliance with this chapter and all other applicable law.

5.17.070 Maintenance—Structures And Grounds—Other Requirements And Limitations

- A. A short-term rental shall be maintained to the following minimum standards:
 - 1. Periodic housekeeping service shall be provided by the owner, including removal of trash to the nearest collection point, on at least a weekly basis.
 - 2. Short-term rentals may not be used for any of the following:
 - a. Commercial purposes not otherwise permitted in the zone;
 - b. Distribution of retail products or personal services to invitees for marketing or similar purposes; or
 - c. The outdoor display of goods and merchandise for sale.
- B. The access to the short-term rental unit and the layout of the short-term rental shall be designed so that noise and physical trespass from the short-term rental unit is not likely to be a substantial intrusion on adjoining properties. If the short-term rental unit is a single-family home, duplex, condominium, or other dwelling place and shares an access, hallway, common wall, or driveway with another dwelling, written consent of the owner of the other dwelling is required.
- C. Responsible Party.
 - 1. The licensee must shall designate a responsible party who is an individual or property management company residing or maintaining an office in Kearns.
 - 2. The responsible party is personally liable for failure to properly manage the short-term rental.

3. The responsible party shall be available by telephone, or otherwise, twenty-four hours per day and must be able to respond to inquiries within twenty minutes of receipt of an inquiry.
- D. The licensee shall possess a sales tax collection and sales tax accounting number for the rental operation and the sales tax number must be included on the short-term rental application. Any applicable tax, charge, and fee, including the transient room tax, shall be paid in full during the period of licensure.

5.17.080 Nameplate Sign

- A. The licensee shall attach one nameplate sign permanently to the building in a conspicuous location near the front entrance of the short-term rental. The nameplate sign shall:
1. Provide the name and telephone number of at least one responsible individual located within Kearns that can be contacted twenty-four hours a day,
 2. Contain the occupant load of the building as allowed by the International Building Code,
 3. Be made of durable, weather resistant material,
 4. Not exceed three inches by five inches in dimension, and
 5. Contain no advertising.

5.17.090 Separate Violations

For purposes of prosecution of violations of this chapter, each day that any violation occurs, or that applicable taxes and fees are unpaid, is deemed to constitute a separate violation.

CHAPTER 5.18 SEXUALLY ORIENTED BUSINESSES AND EMPLOYEE LICENSING

Commented [LW17]: This section replaces Chapter 5.18 on Taxicabs.

5.18.010 Title For Citation

This chapter is titled the "Sexually Oriented Businesses and Employee Licensing Ordinance."

5.18.020 Purposes Of Provisions And Findings

- A. It is the purpose and intent of this chapter to:
1. Establish reasonable and uniform regulations governing the time, place, and manner of operation of sexually oriented businesses and their employees in the City;

2. Reduce the adverse secondary effect that such businesses have upon communities, including the City; and
 3. Protect the health, safety, and general welfare of the residents of the City.
- B. This chapter shall be construed to protect the governmental interests recognized by this chapter consistent with protections provided by the constitutions of the United States and the state of Utah. It is not the intent or application of this chapter 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.
- C. Findings: Based on findings incorporated in the cases of *Pap's A.M. v. City of Erie*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 426 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *O'Connor v. City and County of Denver*, 894 F.2d 1210 (10th Cir. 1990); *Z.J. Gifts D-2, L.L.C. v. City of Aurora*, 136 F.3d 683 (10th Cir. 1998); *Dodger's Bar & Grill Inc. v. Johnson County*, 98 F.3d 1262 (10th Cir. 1996); *Connection Distrib. Co. v. Reno*, 154 F.3d 281 (6th Cir. 1998); *Sundance Assocs. v. Reno*, 139 F.3d 804 (10th Cir. 1998); *American Library Association v. Reno*, 33 F.3d 78 (D.C. Cir. 1994); *Dodger's Bar & Grill, Inc. v. Johnson County*, 32 F.3d 1436 (10th Cir. 1994); *American Target Advertising, Inc. v. Giani*, 199 F.3d 1241; *MS News Co. v. Casado*, 721 F.2d 1281 (10th Cir. 1983); *Cortese v. Black*, No. 95-1429, 1996 U.S. App. LEXIS 15311 (10th Cir., June 25, 1996); *Salt Lake City v. Wood*, 1999 Utah App. 323, 991 P.2d 595 (Utah Ct. App. 1999); *United States v. Freedberg*, 724 F.Supp. 851 (D. Utah 1989); and other cases; and on testimony to Congress in 136 Cong. Rec. S 8987; 135 Cong. Rec. S. 14519; 135 Cong. Rec. S 5636; 134 Cong. Rec. E 3750; and reports of secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Phoenix, Arizona - 1984; Minneapolis, Minnesota - 1980; Houston, Texas - 1997; Utahpolis, Utah; Amarillo, Texas; Garden Grove, California - 1991; Los Angeles, California - 1977; Whittier, California - 1978; Austin, Texas - 1986; Seattle, Washington - 1989; Oklahoma City, Oklahoma - 1986; Cleveland, Ohio; and Dallas, Texas - 1997; St. Croix County, Wisconsin - 1993; Bellevue, Washington, - 1998; Newport News, Virginia - 1996; New York Times Square study - 1994; Phoenix, Arizona - 1995-98; and also on findings from the paper entitled strip clubs according to strippers: exposing workplace sexual violence by Kelly Holsopple, program director, freedom and justice center for prostitution resources, Minneapolis, Minnesota, and from sexually oriented businesses: an insider's view by David Sherman, presented to the Michigan house committee on ethics and constitutional law, Jan. 12, 2000, and the report of the attorney general's working group on the regulation of sexually oriented businesses (June 6, 1989, state of Minnesota), the Council finds:

Commented [LW18]: Check citations for accuracy and ask whether this outdated law is necessary or should be updated?

1. Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of averse secondary effects, including personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on property values, urban blight litter and sexual assault and exploitation.
2. Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the unlicensed operators of the establishments. Further, there is presently no mechanism in this City to make the owners and operators of these unlicensed establishments responsible for the activities that occur on their premises.
3. Certain employees of unregulated "sexually oriented businesses" defined in this chapter engage in higher incidence of certain types of illicit sexual behavior than employees of other establishments.
4. Sexual acts, including masturbation, and oral and anal sex, sometimes occur inside the premises of or in the parking lot of unregulated sexually oriented businesses, including those which provide private or semiprivate booths or cubicles for viewing films, videos, or live sex shows.
5. Offering and providing such unregulated space encourages such activities, which pose a risk to public health through the spread of sexually transmitted diseases or unhealthy conditions.
6. Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses, or for the purpose of purchasing or selling illicit drugs.
7. Numerous communicable diseases may be spread by activities occurring in sexually oriented businesses, including syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis, salmonella, campylobacter and shigella infections, chlamydia, mycoplasmal and ureoplasmal infections, trichomoniasis, and chancroid.
8. Sexually oriented businesses shall be separated from sensitive land uses to minimize the impact of secondary effects of such uses and shall be separated from other sexually oriented businesses to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area.
9. The findings noted in subsections 8.1 through 8.8 of this section raise substantial governmental concerns.

10. Sexually oriented businesses have operational characteristics that should be reasonably regulated in order to protect those substantial governmental concerns.
11. A reasonable licensing procedure is an appropriate mechanism to reasonably regulate the owners and the operators of the sexually oriented businesses. Further, a reasonable licensing procedure may place an incentive on the operators to ensure the sexually oriented business is operated in a manner consistent with the health, safety, and welfare of its patrons and employees, and the residents of the City. The City may require reasonable assurances that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and its activities
12. The City may require the licensee to remove doors on adult booths and require adequate lighting on premises with adult booths to advance a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult theaters.
13. The City may require the licensee of a sexually oriented business to keep information regarding current and past employees to help reduce criminal behavior by facilitating the identification of potential witnesses or suspects and by preventing minors from working in sexually oriented businesses. .
14. The disclosure of certain information by current or past employees responsible for the day to day operation and maintenance of the sexually oriented business, if the information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases and will prevent the further secondary effects of dissemination of illegal obscenity, child pornography, and to minors, materials harmful to them.
15. The fact that an applicant for a sexually oriented business has been convicted of a sexually related crime leads to the rational assumption that the applicant may engage in that conduct in contravention of this chapter.
16. The City may bar registered sex offenders from employment in sexually oriented businesses for a specified period of years to prevent distribution of illegal material, to prevent conduct which leads to the transmission of sexually transmitted diseases, and to preclude the establishment of criminal enterprises within the City.
17. The general welfare, health, morals, and safety of the citizens of the City will be promoted by the enactment of this chapter.

5.18.030 Application Of Provisions

This chapter imposes regulatory standards and license requirements on sexually oriented businesses, and certain employees of those businesses. Except where the context or specific provisions require, this chapter does not supersede or nullify any other related ordinances, including Chapter 5.02, Title 10, and Title 19 of this code.

5.18.040 Definitions

A. For the purpose of this chapter, the following terms shall have the following meanings:

1. "Adult bookstore" or "adult video store" means a commercial establishment which offers, as one of its principal purposes, adult material for sale, rent, or any other form of consideration unless:
 - a. The individual items of adult material comprise less than ten percent of the individual items as stock in trade and less than ten percent of gross sales,
 - b. Are not publicly displayed, and
 - c. Are not accessible to minors at the establishment.
2. "Adult business" means an adult theater, adult motion picture theater, adult bookstore, adult video store, or any other business which has as one of its principal purposes the offering of a product or service which is intended to provide sexual stimulation or sexual gratification to patrons and is characterized by an emphasis on nudity or semi nudity. This definition shall not apply to social clubs or on-premise beer taverns which are not required to have a seminude dancing bar license.
3. "Adult material" means any one or more of the following:
 - a. Books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes, slides or other visual representations, recordings or audio matter, the central theme of which depicts or describes specified sexual activities or specified anatomical areas; or
 - b. Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities, except for legitimate, medically recognized contraception.
4. "Adult motion picture theater" means a commercial establishment which regularly features films, motion pictures, video cassettes, slides, or similar photographic reproductions which are characterized by the depiction or

description of "specified sexual activities" or specified anatomical areas. "Adult arcades" and "adult booths" are included within this definition.

5. "Adult theater" means a theater, concert hall, auditorium or portion thereof, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas.
6. "Business license official" means the license official or designee.
7. "Employ" means hiring an individual to work for pecuniary compensation, whether such person is hired on the payroll of the employer, as an independent contractor, as an agent, or in any other form of relationship for pecuniary compensation.
8. "Escort" means any person who, for pecuniary compensation, dates, socializes, visits, consorts with or accompanies, or offers to date, consort, socialize, visit, or accompany another or others to or about social affairs, entertainment, places of amusement, or within any place of public or private resort or any business or commercial establishment or any private quarters. "Escort" shall not be construed to include persons who provide business or personal services such as licensed private nurses, aides for the elderly or handicapped, social secretaries or similar service personnel whose relationship with their patron is characterized by a bona fide contractual relationship having a duration of more than twelve hours and who provide a service not principally characterized as dating or socializing.
9. "Escort service" means an individual or entity who, for pecuniary compensation, furnishes or offers to furnish escorts or provides or offers to introduce patrons to escorts.
10. "Escort service runner" means any third person, not an escort, who, regardless of pecuniary compensation, acts in the capacity of an agent or broker for an escort service, escort, or patron by contacting or meeting with escort services, escorts, or patrons at any location within the City, whether or not such third person is employed by such escort service, escort, or patron, or by another business or is an independent contractor or self-employed.
11. "Nude and seminude dancing agency" means any person, agency, firm, corporation, partnership, or any other entity or individual which furnishes, books, or otherwise engages or offers to furnish, book, or otherwise engage the service of a model, dancer, or similar person licensed pursuant to this chapter for performance or appearance at a nude entertainment business or seminude dancing bars.

12. "Nude entertainment business" means a business, including an adult theater, where employees perform or appear in the presence of patrons of the business in a state of nudity or semi nudity. A business shall also be presumed to be a nude entertainment business if the business holds itself out as such a business.
13. "Nudity" or "state of nudity" means a state of dress in which the nipple and areola of the female breast or male or female genitals, pubic region, buttocks or anus are covered by less than the covering required in the definition of seminude, or the displaying of any "specified anatomical area."
14. "Outcall services" means escorts and businesses which provide, as any portion of their business, nude or seminude services outside of the premises in any place of private resort or private quarters by models, dancers, or other similar employees.
15. "Patron" means any person who contracts with or employs any outcall services or the customer of any business licensed pursuant to this chapter.
16. "Pecuniary compensation" means to be paid any commission, fee, salary, tip, gratuity, hire, profit, reward, or any other form of consideration.
17. "Person" means any person, unincorporated association, corporation, partnership, or other legal entity.
18. "Seminude" means a state of dress in which opaque clothing covers no more than the genitals, pubic region, anus and the nipple and areola of the female breast. In accordance with the above, at a minimum, the genitals, pubic region and anus shall be fully covered by an opaque covering no narrower than four inches wide in the front and five inches wide in the back which shall not taper to less than one inch wide at the narrowest point.
19. "Seminude dancing bar" means any business which holds a social club liquor license or on-premise beer tavern license and offers its customers live entertainment involving semi nudity, or live entertainment which is distinguished by an emphasis on the displaying of any portion of human buttocks or the female breast with less than a fully opaque covering.
20. "Sexually oriented business" means nude entertainment businesses, outcall services, adult businesses, seminude dancing bars, and nude and seminude dancing agencies as defined by this chapter.
21. "Sexually oriented business employees" means:
 - a. An employee who works on the premises of the sexually oriented business in activities related to the sexually oriented portion of the business, including all managing employees, dancers, escorts, models, and other similar

employees whether or not hired as employees, agents, or independent contractors.

- b. A person employed by an outcall service making outcall meetings under this chapter, including dancers, escorts, models, guards, escort runners, drivers, and other similar employees, regardless of the employee's state of dress, shall be considered sexually oriented business employees.
 - c. "Sexually oriented business employees" shall not include individuals whose work is unrelated to the sexually oriented portion of the business, such as janitors, bookkeepers, cooks, serving persons, bartenders, and similar employees except where they may be managers or supervisors of the business.
22. "Specified anatomical areas" means:
- a. Human male and female genitals, pubic area, or anus,
 - b. The human female breast from the beginning of the areola, papilla, or nipple to the end thereof,
 - c. The cleavage of the human buttocks, or
 - d. Human male genitals in a discernibly turgid state.
23. "Specified sexual activities" means:
- a. Acts or simulated acts, while in a state of nudity or semi nudity, of:
 - i. Masturbation,
 - ii. Human sexual intercourse,
 - iii. Sexual copulation between a person and a beast,
 - iv. Fellatio,
 - v. Cunnilingus,
 - vi. Bestiality,
 - vii. Pederasty,
 - viii. Buggery, or
 - ix. Any anal copulation between a human male and another human male, human female, or beast.

- b. Manipulating, caressing or fondling by any person of the human genitals, pubic area, anus, buttocks, or the female breast for the purpose of arousing or gratifying the sexual desire of a person.
- c. Flagellation or torture by or upon a person in a state of nudity or semi nudity or the condition of being fettered, bound, or otherwise physically restrained while in such a state.

5.18.050 Obscenity—Statutory Provisions

Nothing in this chapter shall be deemed to permit the showing or display of any matter which is contrary to the provisions of Chapter 10.28 of this code or other applicable federal or state statutes prohibiting obscenity.

5.18.060 Location And Zoning Restrictions

It is unlawful for any sexually oriented business to do business at any location within the City not zoned for such business. Sexually oriented businesses shall only be allowed in areas zoned for their use pursuant to zoning code provisions in Title 19 of this code. Every sexually oriented business requiring conditional use approval shall be required to obtain prior approval before a sexually oriented business license application will be accepted or processed by the business license official.

5.18.070 Business License Required

It is unlawful for any person to operate a sexually oriented business, as defined herein, in the City without first obtaining a sexually oriented business regulatory license. The license shall specify the type of business for which it is obtained. The license shall be obtained pursuant to the general business license procedures outlined in Chapter 5.02.

5.18.080 Exemptions From Business License Requirements

The provisions of this chapter shall not apply to any sex therapist or similar individual licensed by the state to provide bona fide sexual therapy or counseling, nor shall it apply to any licensed medical practitioner, licensed nurse, psychiatrist, or psychologist, nor any educator licensed by the state for activities in the classroom.

5.18.090 Legitimate Artistic Modeling

- A. The City does not intend to prohibit legitimate modeling which may occur in a state of nudity for purposes protected by the First Amendment or similar state protections. The City intends to prohibit prostitution and related offenses occurring under the guise of nude modeling.

- B. Notwithstanding the provisions of subsection L of Section 5.18.210, a licensed outcall employee may appear in a state of nudity before a customer or patron providing that a written contract for such appearance was entered into between the customer or patron and the employee at least twenty-four hours before the nude appearance in compliance with Section 5.18.220. Any other applicable provision of this chapter shall still apply to such nude appearance.

5.18.100 Business Categories—Number Of Licenses

- A. The categories of sexually oriented business are:
 - 1. Outcall services;
 - 2. Adult business, including adult bookstores, adult video stores, adult motion picture theaters;
 - 3. Nude entertainment businesses;
 - 4. Seminude dancing bars; or
 - 5. Nude and seminude dancing agencies.
- B. It is unlawful for any business premises to operate or be licensed for more than one category of sexually oriented business, except that a nude and seminude dance agency may be located on the same premises of a seminude dancing bar or the same premises of an outcall services business.

5.18.110 Employee Licenses

- A. It is unlawful for any sexually oriented business to employ any individual in the capacity of a sexually oriented business employee in the City unless that employee first obtains a sexually oriented business employee license from the law enforcement agency, acting on behalf of the City.
- B. It is unlawful for any person performing outcall services or any person performing in a state of nudity or semi nudity to work or perform in the City unless such person is employed by an outcall service business, nude, or seminude dancing agency licensed by the license official or said person is licensed by the law enforcement agency on behalf of the City as an employee of an outcall service business or a nude or seminude dancing agency.

5.18.120 Employee License—Application—Disclosures Required

Before any applicant may be licensed as a sexually oriented business employee pursuant to this chapter, the applicant shall submit in writing, on a form to be supplied by the law enforcement agency, on behalf of the City, the following:

A. Basic Information.

1. The correct legal name of each applicant, including any other names or aliases used by the individual,
2. The age, date, and place of birth,
3. Height,
4. Weight,
5. Color of hair,
6. Color of eyes,
7. Present business address and telephone number,
8. Present residence and telephone number,
9. Utah driver's license or identification number (together with production of the license or identification), and
10. Social security number.

B. Attached to the form as provided above, a color photograph of the applicant clearly showing the individual's face, and the individual's fingerprints on a form provided by the law enforcement agency;

C. A statement of the business, occupation, or employment history of the applicant for three years immediately preceding the date of the filing of the application;

D. A statement as to whether or not the applicant or individual has ever had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the date, the name of the acting jurisdiction, and state in full the reasons for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application;

E. A current copy of a criminal background check of the applicant performed by BCI, including any sex offender registration data.

F. For any individual applicant required to obtain a sexually oriented business employee license for outcall services as a model, dancer or other similar employee or escort, or as a nude or seminude entertainer employed by any other sexually oriented business, a certificate from the Salt Lake County Health Department, stating that the individual has, within thirty days immediately preceding the date of the application, been examined and found to be free of the following contagious diseases: gonorrhea, syphilis, and chlamydia, and is negative for the AIDS antibody. The certificate shall be updated quarterly during

the license term by the applicant and submitted to the license official. Said certificate shall also be required for the renewal of such license.

5.18.130 Business License—Fees

Each applicant for a sexually oriented business license shall be required to pay regulatory license fees to the law enforcement agency in accordance with the consolidated fee schedule, which shall be approved by the Council and shall be on file with the license official.

5.18.140 Business License—Premises Location And Name

- A. It is unlawful to conduct business under a license issued pursuant to this chapter at any location other than the licensed premises. Any premises to which telephone calls are automatically forwarded by such business shall require a separate license.
- B. It is unlawful for any sexually oriented business to do business in the City under any name other than the business name specified in the application.

5.18.150 Employee License—Denial Conditions—Appeals

- A. The law enforcement agency shall deny, on the City's behalf, an employee license for one or more of the following:
 - 1. The applicant is under eighteen years of age or any higher age if the license sought requires a higher age;
 - 2. The applicant has provided materially false information in the application;
 - 3. The applicant has been convicted of a violation of a provision of this chapter within two years immediately preceding the date the application is submitted to the law enforcement agency (the fact that a conviction is being appealed shall have no effect on the disqualification pursuant to this section);
 - 4. The applicant is in violation of any provision of this chapter;
 - 5. The applicant is required to provide lifetime registration as a sex offender as defined in Utah Code subsection 77-41-102 or pursuant to Utah Code § 77-41-106;
 - 6. An applicant has been convicted of or pled nolo contendere, guilty with a mental illness, or no contest to:
 - a. A felony under the laws of the state of Utah;
 - b. Any crime involving moral turpitude;
 - c. Any of the following listed crimes, whether or not constituting a felony or a crime of moral turpitude:

- i. Prostitution;
 - ii. Exploitation of prostitution;
 - iii. Aggravated promotion of prostitution;
 - iv. Aggravated exploitation of prostitution;
 - v. Solicitation of sex acts;
 - vi. Sex acts for hire;
 - vii. Compelling prostitution;
 - viii. Aiding prostitution;
 - ix. Sale, distribution, or display of material harmful to minors;
 - x. Sexual performance by minors;
 - xi. Possession of child pornography;
 - xii. Public lewdness;
 - xiii. Indecent exposure;
 - xiv. Any crime involving sexual abuse or exploitation of a child;
 - xv. Sexual assault or aggravated sexual assault;
 - xvi. Rape;
 - xvii. Forcible sodomy;
 - xviii. Forcible sexual abuse;
 - xix. Incest;
 - xx. Harboring a runaway child;
 - xxi. Criminal attempt, conspiracy, or solicitation to commit any of the foregoing offenses; or
 - A. Offenses involving similar elements from any jurisdiction regardless of the exact title of the offense for which timelines under Utah Code, Title 77 apply.
- d. Appeal of a conviction shall have no effect on the disqualification pursuant to this section.

7. An applicant has an outstanding warrant for his or her arrest.
- B. Any person who is denied an employee license may appeal within fifteen days from the date of denial to the administrative law judge for a hearing regarding issuance of the employee license. The administrative law judge shall then schedule a hearing in conformance with general business license denial proceedings, as provided in 5.02.010 through 140.

5.18.160 License—Term

Sexually oriented business and employee licenses issued pursuant to this chapter shall be valid from the date of issuance through the final day of the same month of the next calendar year.

5.18.170 License—Notice Of Change Of Information

Any change in the information required to be submitted under this chapter for either a sexually oriented business license or sexually oriented business employee license shall be given, in writing, to the business license official and the law enforcement agency within fourteen calendar days after such change.

5.18.180 License—Transfer Limitations

- A. Sexually oriented business licenses granted under this chapter shall not be transferable to a new location or to a new owner.
 1. It is unlawful for a corporation, partnership, or other noncorporate business entity holding a sexually oriented business regulatory license to transfer any part of its business interest or ownership in excess of ten percent thereof without filing a new license application and obtaining a new sexually oriented business regulatory license from the license official.
 2. If any transfer of the controlling interest in a business licensee occurs, the license is immediately null and void and the business shall not operate until a separate new license application has been submitted with all applicable fees and a new regulatory license has been issued by the license official as provided in this chapter.
- B. It is unlawful for a sexually oriented business employee to transfer the employee's license to another. Any such transfer or attempted transfer shall render the license null and void.
- C. Outcall services employees and nude and seminude dancers may transfer their employee license from one outcall service business or from a nude or seminude dancing agency to another upon submitting a letter of employment from the new business or agency and upon payment of a twenty-five dollar transfer fee.

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- D. It is unlawful for the holder of a sexually oriented business license to sell, transfer the business ownership or location, or otherwise cease operating the business without notifying the license official and surrendering the licensee's sexually oriented business license.

5.18.190 License—Display

- A. It is unlawful for any sexually oriented business to fail to display the license granted pursuant to this chapter in a prominent location within the business premises.
- B. It is unlawful for any individual licensed pursuant to this chapter to fail to carry their employee license on their person, at all times while engaged in licensed activities. If the individual is nude, such license shall be visibly displayed within the same room in which the employee is performing.
- C. It is unlawful to fail to carry or show the appropriate licenses while engaged in licensed activities upon request of the law enforcement agency, license official, or other enforcement agency.

5.18.200 License—Statement In Advertisements

It is unlawful for any advertisement by the sexually oriented business or employee to fail to include the license number.

5.18.210 Regulations And Unlawful Activities

- A. It is unlawful for any sexually oriented business or sexually oriented business employee to:
- B. Allow persons under the age of eighteen years, or the age of twenty-one years if required by applicable liquor ordinance, on the licensed premises, except that in adult businesses which exclude minors from less than all of the business premises, minors shall not be permitted in excluded areas;
- C. Allow, offer, or agree to conduct any outcall business with persons under the age of eighteen years;
- D. Except for seminude dancing bars, to allow, offer or agree to allow any alcoholic beverages being stored, used, or consumed on or in the licensed premises;
- E. Allow the outside door to the premises to be locked while any customer is in the premises;
- F. Allow, offer, or agree to gambling on the licensed premises;
- G. Except as provided in subsection (G.)(-1.a) , to allow, offer, or agree to any touching between a sexually oriented business employee and any patron or customer during a performance, or to specified sexual activities between patrons and employees;

1. Employees of outcall services and patrons may touch provided that such touching does not violate the provisions of subsection 5.18.220 (D)(4);
- H. Allow, offer, agree to, or engage in the illegal possession, use, sale, or distribution of controlled substances on the licensed premises;
- I. Allow sexually oriented business employees to possess, use, sell, or distribute controlled substances while engaged in the activities of the business;
- J. Allow, offer, or agree to commit prostitution, solicitation of prostitution, solicitation of a minor, or committing activities harmful to a minor to occur on the licensed premises or, in the event of an outcall employee or business, the outcall employee committing, offering or agreeing to commit prostitution, attempting to commit prostitution, soliciting prostitution, soliciting a minor, or committing activities harmful to a minor;
- K. Allow, offer, commit, or agree to any specified sexual activity or sex act as validly defined by City ordinances or state statute;
- L. Allow, offer, or agree to any outcall services employee appearing before any customer or patron in a state of nudity without first complying with the provision of Section 5.18.090.

5.18.220 Outcall Services—Operation Requirements

It is unlawful for any business or employee providing outcall services contracted for in the City to fail to comply with the following requirements:

- A. Any business licensed to provide outcall services pursuant to this chapter shall provide to each patron a written contract in receipt of pecuniary compensation for services.
 1. The contract shall clearly state the address where the services are to be performed, the type of services to be performed, the length of time such services shall be performed, the total amount such services shall cost the patron, and any special terms or conditions relating to the services to be performed.
 2. The business licensee shall keep and maintain a copy of each written contract entered into, pursuant to this section, for a period not less than one year from the date of provision of services thereunder. The contracts shall be numbered and entered into a register, which shall also be kept for one year, listing the contract number, date, names of all employees involved in the contract, and pecuniary compensation paid. The register shall be made available to the law enforcement agency and Salt Lake County Health Department for inspection during normal operating hours.
- B. All outcall businesses licensed pursuant to this chapter shall maintain an open office at which the licensee or licensee's designated agent may be personally contacted during all

hours outcall employees are working. The address and phone number of the license location shall appear and be included in all patron contracts and published advertisements. Outcall businesses with premises licensed and located within the City shall not provide or allow private rooms or booths where the patrons may meet with outcall employees either at the licensed premises or at any other location, nor shall patrons meet outcall employees at the business premises.

- C. Outcall services may not advertise in such a manner that would lead a reasonably prudent person to conclude that specified sexual activities would be performed by the outcall employee.
- D. During an outcall appearance, it is unlawful:
 - 1. To appear nude or seminude in the presence of persons under the age of eighteen;
 - 2. To allow, offer, or agree to any touching of the outcall employee appearing nude or seminude by the patron or other persons present to view said performance;
 - 3. To allow, offer, or agree to commit prostitution, solicitation of prostitution, solicitation of a minor, or committing activities harmful to a minor;
 - 4. To allow, offer, commit, permit or agree to any specified sexual activity or any other sex act as validly defined by City ordinances or state statute or to remain in the presence of or continue an outcall performance if a patron or other person engages in any specified sexual activity or sex act;
 - 5. For an outcall employee to be within five feet of any other person while nude or seminude.

5.18.230 Adult Business—Design Of Premises

- A. In addition to the general requirements of disclosure for a sexually oriented business, any applicant for a license as an adult business shall also submit a diagram, drawn to scale, of the premises on or for which the license is to be granted. The design and construction, prior to granting a license or opening for business, shall comply with all applicable building code requirements including the obtaining of applicable building permits and shall conform to the following:
 - 1. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms.
 - 2. Restrooms may not contain any video reproduction equipment or any of the business merchandise. Signs shall be posted requiring only one person being

allowed in the restroom per stall and only one person in any stall at a time and requiring that patrons shall not be allowed access to the manager's station areas.

3. For businesses which exclude minors from the entire premises, all windows, doors and other apertures to the premises shall be darkened or otherwise constructed to prevent anyone outside the premises from seeing the inside of the premises. Businesses which exclude minors from less than all of the premises shall be designed and constructed so that minors may not see into the area from which they are excluded.
 4. The diagram required shall not necessarily be a professional engineer's or architect's blueprint; however, the diagram must show marked internal dimensions, all overhead lighting fixtures, and ratings for illumination capacity.
- B. To ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted, it shall be the duty of the licensee and the licensee's employees to ensure that the manager's station is in operation during all operating hours and that the views from the manager's station remain unobstructed by any doors, walls, merchandise, display racks, or any other materials, at all times that any patron is present in the premises.
- C. The premises shall at all times be equipped and operated with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one foot-candle, measured at floor level. It shall be the duty of the licensee and the licensee's employees present on the premises to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

5.18.240 Nude Entertainment Business—Design Of Premises

- A. It is unlawful for a business premises licensed for nude entertainment to:
1. Permit a bed, sofa, mattress, or similar item in any room on the premises, except that:
 - a. A sofa may be placed in a reception room open to the public or in any office to which patrons are not admitted, and
 - b. In an adult theater such items may be on the stage as part of a performance.
 2. Allow any door on any room used for the business to be lockable from the inside, except for:
 - a. The door to an office to which patrons shall not be admitted,

- b. Outside doors, and
 - c. Restroom doors.
3. Provide any room in which the employee and the patron are alone together without a separation by a solid physical barrier at least three feet high and eighteen inches wide. The patron shall remain on one side of the barrier and the employee shall remain on the other side of the barrier.

B. Adult theaters shall also require that the performance area shall be separated from the patrons by a minimum of five feet, which separation shall be delineated by a physical barrier at least three feet high.

5.18.250 Nude Entertainment Business—Location Restriction

It is unlawful for any business licensed for nude entertainment to be located within three hundred thirty feet of a business licensed for the sale or consumption of alcoholic beverages.

5.18.260 Semi Nude Dancing Bar—Operation Requirements

- A. It is unlawful for any business licensed for the sale or consumption of alcoholic beverages pursuant to City ordinances to:
- 1. Allow any person on the premises to dance, model, be, or perform in a state of semi nudity without first obtaining a license pursuant to this chapter;
 - 2. Allow any person on the premises to dance, model, be, or perform in a state of nudity.
- B. In establishments licensed to sell, store, or consume alcoholic beverages, seminude dancing shall be allowed only in social clubs and on-premise beer taverns.

Commented [LW20]: Policy question?

5.18.270 Seminude Dancing Bar—Operation Prerequisites

It is unlawful for any person to perform or appear in a state of semi nudity as a dancer, model, performer, or otherwise on the premises of a business licensed as a semi nude dancing bar, either gratuitously or for compensation, unless that person is licensed as a sexually oriented business employee.

5.18.280 Nude And Seminude Dancing Agencies

- A. It is unlawful for any person to furnish, book, or otherwise engage the services of a dancer, model, or performer to appear in a state of semi nudity or nudity for pecuniary compensation in, or for, any nude entertainment business, adult theater, or seminude dancing bar licensed pursuant to this chapter unless such person is licensed as a nude and seminude dancing agency pursuant to this chapter.

- B. It is unlawful for any individual or entity to furnish, book, or otherwise engage or permit any person to perform as a professional dancer, model, or performer in a state of semi nudity or nudity, either gratuitously or for compensation, in or for any business licensed or required to be licensed pursuant to this chapter unless such person is licensed pursuant to this chapter.

5.18.290 Performers—Prohibited Activities

It is unlawful for any dancer, model, or performer during a performance in any establishment requiring a license as a seminude dancing bar pursuant to this chapter:

- A. To touch in any manner any other person;
- B. To throw any object or clothing off the stage area;
- C. To accept any money, drink, or any other object directly from any person;
- D. To allow another person to touch such performer or to place any money or object on the performer or within the costume or person of the performer;
- E. For the performer to place anything within the costume or adjust or move the costume while performing so as to render the performer in a state of nudity; or
- F. To engage in any specified sexual activity.

5.18.300 Performers—Costume Requirements

- A. It is unlawful for performers in seminude dancing bars to fail to comply with the following costume requirements:
 - 1. A performer shall at all times be costumed during performances in a manner not to violate any City ordinance concerning disorderly or obscene conduct, and such performer may not perform or conduct themselves in such a manner as to violate the provision of any City ordinance.
 - 2. A performer may not appear in any business required to be licensed as a seminude dancing bar during a performance or appearance in a state of nudity and, in the case of a female performer, the areola and nipple of such performer shall be completely covered with opaque clothing in a shape and color other than the natural shape and color of the nipple and areola.
 - 3. While on the portion of a business licensed as a seminude dancing bar used by patrons, performers shall be dressed in opaque clothing covering the performer's buttocks and pubic area and, in the case of a female, the breast and nipples.

5.18.310 Stage Requirements

It is unlawful for any performer in a business licensed as a seminude dancing bar to appear in costume other than on a stage which shall be at least three feet from the portion of the premises on which patrons are allowed and which shall be separated from the patrons by a solid barrier or railing the top of which shall be at least two and one-half feet from the floor.

5.18.320 Patrons—Prohibited Activities

It is unlawful for any person or any patron of any seminude dancing bar or nude entertainment business during a performance to touch in any manner a model, dancer, or performer; to place any money or object on or within the costume or person of any performer; or to give or offer to give to any such performer any drinks, money, or object, except that money may be placed on the barrier which shall not be picked up by the performer except by hand after the performance.

5.18.330 Nudity—Defenses To Prosecution

- A. It is a defense to prosecution or violation under this chapter that a person appearing in a state of nudity did so in a modeling class operated:
 - 1. By a proprietary school licensed by the state or a college, junior college or university supported entirely or partly by taxation;
 - 2. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

5.18.340 Hours Of Operation

- A. It is unlawful for the premises of an adult business, nude entertainment business, outcall services, or nude and seminude dancing agency to remain open to make a sale, or to solicit a sale, a performance, or a service, or where otherwise allowed, permit patrons on the premises, between the hours of one a.m. and eight a.m. of any day. The operating hours for seminude dancing bars shall be governed by the provisions of Chapter 6.10 of this code.
- B. It is unlawful for any employee of a nude entertainment business, adult theater, seminude dancing bar, or nude and seminude dancing agency to engage in a performance between the hours of one a.m. and ten a.m. of any day.

5.18.350 Violation—Injunction When

An entity or individual who operates or causes to be operated a sexually oriented business without a valid license, or operates such business or employs or is employed in such business in violation of the provisions of this chapter, is subject to a suit for injunction in addition to any civil and criminal violations provided herein and any other remedy available at law or in equity.

Commented [LW21]: Other cities say 2:00 a.m. to 6:00 a.m. Policy question.

5.18.360 Violation—License Suspension Or Revocation—Appeals

- A. In addition to the grounds for suspension or revocation set forth in Chapter 5.02, every sexually oriented business license or sexually oriented business employee license may be revoked or suspended for any violation of this chapter.
- B. Decisions to revoke or suspend a sexually oriented business license, or of a sexually oriented business employee license, shall be made in accordance with the procedures established in Sections 5.07.020 and 5.07.030 of this title.
- C. Any appeal of the suspension or revocation of a sexually oriented business license, or of a sexually oriented business employee license, shall be heard by the license official pursuant to Sections 5.02.140 through 5.02.180.

5.18.370 Effect Of License Suspension And Revocation

- A. If a sexually oriented business license issued pursuant to this chapter is suspended, all operations within the licensed establishment shall cease for the period of the suspension, and no other person shall be allowed to operate at that location during the suspension period.
- B. When a license issued pursuant to this chapter is revoked, the revocation shall continue for one year from its effective date, and the licensee shall not be issued a sexually oriented business or employee license for one year from the date of such revocation.
- C. The premises may be re-licensed for a business activity during the one-year revocation, but no other sexually oriented business license shall be issued for the premises during the period of revocation.

5.18.380 Violation—Penalty

- A. In addition to revocation or suspension of a license as provided in this chapter, each violation of this chapter shall, upon citation by the license official, require the sexually oriented business licensee or sexually oriented business employee to pay a civil penalty in the amount of five hundred dollars, which shall be in addition to any other administrative sanctions or criminal penalties.
- B. In addition to the civil fines provided in this chapter, the violation of any provision of this chapter shall be a Class B misdemeanor unless otherwise provided in Utah Code § 10-8-41.5.
- C. Each day of a violation shall be considered a separate offense.

5.18.390 Severability

If any provision or clause of this chapter or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other sections, provisions, clauses, or applications hereof which can be implemented without the invalid provision, clause, or application hereof. To this end, the provisions and clauses of this chapter are declared to be severable.

CHAPTER 5.19 TOBACCO SPECIALTY BUSINESSES

5.19.010 Definitions

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

- A. “Tobacco specialty business” means a commercial retail establishment that, through signage, floor space allocation, or sales revenue, demonstrates it is substantially engaged in the offer and sale of tobacco products as provided in state code at a minimum. Any one or more of the following factors indicate the operation of a tobacco specialty business:
1. The sale of tobacco products accounts for more than thirty five percent (35%) of the total quarterly gross receipts for the establishment for two (2) successive calendar quarters; to facilitate the City's perception of this factor, a licensee operating a retail sales business that includes the offer of tobacco products shall send to the City's business license official quarterly gross sales information within fifteen (15) business days of the end of each calendar quarter. This quarterly data provision requirement does not apply to businesses already licensed as a tobacco specialty business, or to business locations within which an area is licensed by the state of Utah as a pharmacy;
 2. The name of the business evidences holding oneself out as a tobacco specialty business by using terms, including smoke, smoke shop, smoker, smoking, cigar, vape, vapor, huka, or other words typically used to describe tobacco products.
 3. The allocation of floor or shelf space inside the business is allocated 20% or more to the offer, display, or storage of tobacco products, electronic cigarette products, and nicotine products .
 4. The retail space features a self-service display for tobacco products, electronic cigarette products, or nicotine products.
 5. The commercial establishment holds itself out as a tobacco specialty business and causes a reasonable person to believe the commercial establishment is a retail tobacco specialty business.

Commented [LW22]: These updates conform with Utah Code 10-8-41.6 (2024).

- B. "Tobacco product" means any substance or product as defined in Utah Code Ann. §§ 10-8-41.6 and 76-10-101.

5.19.020 License Required

It is unlawful for any person to operate, conduct, carry on, or maintain a tobacco specialty business without first obtaining from the license official a license to operate a tobacco specialty business and in compliance with proximity requirements, a permit by the local health department, a valid license by the State Tax Commission, and certain effective dates as provided in Utah code 19.030 License—Fees.

The annual fee for a tobacco specialty business shall be as set forth in Section 5.08.040 of this code.

5.19.040 Application And Issuance Restrictions

- A. Each individual applying for a tobacco specialty business license shall:
1. Identify the location, including the street, building, and room number of the place where the applicant proposes to operate a tobacco specialty business.
 2. Submit with the license application an affidavit ensuring that the tobacco specialty business complies with the proximity requirements of Utah law as of the date of the application.
- B. The license official:
1. shall review the application to determine compliance with City zoning ordinances and the proximity requirements set forth in Utah Code Annotated § 10-8-41.6(4).
 2. shall approve or deny the application, in compliance with Sections 5.02.010 through 5.02.140; and
 3. may not approve a business license or tobacco specialty business license to any applicant who does not meet the proximity requirements.
- C. Any appeal of a licensing decision by the license official shall be heard in accordance with the provisions of Sections 5.02.140 through 5.02.180.

5.19.050 License—Display Required

Every tobacco specialty business licensed under this chapter shall display its tobacco specialty business license in a conspicuous place on the premises.

5.19.060 Unlawful Conduct And Activities

- A. In addition to the restrictions and limitations contained in this chapter, and as set forth under state law, a licensee under this chapter may not:
1. Engage in a pattern of unlawful activity as provided under Utah state law;
 2. Violate the regulations restricting the sale and distribution of cigarettes and smokeless tobacco to protect children and adolescents issued by the United States Food and Drug Administration, 21 C.F.R. Part 1140; or
 3. Engage in any act prohibited by the provisions of the Utah Controlled Substances Act, the Imitation Controlled Substances Act, the Utah Controlled Substance Precursor Act, the Clandestine Drug Lab Act, or any other provision of law, whether federal, state, or local, providing for the prohibition or regulation of activities related to the sale or consumption of controlled substances or imitation controlled substances.
- B. The license official shall work with the City licensing official and local law enforcement to enforce the provisions of this section.

5.19.070 Revocation And Suspension Decisions—Appeals

- A. In addition to the grounds for suspension or revocation as provided in Chapter 5.07, every tobacco specialty business license issued by the license official may be revoked or suspended for any violation of this chapter.
- B. Issues regarding revocation or suspension of a tobacco specialty license shall be heard and decided in accordance with the procedures established in Section 5.07.020 through 5.07.030 of this title.
- C. Appeals of decisions to revoke or suspend a tobacco specialty license shall be heard by the administrative law judge in accordance with procedures established in Sections 5.02.140 through 5.02.180.

CHAPTER 5.20 MOBILE FOOD BUSINESSES

5.20.010 Purpose And Intent

It is the purpose and intent of this chapter to provide companies and individuals who engage in the operation of mobile food businesses with clear and concise regulations to prevent safety, traffic, and health hazards and to preserve the peace, safety, and welfare of the community.

5.20.020 Definitions

- A. For the purposes of this chapter, the following definitions in compliance with state code shall apply:
1. "**Mobile food business**" means a self-contained food service operation, in a vehicle, trailer, food cart, food truck, or an ice cream truck, used to enclose, store, prepare, display, or serve food intended for individual portion service.
 2. "**Mobile food trailer**" means a mobile food business that serves food or beverages from a nonmotorized vehicle that is normally pulled behind a motorized vehicle but may be pulled by an electric assisted bicycle if a food cart.
 3. "**Mobile food truck**" means a mobile food business that serves food or beverages from an enclosed self-contained motorized vehicle.

5.20.030 Mobile Food Business Allowed

- A. A person may not operate a mobile food business without first having obtained a business license from the license official in compliance with Chapter 5.02 of this title.
- B. A mobile food business may operate in any zone that allows a restaurant to operate if in compliance with the provisions of this chapter.
- C. This chapter does not apply to seasonal farm stands and other temporary merchants or uses that are specifically authorized by this title or other City ordinances.

5.20.040 Application For A Business License

- A. Prior to the commencement of a mobile food business, the applicant shall submit the following information:
1. Name and address of applicant.
 2. Name and address of the approved commercial supply source and primary licensed food establishment, if applicable.
 3. Verification of a completed background check on owner and driver.
 4. License plate number.
 5. A description of the preparation methods and food product offered for sale, including the intended menu, display, and distribution containers.
 6. A description of the vehicle to be used in conducting business, and a description of any method to display food or products to be offered for sale.
 7. The anticipated volume of food to be stored, prepared, and sold.

8. A valid copy of all necessary licenses or permits required by state or local health and transportation authorities, including fire safety inspection certificate if applicable.
9. A certificate of insurance produced by an insurance company or association authorized to sell insurance in Utah, on standard ACORD forms or forms approved as to form by the City's attorney, evidencing that the applicant has active insurance policies as required herein in full force and effect at the time of the application. The applicant shall purchase and maintain commercial auto insurance and commercial general liability insurance, or a business owners policy (BOP) that includes auto liability, with coverage limits not less than the amounts required by Utah law. The policy shall include coverage of all motor vehicles used in connection with applicant's business. A current certificate of insurance shall be kept on file with the license official at all times verifying that applicant is licensed in the City, verifying such continuing coverage and naming the City as an additional insured. The certificate shall contain a statement that the license official and City will be given written notification at least thirty (30) days prior to cancellation or material change in the coverage, without reservation of non-liability for failure to so notify the license official and City. Cancellation shall constitute grounds for revocation of the license issued hereunder unless another insurance policy complying herewith is provided and is in effect at the time of cancellation/termination.
10. A signed statement that the licensee shall hold the City and its officers and employees harmless from any and all liability and shall indemnify the City and its officers and employees for any claims for damage to property or injury to persons arising from any activity carried on under the business license, health or transportation permit, or fire safety inspection certificate if applicable.
11. The written consent of the property or business owner to operate at the proposed location.

5.20.050 Separate Applications

Separate business license applications are required for each mobile food business, including each separate mobile food business vehicle operating under a shared business name. The City shall recognize as valid the business license obtained in another political subdivision within the state, if the business license is current and in good standing.

5.20.060 Fees: Annual Operation

A license may not be issued or renewed unless the holder thereof has paid an annual business regulatory fee as provided in Section 5.08.040 for each mobile food business.

5.20.070 Business Activity To Be Temporary

All business activity related to mobile food businesses shall be of a temporary nature, the duration of which shall not extend for more than twelve hours within a twenty-four-hour period at any one premises or location.

5.20.080 Design And Operation Guidelines

Mobile food businesses shall comply with the following design requirements:

- A. Mobile food businesses shall be designed to meet all applicable Salt Lake County Health Department requirements relating to the handling and distribution of food.
- B. The mobile food business shall not have a drive-through.
- C. Mobile food businesses shall be kept in good operating condition with no peeling paint or rust visible.
- D. A mobile food business may not operate in the public right-of-way except by special event permit issued by the license official as set forth in Section 5.20.120.
- E. A mobile food business may not operate within two hundred feet of a door to a restaurant, other mobile food business, or license official-authorized special event selling food, except:
 - 1. If the restaurant proprietor or vendor consents in writing to waive the spacing requirement, the City may waive the spacing requirement if the application is submitted with the written consent on a form considered appropriate by the license official. The waiver may not exempt the applicant from compliance with any other location and distance restrictions of this chapter; or,
 - 2. If the mobile food businesses is operating under an approved "mobile food court" or an approved special event permit that is exempt from the spacing requirement.
- F. All grounds utilized by a mobile food business shall at all times be maintained in a clean and attractive condition.
- G. The mobile food business shall provide trash and recycling containers for use by the business patrons.
- H. The mobile food businesses are encouraged to source local products when available.
- I. The mobile food business shall integrate any enclosures or canopy extensions into the design of the mobile food business vehicle and may not project onto the public sidewalk or any other part of the public right-of-way not authorized by the City transportation engineering manager.

5.20.090 Signs

A sign may not be used to advertise the conduct of the mobile food business at the premises other than the sign that is physically attached to the vehicle.

5.20.100 Professional And Personal Services Prohibited

The performance of professional or personal services may not be sold from a mobile food truck.

5.20.110 Compliance Responsibility

The licensee shall comply with the provisions of this chapter, whether the licensee pays salary, wages, or any other form of compensation to drivers.

5.20.120 Special Events

The restrictions of this chapter notwithstanding, the license official may authorize mobile food businesses, other than those licensed under this chapter, to conduct vending operations within the public right-of-way or such other areas as the license official may consider appropriate during special events ("special event vendors") pursuant to the special event ordinance, City policy, or executive order if applicable. If the public right-of-way remains open to the general public during a special event, the mobile food business licensee may still operate within the licensee's designated and permitted operating location or a mutually acceptable adjacent alternative location during such special event, unless otherwise prohibited under the City's ordinances. If the City is closing a public right-of-way to general access, either partially or fully, in order to accommodate a special event, the mobile food business may not access that right-of-way unless specifically authorized by the City.

CHAPTER 5.21 AMUSEMENT DEVICES AND VENDING MACHINES

5.21.010 Applicability

Chapter 5.21 shall apply to any license application filed after March 1, 2020.

5.21.020 License Requirements and Procedures

- A. Except as otherwise provided in Chapter 5.21, the owner or operator of an amusement device or vending machine shall comply with the requirements and procedures of Title 5.
- B. A business license is required for any amusement device or vending machine. The owner or operator of an amusement device or vending machine shall obtain a business license before an amusement device or vending machine may be operated. If an amusement device or vending machine is to be located within another business, the business owner or operator

shall obtain the license for the amusement device or vending machine in addition to the business license issued for the underlying business, provided:

1. Only one application and business license shall be required for amusement devices and vending machines operated in the same location that are substantially similar in nature and operation; and
 2. Only one application and business license shall be required for an amusement facility.
- C. An owner or operator of an amusement device or vending machine shall: 1. obtain and maintain a sales tax identification number for each amusement device or vending machine from the Utah State Tax Commission and provide the sales tax identification number to the license official; or 2. provide the license official a document in writing from the Utah State Tax Commission that states that the amusement device or vending machine is exempt from sales tax.
- D. The license official may require only one sales tax identification number for multiple amusement devices or vending machines operated in the same location if the amusement devices or vending machines are substantially similar in nature and in operation.
- E. The license official may authorize the installation of an amusement device or vending machine in writing prior to the issuance of a business license to allow for inspections to ensure that the amusement device or vending machine complies with applicable laws, regulations, and ordinances. An amusement device or vending machine may not be installed without the prior written authorization of the license official and authorization to install an amusement device or vending machine for inspection purposes does not constitute a business license. The amusement device or vending machine may only be operated temporarily for the purposes of any required inspections. If the license official denies an application after authorizing the installation of an amusement device or vending machine, the applicant shall remove the amusement device or vending machine at the applicant's sole cost and expense as soon as is reasonably practicable following the denial.

CHAPTER 5.22 TOWING SERVICES

5.22.010 Definitions

- A. For the purposes of this chapter, the following definitions shall apply:
1. "Nonconsent Nonpolice Generated Tow" means towing services from private property performed without the prior consent or knowledge of the owner of the vehicle or the person authorized by the owner to operate the vehicle. The tow

truck service may occur only e from the private property at the request of the property landowner or agent for the landowner.

2. "Tow Lot" An area reserved for storage of vehicles that have been removed by a tow truck.
3. "Tow Truck" means a motor vehicle constructed, designed, altered, or equipped primarily for the purpose of towing or removing damaged, disabled, abandoned, seized, repossessed, or impounded vehicles from a highway or other place by means of a crane, hoist, towbar, towline, dolly tilt bed, or other similar means of vehicle transfer without its own power or control.
4. "Tow Truck Motor Carrier" means any company that provides or performs for hire, private, salvage, or repossession towing services.
5. "Vehicle Immobilizer" means a person or entity that uses or causes to be used a vehicle immobilization device for the purpose of enforcing parking restrictions with prior authorization from the owner or person in lawful possession or control of the real property.

5.22.020 License Requirements

- A. License Required: To the extent allowed under Utah Code § 72-9-604, a person may not operate as a tow truck motor carrier, vehicle immobilizer, or a tow lot within the City without obtaining a license pursuant to this section and state code. The license shall be required in addition to any other City business license, if towing services are not the primary business activity, except:
 1. If a tow truck motor carrier or vehicle immobilizer has a county or municipal license for a place of business in another Utah county or municipality unless there is also a business location in Kearns.
 2. If the towing services are without charge or fee for other vehicles owned or operated by an organization furnishing the tow service.
- B. License: The license official shall issue a license upon application to the license official and upon sufficient showing that:
 1. A tow lot for storage of vehicles removed by a tow truck is within an enclosed building or completely enclosed by a fence of at least six feet (6') in height and properly secured so as to minimize the hazard of theft and vandalism;
 2. Each tow truck is properly equipped and inspected as required by state law and administrative rules, as demonstrated by a current authorized towing certificate;

3. Each driver of a tow truck motor carrier has a current authorized towing certificate as required by state law and administrative rules; and
 4. All fee schedules are consistent with state law and administrative rules.
- C. Nonconsent, Nonpolice Generated Tows: The property landowner or agent of the landowner shall make the request for any nonconsent, nonpolice generated tow from private property or immobilization..
1. A nonconsent, nonpolice generated tow from private property or immobilization is permitted only when:
 - a. Signage is present as required by state law in a mobile home park or multi-family dwelling parking lot of more than eight (8) units; or
 - b. In any other parking area:
 - i. There is clear marking that the property is a "No parking area," restricted parking space, or visitor parking space, if any, ; and
 - ii. A conspicuous sign is posted at, or immediately adjacent to, each entrance to the property that provides notice that unauthorized vehicles may be immobilized or towed from the parking lot. The sign shall be at least eighteen inches by twenty four inches (18" x 24") in size, include the name and telephone number of the business authorized to conduct parking enforcement on the property, be clearly visible after dark with lighting or reflectorized lettering, and no less than four feet (4') or more than seven feet (7') above ground level.
- D. Regardless of signage, a vehicle may be towed if it is parked in the driveway or in the easement of ingress and egress to a dwelling used for residential purposes or is parked on the private property owner's or custodian's grass or other landscaped space, and it is determined that the vehicle operator is not in the vehicle and is not an invitee of the owner or legal occupant of the real property having a right to use said driveway or easement.
- E. Violation: Any violation of the provisions of this section, state law or administrative rule governing towing or immobilization services may be grounds for denial, suspension, or revocation of any business license applied for or issued under this section, consistent with other provisions of this chapter.
- F. No Towing Authorization: Nothing in this chapter may be construed to authorize the towing or immobilization or make any towing or immobilization of a vehicle legal where such would otherwise be illegal, whether criminally or civilly.

CHAPTER 5.23 RETAIL FIREWORKS SALES

5.23.010 Definitions

- A. For the purposes of this chapter, the following definitions shall apply:
1. “Building” means an enclosed structure with a roof, which is intended for use or is used by human beings.
 2. “Fireworks” is defined in Utah Code Annotated Section 53-7-202, as amended.
 3. “Retail Fireworks Outlet” means any person, corporation, partnership or other entity which sells fireworks to any member or members of the public.
 4. “Temporary Fireworks Stand” means a stand, trailer, tent, or other non-permanent structure used for the sale of division 1.4G common state approved explosives.

Commented [LW23]: Utah Code 53-7-225 (2025) supersedes any other state code provision regarding the sale and discharge of fireworks and updates the description of Class C to division 1.4G common state approved explosives.

5.23.020 Sales Without License Prohibited

- A. Owner Of Outlet: The owner of a retail fireworks outlet shall be guilty of a class B misdemeanor if any person sells a firework from the inventory of such outlet when such outlet does not hold a valid license permitting operation of a retail fireworks outlet.
- B. Salespersons: Any person selling a firework at retail from an outlet which does not hold a valid license permitting operation of a retail fireworks outlet shall be guilty of a separate class B misdemeanor.
- C. Separate Offenses: For purposes of subsections A and B of this section, each act of selling at a particular time and to a particular customer shall constitute a separate offense.

5.23.030 Outlet License Requirements

- A. The license official shall issue a license permitting operation of a retail fireworks outlet to any person who fulfills all of the application requirements.
- B. Application: The licensee shall complete and sign an application on forms provided by the license official.
- C. Stand Design: The stand shall be of sturdy but temporary construction, having a roof, and enclosing no more than two hundred (200) square feet. The greatest nondiagonal dimension of the stand shall not exceed twenty four feet (24'). The stand shall have at least two (2) doors which open outward and which measure at least three feet (3') wide by six feet eight inches (6'8") high. The stand shall also have an interior aisle running the entire length of the stand and from one door to the other, which must be kept free of any obstructions.

D. Distances: The retail fireworks outlet shall be located at the following minimum distances from the buildings or items named:

1. At least one hundred feet (100') from any school building, healthcare institution, church or other building used primarily for religious services, gasoline filling station, or any building or site where flammable liquid is stored or present;
2. Fifty feet (50') from any other building;
3. One hundred feet (100') from any other retail fireworks outlet stand;
4. Twenty feet (20') from any boundary dividing tracts of land owned in fee by different persons, unless the adjacent owner gives written permission to locate the stand nearer to the boundary and an executed original of such permission is furnished to the City.

E. Firefighting Equipment: The retail fireworks outlet shall have, within easy reach inside the stand, two (2) or more fire extinguishers with a combined rating of at least 2A:10-B:C.

F. Zoning: The retail fireworks outlet must conform to the applicable provisions of this code, including, but not limited to, the setback and sign requirements.

G. Storage: The owner or operator shall notify the City fire marshal of where the division 1.4G common state approved explosives are to be stored. The City fire marshal shall approve the storage site and may use the guidelines in the administrative rules adopted pursuant to the Utah fireworks act.

H. Insurability: The owner or operator must show evidence of insurability in types and amounts satisfactory to the City risk manager.

I. Inspection: Designated City staff shall inspect the retail fireworks outlet prior to issuance of a license but after such outlet has been made ready for operation, and shall examine such outlet for conformity with this section.

J. Fee: The owner or operator of the retail fireworks outlet shall pay to the City a fee set by resolution of the Council in the City fee schedule, which shall not be refundable for any reason. This fee must be received by the City before the retail fireworks outlet is inspected by the City for compliance with this section.

5.23.040 Revocation

A. Grounds; Outlet License: A license issued pursuant to Section 5.23.030 of this chapter may be revoked by the business licensing official or police chief for any of the following reasons:

1. Failure of the licensee to maintain the retail fireworks outlet in conformity with the requirements of Section 5.23.030 of this chapter for issuance of a license;
 2. Misrepresentation by the person signing the application described in subsection 5.23.030A of this chapter;
 3. Failure by the licensee to conform to statements made in the application described in subsection 5.23.030A of this chapter;
 4. A violation of the Utah fireworks act or administrative rules issued pursuant to the Utah fireworks act;
 5. The failure to remove the stand within five (5) days after any sale period authorized by state law.
- B. Procedure: City officials may inspect any retail fireworks outlet. If grounds are discovered for revocation of a license issued pursuant to this chapter, the business license official shall immediately give written notice of license revocation to the holders of the license revoked, and shall note such revocation on the records of the City.
- C. Reissuance Of License: Upon full compliance with the applicable requirements, the business license official may reissue a license to a person whose license has been revoked.
- D. Appeal: A person whose license has been revoked may appeal the revocation to the Council by filing written notice of appeal with the license official, who shall promptly schedule a hearing before the administrative law judge upon receipt of such notice to affirm or reverse the revocation of the license.

CHAPTER 5.24 PAWNBROKERS, SECONDHAND MERCHANDISE DEALERS, CATALYTIC CONVERTER OPERATIONS, SECONDARY METALS DEALERS OR RECYCLERS, AND SIMILAR BUSINESSES

5.24.010 Definitions

For the purposes of this chapter, the definitions as provided in Utah Code § 13-32-102 shall apply.

5.24.020 License Required; Application; Fees

- A. Required:
1. It is unlawful for any person to carry on the business of pawnbroker, secondhand merchandise dealer, catalytic converter operations, secondary metals dealers or recyclers, and similar businesses without first obtaining a license to operate in

compliance with this chapter. The City shall require a separate license for each location and for the conduct of business by each dealer;

2. If, during the license year, there is a change in the information that the applicant provided in the license application or renewal application, , the licensee shall report the change in writing to the business licensing official within thirty (30) days after the change occurs and certify that the information is true and correct under the penalties of perjury.

B. Application For License:

1. The applicant shall complete the license application or renewal form prepared by the business licensing official, and certify that the information given is true and correct under the penalties of perjury;
2. The applicant for a dealer's license shall provide any necessary information required by the chief of police and the business licensing official, including a statement that the applicant authorizes the police department or any other law enforcement agency to inspect the books, records, inventory, or premises of the business during normal business hours;
3. Only individuals may apply for a license under this chapter:
 - a. If the applicant submits an application for a license for a corporation or a limited partnership, the City license official may issue the license to the president of the corporation or members of the partnership only who are authorized to act for it;
 - b. If the applicant submits an application for a partnership, the City license official may issue the license to all of the partners who are authorized to act for the partnership. If any partner is a corporation or a limited partnership, the application shall be made by and issued to the president of the corporation or to an individual as general partner for the limited partnership;
 - c. Any individual who applies for a license under this chapter shall assume all responsibilities of the dealer and is subject to any conditions, restrictions, or requirements imposed on dealers;
4. The police department shall conduct a background investigation on the applicant, recommend a favorable consideration of the applicant, and approve the application prior to issuance of the license. An applicant may not be authorized to conduct any business until the license official approves the and the applicant

has complied with any other licensing and bonding provisions contained in this chapter.

- C. Fees: The license fee for each of the occupations regulated by this chapter shall be established by resolution of the Council.

5.24.030 Business Location; Supplemental License

- A. Business Location: A dealer, including a pawnbroker, secondhand merchandizer, antiques dealer, automated recycling kiosk operator, or catalytic converter purchaser, may conduct the licensed business only from the fixed permanent location identified in the license application. The fixed permanent location may not be a motel or hotel room generally used by transients.
- B. Supplemental License: A dealer, including a pawnbroker, secondhand merchandizer, antiques dealer, automated recycling kiosk operator, or catalytic converter purchaser, may not remove or relocate the location specified in the license for the business or open any additional location unless the person has applied for and obtained a supplemental license from the business licensing official.

5.24.040 Zoning, Location, And Signage Restrictions

- A. Zoning Restrictions: It is unlawful for any business licensed under this chapter to do business at any location within the City not zoned for such business.
- B. Restrictions On Businesses: Any business licensed under this chapter may not operate as a home occupation; or locate:
 - 1. Closer than one thousand (1,000) feet to another business licensed under this chapter, as measured in a straight line between the closest property line of the lots on which they are located; and
 - 2. Within three hundred (300) feet of any property boundary of a community location, defined to include a private or public school, church, public library, public playground, or park, as measured from the nearest entrance of the business along the shortest route of either ordinary pedestrian traffic, or if applicable, vehicular travel along public thoroughfares, whichever is the closer, within one hundred (100) feet of any property boundary, measured in a straight line from the nearest entrance of the business to the community location.
- C. Signage Restrictions. Notwithstanding any other signage provisions in this code, the City shall enforce the most restrictive signage requirements. Signs for pawnbroker businesses shall be limited as follows:

Commented [LW24]: Why so restrictive? Policy question? Do the sign ordinances for Kearns incorporate these restrictions?

Commented [NB25R24]: We also have new sign requirements in Title 19 that may negate the need for this section.

1. No more than one exterior monument sign;
2. No pole sign;
3. No sign that exceeds thirty two (32) square feet;
4. No animation on or around any sign, the exterior walls, or roof of such premises;
5. No descriptive art or designs depicting any activity related to, or inferring, the nature of the business. and signs may contain alphanumeric copy only;
6. Only flat signs may be permitted;
7. No painted wall advertising; and
8. Except for signs specifically allowed by this chapter, no temporary sign, banner, light, or other device designed to draw attention to the business or its location.

5.24.050 License Bond

The applicant for a license shall post a cash or satisfaction corporate surety bond, with the license official in compliance with this chapter and in a form acceptable to the City, payable to the City in the amount of \$2,500.00. The City shall assess any criminal or civil fine against the business, officers, or managers for a violation of City ordinances and the fines shall be paid through this bond if not paid in cash within 10 days after notice of the fine. If an appeal is filed as provided by this chapter, the fine may not be collected until the appeal is resolved. If funds are drawn against the cash or surety bond to pay the fine, the licensee shall replenish the bond to \$2,500.00 within 15 days of the date of notice of any draw against it.

5.24.060 Grounds For Refusal, Suspension, Or Revocation Of License

The City may refuse to grant a license under this chapter and may suspend, revoke, or refuse to renew the license of any person if it finds:

- A. The person has violated or is attempting to violate any provision of this chapter;
- B. A similar license issued to the person has been suspended, revoked or refused in another jurisdiction for a reason which would justify such an action under this chapter.
- C. Any officer, manager, agent, or employee of the individual or dealer has violated or is attempting to violate any provisions of this chapter unless the individual or dealer:
 1. Had no knowledge of the wrongful conduct and in the exercise of reasonable diligence could not have known of the conduct; and
 2. Was unable to prevent the violation or attempted violation with the exercise of reasonable diligence; or

- D. The person or dealer has been convicted of theft or receiving stolen property on one or more occasions within the past 5 years.

5.24.070 Compliance With State Law

All businesses licensed under this chapter shall comply with the Utah Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act, Utah Code, Title 13, Chapter 32a, including the statutory requirements for recordkeeping, customer fingerprinting, database entry, and holding periods. Consistent with Utah Code §§ 13-32a-102.5 and 13-32a-110, the City may enforce the criminal and civil provisions of this chapter.

5.24.080 False Statements

Any dealer who, in making his or her statement as contemplated in this chapter in selling, offering, or trying to sell any item identified in this chapter, willfully makes a false statement or gives untrue information, shall be guilty of a class B misdemeanor.

5.24.090 Reporting Stolen Items

Reporting Of Stolen or Lost Goods: The licensee shall report to the police department any information about an article that was stolen or lost and found by the person attempting to pledge it or sell it or pledged with or sold, pawned or deposited with the licensee, if the licensee has reason to believe that the article was stolen or lost.

5.24.100 Dealers And Premises; General Regulations

- A. Proscribed Sellers: It is unlawful for any licensee under this chapter, his or her agent, servants, or employees to receive or purchase any goods, articles, or things in pawn, pledge or sale from a person who is intoxicated, obviously mentally deficient, or under the age of 18 years.
- B. Employees: It is unlawful for any licensee under this chapter to employ any person under the age of 18 years to receive any pledge or make any loan.
- C. Licensee Responsible For Acts Of Employees: The holder of a license under this chapter is liable for any acts or violations of this chapter by the licensee's employees .
- D. Barrier Required Around Open Storage: It is unlawful for the owner or person having control of any lot, yard, or any other premises within the City limits to keep, collect, permit, maintain, or store in the open thereon, any secondhand merchandise, good, or ware, without enclosing the lot, yard, or premises with a solid visual barrier not less than 7 feet high and maintaining the barrier in a good condition.
- E. Secondhand Merchandise Dealers; Restrictions: It is unlawful for any licensee under this chapter as a secondhand merchandise dealer to purchase, barter, exchange, or sell any

secondhand merchandise other than the same type and character of secondhand merchandise which is the licensee's principal business.

- F. Ordinance Posted: It is unlawful for any person to conduct or transact any business licensed under this chapter unless the licensee shall keep a copy of this chapter conspicuously posted in the place of business.
- G. Hours: It is unlawful for any licensee under this chapter to receive or purchase any goods in trade, pawn, or pledge or to sell or otherwise dispose of any goods or materials or to keep his or her place of business open before 7:00 a.m. or after 7:00 p.m. of any day including Sunday.
- H. Connection With Other Business: It is unlawful for any licensee under this chapter to keep or maintain in the same room or rooms with any other business unless prior approval of the business licensing official has been obtained. If a partition wall is permitted to separate the licensee's business from any other business, the partition wall shall be of solid material with any connecting doors or other openings securely closed and locked at all times. Gratings, lattice, or similar openwork or contrivance is not a sufficient partition under the provisions of this chapter. Any patron shall enter and take exit from licensee's places of business through outside doors and entrances.
- I. Serial Number; Owner's Personal Identification Mark: No business licensed pursuant to this chapter shall receive any item which has obviously had the manufacturer's serial number or an owner's personal identification mark altered, defaced, or mutilated or removed.

TITLE 6. FOOD AND BEVERAGE CONTROL PROVISIONS – INCORPORATION BY REFERENCE

1.01.01 Food and Food Service Establishments

- A. The Food and Beverage Control ordinances are hereby incorporated in their entirety, including Chapters 6.02, 6.04, 6.06, 6.08, 6.12, 6.14, 6.16, 6.18, 6.20, 6.22, 6.24, as adopted and amended by Salt Lake County and Kearns, and as amended or superseded from time to time, including the provisions of the Salt Lake County Health Department, Health Regulations, as adopted by the Salt Lake County Health Department Board of Health pursuant to Utah Code § 26A-1-121, and the administrative rules adopted by the Utah Department of Agriculture.
- B. Any provision regulating food and beverages in Kearns shall be governed by Title 6 of Salt Lake County Code and any other state or federal laws or regulations. 1.01.01

C. Three copies of the current regulations shall be filed with and maintained by the county clerk and with the health department for examination by any person.

6.01.020 Violation—Penalty

Any violation of the health regulations in the City’s Title 6 shall constitute a Class B misdemeanor, unless provided otherwise. Each day such violation is permitted to continue shall constitute a separate offense.

6.10.030 Alcoholic Beverage – Incorporation By Reference

The Alcoholic Beverages ordinances, Chapter 6.10, adopted by Salt Lake County and Kearns, as amended or superseded from time to time, are hereby adopted by reference, including sections 6.10.020 through 6.10.220, and made part of this code as if fully set out at length herein. The alcoholic and beverage control provisions enacted by the State Legislature in Utah Code, Title 32B, Chapter 5, Alcoholic Beverage Control Act, as amended, including the policy language in Utah Code § 32B-1-103, and the administrative rules adopted by the Utah Department of Alcoholic Beverage Services, have preempted the field and shall govern Kearns. Pursuant to the authority of the state’s police power, any state code provision regulating retail licensure of alcoholic beverages in Kearns shall be governed by state law. Any violation of Kearns Code regarding licensure and permits may be applied as an additional remedy to achieve compliance.

DRAFT

TITLE 7 RISK MANAGEMENT - EMERGENCY MANAGEMENT

Commented [LWB26]: This is an optional code section for Kearns. South Jordan has this program.

7.01.010: Purpose

The title provides the framework for the operation of the City risk management program contained in the City "risk management policies and procedures" formulated and promulgated by the Council. These policies and procedures are designed to:

- A. Set forth the policy objectives of the City relating to risk management and to establish an orderly process and program for managing the risks of the City.
- B. Establish, to the extent practical, a safe work environment in which employees of the City and members of the general public, exercising reasonable care, may use in safety and security.
- C. Preserve the City's financial and public service capabilities from serious loss, destruction or depletion.
- D. Minimize the long term cost to the City due to accidental losses and their consequences by providing for the identification, measurement, prevention, and control of risks.
- E. Create a system of internal procedures providing a continuing reassessment of exposure to loss, loss bearing capacity, and available financial resources to protect against such losses.

7.01.020: Responsibility

Any City employee shall comply with the risk management policies and procedures. Council members, acting as department heads, shall quarterly review department matters to assess compliance with risk management policies and procedures.

7.01.030: Council Review

The risk management policies and procedures may be reviewed by the Council if considered necessary. The City may amend the risk management policies and procedures based on periodic reviews by City staff or at the direction of the Council.

7.01.040: Risk Manager

The Mayor or Mayor's designee is hereby designated as the City risk manager. The Mayor shall:

- A. Administer the City risk management program.
- B. Identify risk exposure areas, evaluate such risks and take such actions and make recommendations as may be necessary to provide for avoidance, prevention, transfer, or retention of all risk to the City.
- C. Coordinate activities of the City insurance carriers.

- D. Provide loss control guidance to senior staff and other employees as needed.
- E. Investigate claims and lawsuits.
- F. Maintain necessary records of insurance in force, losses incurred, and any other records necessary for the efficient and effective management of the City risk management program.

7.02.010: Comprehensive Emergency Management Plan

The City shall utilize the Greater Salt Lake Municipal Services District’s Comprehensive Emergency Management Plan (“CEMP”) as the emergency operations plans for Kearns, including its designations of an alert plan and alert system.

7.03.010: National Incident Management System

The City adopts the National Incident Management System (“NIMS”) as a framework to integrate and coordinate the emergency response and recovery actions of all levels of government in Kearns.

TITLE 8 – ANIMALS

CHAPTER 8.01 DEFINITIONS

8.01.010 Definitions.

As used in Chapter 8 the following terms shall have the definitions provided herein.

- A. "Abandonment" means placing an animal in an environment where the animal is separated from basic needs such as food, water, shelter, or necessary medical attention, for a period longer than twenty-four hours or intentionally, knowingly, recklessly, or negligently depositing, leaving, or dropping off any live animal with no apparent intent to return for such animal. Abandonment includes failure to reclaim an animal seventy-two hours beyond the time agreed upon with a veterinary clinic, commercial establishment, or similar facility. Abandonment includes failure to reclaim a pet from an animal shelter beyond seventy-two hours of notification or refusal to sign relinquishment authorization. Abandoned animals will be considered unclaimed stray animals subject to the statutory stray wait period for the purposes of this title.
- B. "Adequate fencing for livestock" means, at a minimum, mesh, barbed wire, chain link, rail or post fencing, or metal fence panels.
- C. "Adequate space" means that the animal is able to easily stand up, sit down, turn around, lay down, and make all normal bodily movements and interact safely with the environment and with other animals that may be in the immediate area.
- D. "Animal" means every nonhuman species, both domestic and wild.
- E. "Animal control officer" means any person designated by the state of Utah as a peace officer as defined in Section 53-13-101 et seq., Utah Code Annotated (1953), as amended; or otherwise designated by a municipal government as an officer who is authorized by law to perform the duties specified by this title.

Commented [NB27]: This title is based on the most recent animal services title in SLCo’s code, which I believe was adopted to include comments provided by Kearns and the other communities the division serves. Further direction from the Council is needed regarding how much of this code it would like to retain or revise given the need for Animal Services to maintain consistency across jurisdictions.

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- F. "Animal exhibition" means any display of event, spectacle, act, or contest in which animals are exhibited or used to provide a performance, whether a fee is charged or not.
- G. "Animal grooming parlor" means any commercial establishment maintained for the purpose of offering cosmetologically services for animals.
- H. "Animal husbandry" means proper care, cultivation, and breeding of farm animals primarily for consumption.
- I. "Animal shelter" means any municipal facility owned, operated, or maintained for the care and custody of seized, stray, homeless, quarantined, abandoned, unwanted animals or animals held for the purpose of protective custody under the authority of this title or state law.
- J. "Animal under physical restraint" is any of the following:
1. Any animal under the physical control of its owner or handler having charge, care, custody, or control of the animal, by the means of a leash, tether, or other physical control device or enclosure. A leash or tether shall not exceed six feet in length when in reach of other animals or people and may not be affixed in such a way that such animal could cause harm to itself or others.
 2. Animals upon the real property of their owner, or upon the property of another with prior written permission of the property owner and under direct adult supervision shall be considered under physical restraint, unless the animal is left unattended and unrestrained on an owner's property in such circumstances where any other individual or animal engaged in a normal and expected activity would regularly come into contact with such an animal.
 3. Animals confined in or upon a motorized vehicle shall be considered physically restrained; provided that the animal is not within reach of other animals or people, or in any manner which could cause harm to itself or others.
- K. "At large" or "running at large" means any of the following:
1. Any animal other than a cat, whether licensed or unlicensed, which is not under physical restraint imposed by the owner or handler including, but not limited to, caged, enclosed, or leashed when off the premises of the owner.
 2. If the animal's owner does not possess equipment necessary to physically restrain the animal.
- J. "Attack" means an action or attempted action by an animal which places a person or another animal in danger of imminent bodily harm. Actual contact shall not be required to constitute an attack.
- K. "Bite" means an actual puncture, tear, or abrasion of the skin, inflicted by the teeth of an animal.
- L. "Cat" means any feline of the domesticated type.
- M. "Cattery" means a commercial establishment where cats are boarded, bred, bought, sold, or groomed.

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- N. "Commercial animal establishment" means any pet shop, animal grooming parlor, guard dog location, riding school or stable, zoological park, circus, rodeo, animal exhibition, cattery, kennel or animal breeding or housing facility.
- O. "Commercial dog walker" means a person who charges a fee for caring for or walking dogs for a licensed business, and who undertakes the responsibility of caring for and controlling a dog(s) while in their company.
- P. "Community cat" means any free-roaming, homeless cat.
- Q. "Coop" means a free-standing building for the feeding, watering, and sheltering of fowl.
- R. "Custody" means ownership, possession of, harboring, or exercising control over any animal.
- S. "Dangerous animal" means any animal that is a hazard to the public health and safety by virtue of training, treatment, or physical condition and is defined in the division's written policies.
- T. "Director" means any director or head of any municipal animal services agency within Salt Lake County.
- U. "Division" means any municipal animal services agency within Salt Lake County.
- V. "Dog" means any domesticated *canis familiaris*.
- W. "Domesticated animals" means animals accustomed to living in or about the habitation of man, including but not limited to cats, dogs, ferrets, and livestock. "Domesticated animal," however, shall not include "exotic animals."
- X. "Domestic fowl" means any of a variety of ducks or chickens, but not to include other bird species, unless otherwise permitted by law.
- Y. "Enclosure" means one of the following:
1. For fowl, a fenced or sturdy wire pen containing a coop that allows domestic fowl access to the coop while remaining in an enclosed pen.
 2. For all other animals, any structure of sufficient strength and height to prevent an animal from escaping its primary confines.
- Z. "Euthanasia" means the humane destruction of an animal accomplished by a method approved by the most recent report of the American Veterinary Medical Association Panel on Euthanasia that results in unconsciousness and immediate death, or by a method that causes painless loss of consciousness and death during such loss of consciousness.
- AA. "Exotic animal" means any animal whose native habitat is not indigenous to the North American Continent.
- BB. "Ferret" means any domestic *Mustela putorius* (except the black footed ferret).
- CC. "Guard dog" means any dog that will detect and warn its handler that an intruder is present in or near a commercial area that is being secured.
- DD. "Handler" is any person who has physical control, for example, the charge, care, control, custody, or possession, or responsibility for the same, of an animal at any given time, being a legally responsible adult over the age of eighteen. Any handler may not transfer

responsibility to a minor under the age of eighteen and such handler retains responsibility and liability. At all other times, the "owner" shall be presumed to be the "handler."

EE. "Harboring" is either:

1. Feeding and sheltering an animal for twenty-four consecutive hours or more; or
2. Feeding an animal for two or more consecutive days, excluding free-roaming cats with no discernable identification.

FF. "Holding facility" means any commercial pet shop, kennel, cattery, animal grooming parlor, riding school, stable, animal shelter, veterinary hospital, or any other such facility used for holding animals.

GG. "Humane treatment" means ensuring the provision of appropriate food, human interaction, shelter, care, and protecting any animal from danger, mistreatment, neglect, or abuse. This definition applies to all provisions in this title referring to "humane care," providing a "humane existence," or the like.

HH. "Identification" means a pet license which is attached to the collar or harness of an animal, or other official livestock identification, including, but not limited to ear tags, brands, etc.

II. "Impound" means an animal being taken into custody by an animal control officer, law enforcement agency, or an agent thereof, and may occur outside of an animal services sheltering facility.

JJ. "Interference" or "interfere" means an action that hinders an employee or authorized representative of the division shall include, but not be limited to, failing to hand over to or release an identifiable animal which has been pursued but not captured, failing to make payment of agreed upon fees, failing to meet the agreed upon conditions of a fee waiver, reduction or deferment, knowingly and intentionally failing to comply with an abatement order lawfully issued, or failing to meet the conditions imposed by a notice of violation and stipulation.

KK. "Kennel" means a commercial establishment having three or more dogs for the purpose of boarding, breeding, buying, grooming, letting for hire, training for fee, or selling such dogs.

LL. "Leash" or "lead" means any chain, rope, or device of sufficient strength used to restrain an animal.

MM. "Livestock" means animals kept for husbandry, including but not limited to fowl, rabbits, horses, mules, burros, asses, cattle, sheep, goats, llamas, swine, and other farm, hoofed domesticated animals, excluding dogs, cats, and ferrets.

NN. "Microchip" means electronic identification implanted subcutaneously in an animal and is a secondary form of identification. Each chip has a unique number that is detected using a microchip scanner.

OO. "Nuisance" means any animal or animals that endanger the life or health of other animals or humans, or substantially interfere with any human's enjoyment of life or property under reasonable circumstances, other than their owner's.

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- PP. "Owner" means any person over the age of eighteen, partnership, corporation, or any other type of entity or association having title to, or custody of, or keeping one or more animals. Free-roaming cats and cats with no discernable identification are presumed to be unowned.
- QQ. "Pet" or "companion animal" means any animal of a species that has been domesticated to live in or about the habitation of humans, is dependent on humans for food and shelter and is kept by its owner for pleasure rather than utility and/or commercial purposes.
- RR. "Pet shop" means any commercial establishment containing cages or exhibition pens wherein dogs, cats, birds or other pets, are kept, displayed, and sold.
- SS. "Protective custody" means impounding or receiving an animal into the care of an animal services agency, or an authorized agent or representative thereof, in order to hold the animal as evidence of a violation of the law, or to protect the animal(s) from further threat or danger or absence of care.
- TT. "Provoked" means any deliberate act by a person towards any animal done with the intent to tease torment, abuse, or assault any animal.
- UU. "Quarantine" means the isolation of an animal in an enclosure so that the animal cannot have physical contact with other animals or persons without recognized authority to be near or about the quarantined animal.
- VV. "Redemption" means to return an impounded animal to the owner or caretaker upon collection of all applicable fees, and may occur outside of an animal services sheltering facility.
- WW. "Riding school" or "stable" means an establishment which offers boarding and/or riding instruction for any horse, pony, donkey, mule or burro, or which offers the use of such animals for hire.
- XX. "Shelter" means a structure which is substantial in construction and provides protection from moisture, wind, and other factors of weather, has a roof and a floor, is a minimum of three solid sides, and is of a size appropriate to the particular animal to ensure retention of body heat within the enclosure. Any shelter will be maintained to ensure a clean, dry, healthy environment for the animal being housed.
- YY. "Species subject to rabies" means any species that has been reported to the center for disease control and prevention to have contracted the rabies virus and become a host for that virus.
- ZZ. "Stray" means any animal at large, as defined in this chapter, or any animal that has been abandoned, as defined in this chapter.
- AAA. "Tether" means any chain, rope, cable, or device attached to a fixed object and used for restraining an animal. The tether must be of sufficient strength to restrain the animal and be appropriate to the species, size, and weight of the animal and is attached to the animal by a properly applied collar, halter, or harness configured so as to protect the animal from injury or entanglement with objects or other animals.

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

CCC. "Wild animal" means any animal of a species that in its natural life is usually untamed and undomesticated, including hybrids. Wild animals and wildlife fall under the jurisdiction of the division of wildlife resources. For the purpose of this chapter, animals that are kept commercially or ranched shall not be wild animals.

CHAPTER 8.02 ADMINISTRATION

8.02.010 Division of animal services.

Kearns authorizes the Salt Lake County division of animal services within the Salt Lake County department of public works to provide animal services to Kearns pursuant to this chapter.

8.02.020 Director—Powers and duties.

The division shall be under the direction of a director, who shall:

- A. Enforce this chapter and perform other responsibilities inherent thereto;
- B. Supervise the municipal animal shelter(s) under his/her jurisdiction;
- C. Keep records of all animals impounded in such shelter(s);
- D. Keep accounts of all moneys collected and received and follow the Uniform Fiscal Procedures Act for Counties in accordance therewith in the administration of the division;
- E. Establish, in cooperation with the Salt Lake County Health Department and other interested governmental agencies, measures for the control of, and immunization of animals against, rabies;
- F. Negotiate interlocal cooperation agreements with other interested governmental agencies for the purpose of establishing animal care and control services;
- G. Establish rules and regulations for the training of all persons hired as animal control officers to ensure professional conduct of said persons and compliance with the division's policies and with governing law;
- H. Pursuant to duly adopted policies and procedures, waive or reduce fees and penalties if warranted; and
- I. Pursuant to duly adopted policies and procedures, provide for deferred payments of impound-related fees if warranted.

8.02.030 Director and officers—Enforcement authority.

The director, his/her authorized deputies, assistants, and animal control officers are empowered to apprehend, transport, and impound any animal found in violation of this title, including licensable animals for which no license has been procured in accordance with this title, or any licensed or unlicensed animals for any other violation thereof and issue criminal citations, including misdemeanor and felony charges as permitted by state law, notice of violations, and

stipulation for violations of this title. The director or designee is authorized to retain an animal if public safety may be at risk, or if the safety of the animal is at serious risk.

8.02.040 Animal control officers—Powers and duties.

The director shall employ and designate those employees of his/her division who shall perform the duties of animal control officer. Animal control officers and animal control enforcement officers shall be authorized to enforce this chapter in all respects, including, but not limited to, the apprehension and impoundment of animals found to warrant such action and issue criminal citations, including misdemeanor and felony charges as permitted by state law, and/or notice of violation and stipulation for violations of this title. Such officers shall further carry out all lawful duties prescribed or delegated by the director.

8.02.050 Right of entry for enforcement.

In the enforcement of this title, any peace officer, animal control officer, or the director or his/her assistants are authorized to enter into the open premises of any person to secure or take possession of any animal which is reasonably deemed by such officer to then and there, in the presence of such officer or official, be in violation of this title and issue criminal citations and/or notice of violation and stipulations for violations of this title to the owner or handler of such animal.

8.02.060 Interference prohibited.

It is unlawful for any person to knowingly and intentionally interfere with an employee or authorized representative of the division in the lawful discharge of his/her duties as prescribed in this title. A person in violation of this section shall be subject to a civil notice of violation or referral for prosecution under applicable state laws up to a felony.

CHAPTER 8.03 PERMITS

8.03.010 Procedures.

- A. All applications for permits shall be submitted to the division on a form provided by the division.
- B. Upon submission of an application, the division will verify with the Salt Lake County Health Department, appropriate zoning authority, and appropriate business licensing agency that the applicant is in compliance with applicable rules, regulations, ordinances, and laws.
- C. Each permit issued under this section shall expire one year after it is issued by the division.
- D. Permits issued pursuant to this title are nontransferable, from one animal to another, from one business to another, from one location to another, or from one person to another.
- E. Late applications for the permits required by this section shall be subject to the late fee established by the division.

8.03.020 Permit fees—Expiration—Renewal.

A permit issued pursuant to this chapter shall expire one year after it is issued by the division and shall be renewable upon acceptance by the division of a new application. A permit may only be issued or renewed after the appropriate fee has been paid. Application must be accompanied by the fee established in the permit and fee schedule.

8.03.030 Types of commercial establishments and exemptions.

Commercial establishments permitted by the divisions shall include, but are not limited to, catteries, kennels, pet shops, stables, riding schools, animal grooming parlors, dog walkers, animal exhibitions, guard dogs, and any other commercial animal establishment. Research facilities where bona fide medical or related research is being conducted, veterinary clinics, 501(c)(3) animal welfare shelters, and other animal establishments operated by state or local government, or which are licensed by federal law, are excluded from the permit requirements of Sections 8.03.030 through 8.03.050 of this title.

8.03.040 Commercial permit requirements.

It is unlawful for any person to operate or maintain a commercial holding facility or any similar establishment, except a licensed veterinary hospital or clinic, unless such person first obtains a regulatory permit from the division, in addition to all other required licenses. All applications for permits to operate such establishments shall be submitted, together with the required permit fee, on a form provided by the division. Before the permit is issued, approval must be granted by the Salt Lake County Health Department, appropriate zoning authority and the division.

In addition to obtaining the permit required by this title, applicants and permit-holders shall:

- A. Be operated in such a manner as not to constitute a nuisance;
- B. Provide an isolation area for boarded animals which are sick or diseased, and sufficiently remove so as not to endanger the health of other animals;
- C. Keep all animals properly restrained, enclosed, or under control of the owner(s) or operator(s) of the establishment;
- D. Care for all animals, whether or not owned by the establishment, shall comply with all the requirements of this chapter for the general care of animals;
- E. Comply with all applicable federal, state, and local laws and all regulations respecting commercial establishments which are adopted by the appropriate animal control agency;
- F. Be responsible for determining that dogs, cats, and ferrets are currently vaccinated for rabies prior to accepting the animal from their owners or caretakers and shall maintain a record of such vaccinations for a period of six months. Records shall be subject to inspections by the division personnel.

8.03.050 Permits—Display requirements.

A valid permit shall be posted in a conspicuous place in any establishment for which such permit is required, and such permit shall be considered as appurtenant to the premises. The permittee shall notify the division within thirty days of any change in his/her establishment or operation, which may affect the status of his/her permit. In the event of a change in ownership of the establishment, the permittee shall notify the division immediately.

8.03.060 Additional requirements for specific commercial establishments.

- A. Catteries, kennels, and animal grooming parlors shall retain for a period of one year the name, address, and telephone number of the owner and rabies tag number of each dog or cat boarded.
- B. Pet shops shall also:
 - 1. Not sell animals which are not weaned or so young or weak that their sale poses a serious risk of death or inadequate development to them, and;
 - 2. Not display, offer for sale, deliver, barter, auction, give away, transfer, or sell any live dog, cat, or rabbit in any pet shop, retail business, or other commercial animal establishment, unless the dog, cat, or rabbit was obtained from an animal shelter and maintain a certificate of source for each of the animals.
- C. Commercial dog walkers shall be limited to a maximum of six dogs per person, and shall at all times have complete control over the animals so as to not cause a nuisance to animals or other persons or property, and shall be identifiable as such.
- D. Animal exhibitions shall not allow any animal to be exhibited, paraded, or allowed to participate in a contest which presents conditions that cause physical injury to such animal, or conditions that place spectators at risk of being harmed.
- E. For guard dog permits, conspicuous warning signs shall be posted at each door or gate that gives access to the dog and shall contain wording that advises of imminent injury or even death and provides a telephone number for twenty-four-hour per day access to the dog's owner or handler. Guard dogs shall also be microchipped, and the microchip number shall be registered with the appropriate animal control agency.

8.03.100 Types of residential permits.

Residential permits shall include, but are not limited to, exotic animals, dangerous animals, domestic fowl for non-commercial purposes, watershed, and any other animal-related permit required in areas that are zoned for residential use.

8.03.110 Requirements for residential permits.

In addition to obtaining the permit required by this title, all applicants and permit-holders shall:

- A. Not constitute a nuisance as defined within Chapter 6 of this title;
- B. Demonstrate sufficient knowledge of the species to provide adequate care;

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- C. Present proof of adequate care, sanitizing, and caging appropriate for the species;
 - D. Present proof that the animal poses no threat to the health and safety of the community in the event that the animal should escape;
 - E. Present proof of required state or federal permits, if any, and abide by all division policies; and
 - F. Not allow the animal(s) to be at large or trespass upon the property of another.

8.03.120 Additional requirements for residential permits.

- A. Dangerous animal permits require the following additional:
 - 1. Proof of current homeowners or renter's liability insurance, with no exclusion for animals, in an amount of at least one hundred thousand dollars. Such insurance coverage must be maintained for as long as the owner has the animal and proof thereof shall be provided to the division annually or upon request.
 - 2. The owner shall prominently display a sign on his or her property at all entry points warning that there is a dangerous animal on the property.
 - 3. The animal must be securely confined in accordance with division written policies.
 - 4. A dangerous dog may be off the owner's property or out of its enclosure only if it is muzzled and restrained by a substantial chain or leash not exceeding six feet in length and under the control of a competent adult over the age of eighteen years. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but must prevent it from biting any person or animal.
 - 5. Prior to a dangerous animal being sold or given away, the owner must consult with the division.
 - 6. The owner of a dangerous animal shall immediately notify the appropriate animal control agency when the dangerous animal:
 - a. Is loose or unconfined;
 - b. Has bitten a human being or another animal;
 - c. Is intended to be sold or given away;
 - d. Has died; or
 - e. Has been moved to another address.
- B.1. Domestic fowl.
 - a. Persons may keep domestic fowl on single-family residential or duplex lots, only with the written permission of the property owner.
 - b. No geese, turkeys, peafowl, crowing hens, or roosters (adult male chickens) may be kept.
 - c. The keeping of pigeons, birds normally and generally considered household or indoor pets, birds of prey, or exotic or unusual bird species are not addressed by

this chapter and are regulated by other separate federal, state or county laws, ordinances, or regulations.

- d. Domestic fowl shall be kept for personal use only. The selling of eggs or fertilizer or the breeding of domestic fowl for commercial purposes is prohibited.
- e. Any domestic fowl, enclosure or coop shall be located only in a side or rear yard. No coop, enclosure or domestic fowl shall be allowed in any front yard.
- f. Standard requirements for feeding and watering of domestic fowl, sufficient size of the coop, cleaning of the coop, storing of feed, and protecting the coop from predators shall be set by divisions.
- g. The Salt Lake County Health Department regulates the slaughtering of animals following generally accepted guidelines of animal husbandry.
- h. The total number of domestic fowl allowable on each lot, as well as the distance requirements from human dwellings, is established within the zoning ordinances of the applicable code.

8.03.200 Regulatory authority of animal control agencies.

- A. The director shall have the authority to promulgate regulations for the issuance of permits and shall include requirements for humane care of all animals and for compliance with the provisions of this title and other applicable laws.
- B. A person in violation of the permit requirements mandated by this section shall be subject to a civil notice of violation or a Class B misdemeanor citation. Each day of violation of this section shall be a separate offense. The division may also seek to obtain an injunction through a court with jurisdiction over the matter.
- C. Permit holders shall provide immediate access to peace officers, animal control officers, and agents of the health department or Utah State officials for the purpose of compliance inspections.

All establishments required to have permits under this title shall be subject to periodic inspections, and the inspector shall make a report of such inspection, which shall be available to the establishment and will be filed with the division.

8.03.300 Permit inspection violations.

If a permit inspection reveals a violation of this title, the inspector shall notify the permit holder or operator of such violation by means of issuance of a citation or issuance of a notice of violation and stipulation as provided in this title. If the notice of violation and stipulation is used, the notice shall follow the enforcement provisions of this title. Failure to comply in the specified period of time with any notice issued in accordance with the provisions of this section may result in immediate suspension of the permit.

8.03.310 Permits—Suspension or revocation—Grounds.

A permit may be suspended or revoked or a permit application rejected on any one or more of the following grounds:

- A. Falsification of facts in a permit application;
- B. Material change in the conditions upon which the permit was granted;
- C. Violation of any provisions of this title or any other law or regulation governing the permittee's establishment, including, but not limited to, noise and/or building and zoning ordinances; or
- D. Conviction on a charge of cruelty to animals.

8.03.320 Permits—Suspension or revocation—Procedure.

- A. Any permit granted under this title may be suspended or revoked by the division for violations of any of the requirements of this title, and the permittee will be notified thereof. A permittee aggrieved by the suspension or revocation of his/her permit may petition the director or designee for review of such grievance. Upon consideration of such grievance and upon good cause showing, the director or designee may, at his or her sole discretion, uphold or modify the suspension or revocation, or reinstate the permit. A permittee may appeal a suspension or revocation of a permit in accordance with the county's administrative hearing procedures found at Title 1, Chapter 16 of this code.

CHAPTER 8.04 ANIMALS REQUIRING A LICENSE

8.04.010 License—Required.

- A. All cats, dogs, and ferrets must be licensed each year, within the proper jurisdiction, except as otherwise provided in this chapter, to an owner within Salt Lake County.
- B. Licensure is not valid until proof of rabies vaccination is received by the division(s). Any license that is purchased without a current rabies vaccination shall be withheld until proof of rabies vaccination is received by the division(s). If proof of current rabies vaccination is not received by the division(s) within thirty days, payment shall be forfeited, and a new license fee must be paid.

Any person owning any cat, dog, or ferret shall obtain a license for such animal within thirty days after the animal reaches the age of four months, within thirty days of the acquisition of the animal, or within thirty days of residing within the jurisdictions.

8.04.020 License—Application procedure.

- A. License applications must be submitted to the appropriate animal control agency. The application shall be accompanied by the prescribed license fee and by a current rabies vaccination certificate. A license shall not be issued for an animal that is not currently vaccinated against rabies.
- B. The pet owner is responsible for ensuring that the rabies vaccination remains current throughout the duration of the license period.
- C. Rabies vaccinations shall be administered according to the current compendium of animal rabies control.

8.04.030 Sterilization verification.

No dog, cat, or ferret will be licensed as spayed or neutered without verification that such surgery has been performed.

8.04.040 License—Fees.

License fees are established by the division and maintained in each division's current fee schedule.

8.04.050 License—Term and renewal.

The license shall be issued for one year and be effective from the date of purchase. The animal must be currently vaccinated against rabies for the duration of the license period.

8.04.060 License—Tag requirements.

- A. Upon payment of the license fee, the appropriate animal control agency shall issue to the owner a receipt and a tag for each pet licensed. The owner should attach the tag to the collar or harness of the animal. Failure to attach the tag to the collar or harness as provided shall be a violation of this title subject to a civil notice of violation or citation, except that dogs or cats which are kept for show purpose are exempt from wearing the collar and tag while participating in an animal exhibition.
- B. Tags are not transferable from one animal to another. Animal owners in need of replacement tags may obtain one, for a fee, from the appropriate animal control agency.
- C. Owners may have an identifying microchip implanted in their animals, however, microchips shall not be considered legal licensure, nor take the place of an animal's license.

8.04.070 License—Exemptions.

- A. The licensing provisions of this chapter shall not apply in the following circumstances:
 - 1. The dog, cat or ferret is properly licensed in another jurisdiction and the owner thereof is within the jurisdiction temporarily, for a period not to exceed thirty consecutive days. If the owner shall be within the jurisdiction temporarily, but for a period longer than thirty consecutive days, he/she may transfer the dog, cat or ferret to the local license required by this chapter.
 - 2. Individual dogs, cats, or ferrets housed within a properly permitted facility or other such establishment when such animals are held for resale.
- B. The fee provisions of this chapter shall not apply to dogs trained to assist officials of government agencies in the performance of their duties and which are owned by such agencies.
- C. Nothing in this section shall be construed so as to exempt any dog, cat, or ferret located within the county from having a current rabies vaccination.

8.04.080 Penalties for non-compliance.

A person in violation of the license requirements mandated by this section shall be subject to a civil notice of violation or a Class B misdemeanor citation. Each day of violation of this section shall be a separate offense.

8.04.100 Pet limits.

Dog, cat, and ferret limits. There is no limitation on the numbers of dogs, cats, and ferrets that can be owned by a resident, provided that all dogs and cats are properly licensed and cared for, and not bred excessively or irresponsibly so as to constitute a nuisance. Owners are required to prevent their animals from causing, and shall abate, any nuisances caused by animals including, but not limited to, noise and odor, and follow all provisions of this title.

- A. Rabbit limits. No person or persons at any one residence shall allow rabbits to breed excessively or irresponsibly as to constitute a nuisance. Rabbit owners must follow all provisions of this title. Rabbits are exempt from licensing requirements.

8.04.200 Community cats.

- A. Community cats, feral cats, or cats with no discernable identification, may be sterilized, vaccinated against rabies, ear-tipped, and returned to the location where they congregate, in accordance with Utah State Code 11-46-301. Such cats are exempt from licensing requirements.
 - B. Animal control agencies may track feral and unowned community cats, using microchips or other means of tracking.
 - C. The director or designee has the discretion to determine the disposition of a community cat.
- (Ord. No. 1877, § V, 4-27-2021)

CHAPTER 8.05 RABIES CONTROL

es vaccination requirements.

- A. The divisions abide by the National Compendium of Animal Rabies Prevention and Control with regards to rabies vaccination, quarantine, and prevention protocols.
- B. The owner or person having charge, care, custody, and control of a ferret, cat, or dog four months of age or older shall have such animal vaccinated against rabies and shall thereafter ensure that such animal is revaccinated as often as is required to maintain the animal in a current rabies vaccination status. Unvaccinated ferrets, dogs or cats over four months of age acquired by the owner or moved into the jurisdiction must be vaccinated within thirty days of acquisition or arrival.

8.05.020 Impoundment of animals without valid vaccination tags.

- A. Any unvaccinated animal may be reclaimed by its owner prior to disposition of such animal under the procedures set forth in this title by payment of all fees attributable to said animal's

apprehension and impoundment and by the owner posting a rabies deposit as set by the division. Such deposit may be recovered by owner upon showing proof of rabies vaccination within seventy-two hours of release.

- B. The division has authority to quarantine any dog, cat, or ferret that bites a person or another animal, regardless of the animal's appearance of health.
- C. Animals other than dogs, cats, or ferrets that might have exposed a person to rabies shall be reported to the appropriate animal control agency immediately.

8.05.030 Rabid animal reports.

- A. Any owner, veterinarian, or animal control officer having knowledge of the presence or whereabouts of an animal known to have been exposed to or reasonably suspected of having rabies and any person having knowledge of an animal or person exposed to a wild or domestic carnivorous mammal or bat shall report such knowledge and all pertinent information available to the appropriate animal control agency and/or Salt Lake County Health Department. Any person having custody of such animal shall confine the animal pending direction from the appropriate animal control agency or health department.
- B. It is a violation of this title for an owner, or other person having the care, custody, and control of an animal known, suspected, or deemed to have been exposed to rabies as set forth in this section to fail to surrender such animal immediately upon demand by any peace officer, animal control officer, or officer of the Salt Lake County Health Department or Utah State Department of Health.

8.05.040 Animals exposed to rabies.

Any animal potentially exposed to rabies virus by a wild or domestic carnivorous mammal or a bat that is not available for testing shall be regarded as having been exposed to rabies.

8.05.050 Penalties for non-compliance.

A person in violation of the requirements mandated by this section shall be subject to a civil notice of violation or a Class B misdemeanor citation. Each day of violation of this section shall be a separate offense.

CHAPTER 8.06 ANIMAL VIOLATIONS

8.06.010 Nuisance.

- A. An owner or person having charge, care, custody, or control of an animal or animals creating a nuisance as provided in this section shall be guilty of allowing a nuisance in violation of this title and subject to the penalties provided in this title.
- B. An animal is considered a "public nuisance animal" if it:
 - 1. Is repeatedly found at large;
 - 2. Damages the property of anyone other than its owner;

3. Repeatedly molests or intimidates neighbors, pedestrians, or passersby by lunging at fences, chasing, or acting aggressively towards such persons, unless provoked by such persons;
 4. Chases vehicles;
 5. Makes disturbing noises, including, but not limited to, continued and repeated howling, barking, whining, or other noise which causes unreasonable annoyance, disturbance, or discomfort to neighbors or others, that occurs between the hours of 10:00 p.m. and 7:00 a.m., or occurs non-stop for thirty minutes or more, regardless of time of day;
 6. Causes fouling of the air by odors and thereby creates unreasonable annoyance or discomfort to neighbors or others;
 7. Causes unsanitary conditions in enclosures or surroundings where the animal is kept;
 8. The animal's handler is not currently in possession of a bag or instruments for cleaning up the dog's waste;
 9. Defecates on any public sidewalk, park or building, on a public trail or public trailhead, or on any private property without the consent of the owner of such private property, unless the handler of such animal currently has in his or her possession a bag or instruments for cleaning up the dog's waste and the handler immediately removes the animal's feces for disposal in a proper trash receptacle. Bags of animal feces may not be left on a trail, park, or sidewalk for later removal;
 10. Has been found by a court, or by any administrative agency lawfully established under Utah law or by an administrative hearing conducted under the provisions of these ordinances, to be a public nuisance under any provisions of these ordinances or of Utah law;
 11. Cannot be effectively controlled by its owner or handler while the animal is on public property, or private property without permission of the property owner;
 12. Is a female animal in heat and attracts by scents that is not confined or is allowed to come into contact with other animals of the same species.
- C. The fact, or evidence of the fact, that the circumstances alleged to have caused the animal to be a nuisance are the inherent or natural behavior of the animal, or that the action of the owner or animal are otherwise legal, shall not negate or excuse a charge of nuisance.
- D. A person guilty of allowing a nuisance animal in violation of this section shall be subject to a civil notice of violation or a Class B misdemeanor citation. Each violation of this section shall be a separate offense.

8.06.020 Animal running at large.

- A. It is unlawful for the owner or handler of any animal to allow such animal at any time to run at large. The owner or handler of an animal shall be strictly liable for damages to persons or property committed by such animal, and shall hold the divisions harmless from said damages or injury.

- B. Dogs shall be considered running at large when off the property of their owner or handler unless a leash or tether is affixed to the dog at one end and the owner or handler at the other end, unless in a designated off-leash area.
- C. A person guilty of allowing an animal running at large in violation of this section shall be subject to a civil notice of violation or a Class B misdemeanor citation. Each violation of this section shall be a separate offense.

8.06.030 Animal trespass.

- A. It is unlawful for the owner or handler of an animal to allow such animal to trespass on the property of another, and shall be strictly liable for damages to persons or property committed by such animal, and shall hold the divisions harmless from said damages or injury.
- B. A person guilty of allowing a trespassing animal in violation of this section shall be subject to a civil notice of violation or a Class B misdemeanor citation. Each violation of this section shall be a separate offense.

8.06.040 Animals prohibited or restricted in designated areas.

- A. It is unlawful for any person keeping, harboring, or having charge or control of any dog to allow such dog to be within protected watershed areas. Use of watershed areas is governed by the appropriate land use ordinances.
- B. All dogs shall be under physical restraint in parks and recreational areas, unless otherwise established as an approved off-leash period of time and in an off-leash area.
- C. Unless otherwise established, dogs shall be under physical restraint in all developed areas, which include but are not limited to: residential neighborhoods; streets; sidewalks; areas that result in concentrated use, including campgrounds, picnic areas, playgrounds, parking lots, and ski resorts.
- D. A person guilty of allowing an animal into a restricted area in violation of this section shall be subject to a civil notice of violation or a Class B misdemeanor citation. Each violation of this section shall be a separate offense.

8.06.050 Harboring animals.

- A. It is unlawful for any person to assume and maintain control of an animal that is running at large, lost, or stray except as to contain it and immediately notify the appropriate animal control agency.
- B. A person guilty of keeping or harboring any animal in violation of this section shall be subject to a civil notice of violation or a Class B misdemeanor citation. Each violation of this section shall be a separate offense.

8.06.060 Staking and tethering.

- A. It is unlawful for any person to chain, stake, or tether any animal on any unenclosed premises in such a manner that the animal may go beyond the property line unless such person has permission of the owner of the affected property.

- B. It is unlawful for any person to chain, stake, or tether any animal on any premises in a manner that prevents the animal from having access to food, water, or shelter.
- C. It is unlawful for any person to chain, stake, or tether any animal in a public place unless the owner or handler of the animal is continually present and the animal is properly restrained so that the animal poses no threat of contact with a person engaged in a normal and expected activity.
- D. It is unlawful for an owner or handler of an animal to chain, stake, or tether an animal in any manner that would cause injury or damage to the animal, or when restriction of freedom of movement would endanger an animal. A tether must be of sufficient length to provide the dog with adequate space. Each animal tethered in violation of this section shall constitute a separate offense.
- E. A person who chains, stakes, or tethers any animal in violation of this section shall be subject to a civil notice of violation or a Class B misdemeanor citation. Each violation of this section shall be a separate offense.

8.06.070 Staking and tethering—Exemptions.

The provisions of Section 8.06.060 will not apply in the following circumstances:

- A. The owner or handler has been mandated by the division to keep the dog properly restrained at all times by the use of a tether or other means of containment.
- B. The owner or handler has a dog that is registered as a dangerous animal under the permitting section of these ordinances.
- C. The owner or handler has attached the dog to a running line, pulley or trolley system equipped with a harness. The dog shall not be tethered to the running line, pulley or trolley system by means of a choke collar, choke chain or pinch collar.
- D. The owner or handler has tethered the dog pursuant to the requirements of a park, camping or recreational area.
- E. The owner or handler has tethered the dog while actively engaged in the business of shepherding or herding cattle, sheep, or other livestock or conduct that is directly related to the business of cultivating agriculture products if the restraint is reasonably necessary for the safety of the dog.
- F. The owner or handler is actively engaged in a lawful licensed hunting activity.

8.06.080 Control and fencing of livestock.

- A. It is unlawful for an owner or handler of livestock to allow, either negligently or willfully, the same to run at large or trespass, or be herded, pastured, or to otherwise enter upon the land of another person without the consent of that person.
- B. The owner or handler of livestock shall construct adequate fencing for livestock and shall maintain such fencing to prevent livestock animals' escape from the owner's or handler's premises.
- C. Stallions shall be confined in a fenced enclosure with a minimum fence height of eight feet.

- D. Failure by an owner or handler to erect and maintain the fencing required by this section, thus permitting the escape of, or injury to persons, property or other domesticated animals, shall be a violation of this title. A person guilty of violation of this section shall be subject to a civil notice of violation or a Class B misdemeanor citation. Each violation of this section shall be a separate offense.

8.06.100 Dangerous animals.

All animals designated as dangerous require a dangerous animal permit and owners must follow all of the requirements therein. Any animal deemed as dangerous by the appropriate animal control agency are required to follow all of the provisions of this title, regardless of whether or not a dangerous animal permit is currently held. A person who violates this section shall be subject to a Class B misdemeanor or felony as permitted by state law. Each violation of this section shall be a separate offense.

8.06.110 Prohibitions relating to wild animals—Exceptions.

- A. It is unlawful for any person to sell, offer for sale, barter, give away, keep, own, harbor or purchase any wild animal, as defined in Title 50 of the Code of Federal Regulations or any other law or regulation; or which is otherwise a dangerous animal or a nuisance as defined in this title. A person who violates this section shall be subject to a Class B misdemeanor or felony as permitted by state law.
- B. The prohibitions of subsection A of this section shall not apply to a person, animal shelter, zoological park, veterinary hospital, 501(c)(3) animal welfare shelter, public laboratory, circus, sideshow, amusement show, or facility for education or scientific research if such organizations are otherwise licensed or permitted as provided in this title, and such animals are restrained or confined in such a manner as to prevent their escape and/or injury to the public.

8.06.200 Attacks by animals.

- A. It is unlawful for the owner or person having care, custody, or control of any animal to allow such animal to attack, chase, harass, intimidate by barking or baring of teeth, growl, bite, shake or tear with the teeth; or approach in an apparent attitude of attack; or any aggressive behavior towards any human, domesticated animal, any species of hoofed wildlife protected by any law or ordinance, or any pet or companion animal.
- B. The owner in violation of subsection A of this section shall be strictly liable for any violation of this section. A person guilty of violation of this section shall be subject to a Class B misdemeanor under this ordinance or felony as permitted by state law. Each violation of this section shall be a separate offense. In addition to being subject to prosecution under subsection A of this section, the owner of such animal shall also be liable in damages to any person injured or to the owner of any animal(s) injured or destroyed thereby. Any penalty imposed as a result of prosecution of a person under subsection A of this section shall be in addition to any penalties or liabilities imposed upon such person by any other law or ordinance.

- C. The following may be considered in mitigating the penalties or damages, or in dismissing a charge brought under subsection A of this section:
 - 1. That the animal was properly confined on the premises; or
 - 2. That the animal was deliberately or maliciously provoked.
- D. Any person may take reasonable defensive measures against an animal, up to taking its life, while it is committing any of the acts specified in subsection A of this section to protect him/herself, or members of the public from any threat of death or personal injury then being posed by the animal.

8.06.210 Animal bites—Reporting requirements.

- A. If an owned animal fights, bites, or attacks another owned animal and it results in a civil or criminal violation, and/or extensive veterinary care needed, the incident must be reported to the appropriate animal control agency within twenty-four hours, regardless of whether the biting animal is of a species subject to rabies.
- B. A physician, or other medical personnel, who renders professional treatment to a person bitten by an animal shall report that fact to the appropriate animal control agency within twenty-four hours of his/her first professional attendance.
- C. A veterinarian or other person who treats an owned animal that has been bitten, injured, or mauled by another animal with extensive veterinary care shall report that fact to the appropriate animal control agency within twenty-four hours, regardless of whether the biting animal is of a species subject to rabies.
- D. Any person not conforming with the reporting requirements of this section shall be in violation of this title and shall be subject to a civil notice of violation or a Class B misdemeanor citation. Each violation of this section shall be a separate offense.

CHAPTER 8.07 CRUELTY TO ANIMALS

8.07.010 Care and maintenance responsibility.

It is unlawful for an owner or handler of an animal to neglect its needs or withhold food, drink, veterinary care, grooming, adequate space and shelter from such animal, which is reasonably necessary to maintain such animal in good health, in comfort, and keep it safe from potential hazards. Cruelty offenses include, but are not limited to:

- A. **Hobbling.** Hobbling livestock or other animals by any means that may cause injury or damage to any animal.
- B. **Abandonment.** Abandoning any animal.
- C. **Vehicle confinement.** Leaving or confining 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. An animal control officer or authorized representative is authorized to take all steps that are

reasonably necessary for the removal of the animal from the vehicle, following appropriate division procedures.

- D. Open vehicle transportation. Transporting an animal in the open bed of a vehicle must physically restrain the animal in such a manner as to prevent the animal from jumping or falling out of the vehicle and causing injury to itself or others.
- E. Physical abuse. Killing without legal justification, maiming, disfiguring, torturing, beating, whipping, mutilating, burning or scalding, overdriving, or in any manner treating any animal in a cruel or malicious manner.
- F. Poisoning. Knowingly or recklessly making accessible to any animal, or with intent to cause harm or death, any substance which has in any manner been treated or prepared with any harmful or poisonous substances. This provision shall not be interpreted so as to prohibit the use of poisonous substances for the control of vermin in furtherance of the public health, when applied in such a manner as to reasonably prohibit access to other animals.
- G. Steel-jaw or snare traps. Using steel-jaw traps or snare traps to trap animals in any residential neighborhood, unless permitted by the division of wildlife resources.
- H. Provocation. Provoking or intentionally harassing any animal, which is being kept, housed or confined in compliance with this ordinance.
- I. Coloring. Artificially dyeing or coloring any animal under six months of age.
- J. Proper veterinary care. Allowing a diseased or disabled animal to live in pain while neglecting proper veterinary care, including humane euthanasia if warranted.

8.07.020 Penalty for violation of duty to care and maintain.

If the owner or handler violates any of the cruelty offenses listed in [Section] 8.07.010, such person shall be in violation of this title and shall be subject to a civil notice of violation, or Class B misdemeanor, or felony as permitted by state law. Each violation of this section shall be a separate offense.

8.07.030 Injury to animals by motorists—Duty to stop and assist.

- A. The operator of a motor vehicle or other self-propelled vehicle shall, in the event such vehicle should strike and injure or kill any domesticated animal, give reasonable aid and assistance or protection to such animal, provided he or she can do so without placing himself or herself at unreasonable risk, and, in the absence of the animal's owner, call and report the facts pertaining to the incident to the appropriate animal control agency and/or law enforcement and follow the instructions provided.
- B. As an alternative to complying with the requirements set forth above, in the absence of the animal's owner, the motor vehicle operator may transport the animal to a veterinarian for treatment of the injuries. The animal control agency shall not be responsible for the cost of treatment unless it has accepted responsibility after the operator's compliance with any of the requirements of this section.

- C. This section shall not apply to operators of emergency vehicles if such vehicles are being operated in response to a bona-fide emergency situation at the time the animal is struck. Emergency vehicle operators who strike an animal during a response to a bona-fide emergency situation shall notify the appropriate animal control agency of the incident as soon as is practicable thereafter.
- D. If the motorist fails to comply with the requirements above, such person shall be in violation of this title and shall be subject to a civil notice of violation. Each violation of this section shall be a separate offense.

CHAPTER 8.08 IMPOUNDMENT

8.08.010 Animal shelter and facilities.

- A. Divisions shall be responsible to provide suitable premises and facilities to be used as an animal shelter where impounded animals can be kept. The divisions shall provide and supply food and provide appropriate medical care for impounded animals and keep a complete record of the animals impounded.
- B. Divisions shall provide for the humane euthanasia of dogs, cats, ferrets and other animals for which destruction is authorized by this title or by the laws of the state of Utah, in accordance with current standards established by the American Veterinary Medical Association.
- C. Divisions may furnish, at the discretion of division personnel, when necessary, medical treatment to animals impounded pursuant to this title. Prior consent for such treatment from the owners of such animals shall not be required.
- D. Divisions shall be entitled to recover from the owner of any affected animal the cost of the care and keeping, medical treatment, and euthanasia provided or performed under the authority of this title.

(Ord. No. 1877, § IX, 4-27-2021)

8.08.020 Impoundment authorized—When.

- A. An animal control officer may impound or leave an animal in the custody of its owner or handler, according to such officer's discretion, whenever such animal is found to be in circumstances which violate the requirements of this title. If left in the custody of the owner or handler, such owner or handler shall nevertheless be required to respond to any civil or criminal penalty issued by the animal control officer.
- B. Any animal found to be in violation of this title may be impounded by an animal control officer without the filing of a criminal complaint or obtaining a prior order from a court of competent jurisdiction.
- C. The circumstances set forth in this chapter are not intended to be a complete list of those in which the division, and its animal control officers, may impound an animal without a prior order from a court of competent jurisdiction; and such officers are authorized to act as necessary to maintain peace and safety under the requirements of this title and under the requirements of law.

8.08.030 Term of impoundment.

- A. Animals shall be impounded for a minimum of five business days before further disposition. Reasonable efforts shall be made to notify the owner, if an owner is identifiable. Any animal voluntarily relinquished to the animal control facility by the owner thereof for destruction or other disposition need not be kept for the minimum holding period before release or other disposition.
- B. All animals, except those quarantined or confined by court order, or those defined as stray in accordance with the Utah Code, which are held longer than the minimum impound period, and all animals voluntarily relinquished, may be subject to destruction, adoption, or any outcome as approved by the director or designee and in accordance with this title.
- C. Any animal impounded requiring medical attention may, at the discretion of the director or designee, undergo medical care from division staff or released to the care of a veterinarian with or without the consent of the owner. An owner will be responsible for any such fees associated with veterinary care.
- D. When, in the judgment of the director, it is determined that an animal should be destroyed for humane reasons or to protect the public from imminent danger to persons or property, such animal may be destroyed without regard to any time limitations otherwise established in this title, and without court order.

8.08.040 Redemption of animals.

- A. The owner of any impounded animal or his/her authorized representative (a legally responsible adult of age eighteen or more) may redeem such animal within the holding period specified in this title, provided he/she pays all applicable and enforceable fees, costs for veterinary care and other services rendered, and meets all requirements of this title. Any animal not reclaimed prior to the period specified in this title shall become property of the appropriate animal control agency.
- B. All animals shall be microchipped upon redemption.
- C. Failure to redeem an impounded animal as provided above shall constitute abandonment of the animal.

8.08.050 Impounded animals—Not released for research or medical testing.

No live animal may be released from impoundment or the facility for research or medical testing purposes. The director or designee may deny an adoption or rescue request if the director or designee reasonably believes that the animals may be used for research or medical testing purposes.

8.08.060 Sterilization of adopted and impounded animals.

- A. A dog or cat adopted from any municipality shall be sterilized.
- B. Upon the second impoundment of any animal within a twenty-four-month period and prior to its release, the animal shall be released only upon (1) proof that the animal has been sterilized; (2) by payment of a sterilization deposit, or (3) upon the sterilization of the animal.

Compliance with other requirements established by Utah Code § 11-46-200 et seq. is also necessary. Payment of all fees by owner and compliance of this title shall be required prior to release.

- C. Upon the third impoundment of any animal, the director or designee may require the animal's sterilization prior to its release.

CHAPTER 8.09 ENFORCEMENT AND PENALTIES

8.09.010 Violation of title—Penalties.

- A. Any person who violates any mandate or prohibition contained in this title shall be penalized according to the provisions of this title or the provisions of Section 1.12.010 of these ordinances.
- B. Any notice of violation issued pursuant to this title shall subject the person to a penalty prescribed in the division fee schedule which is established in accordance with Section 3.42.040 of these ordinances.

8.09.020 Issuance of criminal citations—Notice of violations and stipulation.

- A. An animal control officer or division-authorized designee is authorized to issue a criminal citation to any person upon a charge of violating any provisions of this title. The form of the citation, and proceedings to be handled upon the basis of the citation, shall conform to the provisions of the Utah Code of Criminal Procedure.
- B. An animal control officer or division-authorized designee is authorized to issue a notice of violation, in lieu of issuance of the criminal citation, to any person upon a charge of violating any provisions of this title. The notice of violation shall state, with reference to the pertinent sections of this title, the violation which must be remedied by the person charged and shall set forth a compliance date by which the violator must comply with the remedial requirements. It shall also set forth a waiver provision; providing that the person to whom the notice of violation is issued waives all rights to contest the charge made against him/her in the notice of violation and further waives the rights to a trial or hearing upon the charges. The notice of violation shall also include the amount of any escalating fees to be paid to the division by the person charged in the notice of violation. Nonpayment of the fees, or failure to comply with the notice of violation and stipulation by the deadline set as the compliance date may result in the issuance of a criminal citation to or filing criminal charges against the person charged. Each violation of this code may be subject to a separate citation or notice of violation.
- C. There is no appeal from the notice of violation and stipulation procedure. Failure by the person charged to comply with the provisions of the notice of violation and stipulation settlement agreement will result in the issuance of a criminal citation or charges or at the option of the director, or the director's designee, the settlement agreement may be enforced in court as provided in Section 8.09.030.

8.09.030 Court orders.

Pursuant to state laws and rules of procedure, court orders pursuant to this title shall be obtained upon:

- A. The director or designee petitioning the court for the desired action;
- B. The petition for the action and providing notice, together with supporting affidavits, to be served on the party against whom the action is taken in accordance with state laws and rules of procedure.

8.09.040 Pick up orders.

The director or may petition the court for a "pick-up order" for an animal within the premises or under the control of a person who is in violation of this title. This process may be used for, but is not limited to, picking up animals pursued but not captured by an animal control officer, nuisance animals or for any other violation of these ordinances.

8.09.050 Repeated animal violations—Owner debarment.

- A. Any person who owns or has custody of animals and has been issued a civil notice or violation or criminal citation more than two times in a five-year period may be debarred from receiving a license under Chapter 8.04 of these ordinances.
- B. Notice of debarment shall be served on the person in a written order issued by the director or designee. Debarment may be for a period of up to five years. A person who has been served with a notice of debarment may appeal the debarment pursuant to the administrative hearing procedures found in Title 1, Chapter 16 of this code.
- C. Any person who has been debarred and who owns or has custody of an animal requiring licensure under Chapter 8.04 in violation of a debarment order is guilty of a Class B misdemeanor.

8.09.060 Seizure and disposition—Written evaluation criteria.

- A. An animal that has been classified as dangerous that bites or attacks a person or another animal may be seized by the appropriate animal control agency in accordance with standard and objective written criteria prepared by the division in accordance with the requirements of this ordinance.
- B. The division shall prepare written policy standards to objectively evaluate the facts and circumstances surrounding a bite or other attack by an animal. Evaluation criteria developed in the division's written policies may be used to give direction to animal services, based on a numerical score, to determine what type of action shall be taken, including the issuing of a citation, filing criminal charges, animal impound, and animal destruction.
- C. Written evaluation standards or criteria established under this section must be in writing. They may be amended from time to time as appears to be best supported by experience and professional standards.

TITLE 9 – HEALTH AND SAFETY

CHAPTER 9.01 REGULATIONS ADOPTED

9.01.010 Insert Name

- A. The applicable and duly adopted regulations of the Salt Lake Valley health department are adopted by this reference as City code, insofar as they are consistent with other effective code provisions not adopted by reference. This adoption by reference includes any such regulations or amendments thereof adopted by the Salt Lake Valley health department after the effective date of this chapter, unless repealed by further ordinance.
 - 1. The Salt Lake County air pollution control code, set forth in Title 9, Chapter 76 of the Salt Lake County Code, as currently adopted and as hereinafter amended, is adopted as the "air pollution control code" of the City.
 - 2. The Salt Lake County fire code, as set forth in Chapter 9.77 of the Salt Lake County Code as currently adopted and as hereinafter amended, is adopted as the "fire code" of the City.
- B. Any person who is found guilty of violating any of the provisions of the code or regulations adopted in this chapter, either by failing to do those acts required therein or by doing a prohibited act, shall be subject to the penalty specified therein, or in the event no penalty is specified, shall be guilty of a class B misdemeanor.

CHAPTER 9.02 NUISANCE

9.02.010 Purpose

The purpose of this chapter is for the City and individuals to identify nuisances within the City and to provide procedures to correct or abate the nuisances a nuisance . The City needs the ability to abate nuisances in order to protect the health and safety of the public, to foster neighborhood stability, to preserve the appearance, character and beauty of neighborhoods, to encourage community pride, to preserve the value of property, and to protect the general welfare of the City and its citizens, businesses and visitors. This chapter provides for progressive enforcement measures to abate nuisances; the most aggressive forms of enforcement are generally reserved for the most recalcitrant violators of the chapter. The City has authority to abate nuisances pursuant to Utah Code §§ 10-3-702, 10-3-703.7, 10-3-716, 10-7-65, 10-8-60, 10-11-1, et. seq. and 76-10-801, et seq.

9.02.020 Definitions, Generally

- A. For the purpose of this chapter, the following terms shall have the meaning herein prescribed. The definitions of nuisance in Section 1.02.060 and Title 12, Code Enforcement and Community Preservation, are incorporated herein and applicable to this chapter also.
1. “Abate” or “abatement” means to repair, replace, remove, destroy, correct or otherwise remedy a condition which constitutes a nuisance by such means, in such a manner and to such an extent as the City designated representative determines is necessary in the interest of the general health, safety and welfare of the community.
 2. “Administrative Law Judge” means the person appointed to hear appeals pursuant to this chapter and Title 12, Code Enforcement and Community Preservation. The administrative law judge shall be appointed pursuant to Section 1.03.030. The appointee is not required to be a City employee.
 3. “Administrative Code Enforcement Order” means an order issued by an administrative law judge.
 4. “City Designated Representative” means any person authorized by the City to receive, initiate or investigate complaints that a nuisance or nuisances exists, and any person authorized by the City to engage in abatement practices on behalf of the City, including the director of Kearns Planning and Development Services Department or the director’s designee, police precinct chief, chief building official, or the code enforcement official.
 5. “Completion date” means the date by which the responsible person shall abate a nuisance. The completion date is originally set by the authorized representative who

prepares the voluntary correction agreement or in a notice from the City. The completion date may be modified by the administrative law judge or hearing officer.

6. "Emergency" means a situation which, in the opinion of the City designated representative, requires immediate action to prevent or eliminate an immediate threat to the health or safety of a person or property.
7. "Inoperable vehicle" means a vehicle not currently registered or licensed in this state or another state, or a vehicle that is or has any of the following conditions: dismantled, broken windows, flat tires, no tires, missing doors, missing windows, missing fenders, missing hood, missing trunk, will not start, or is in a condition that would result in the vehicle's failure to pass state safety inspection pursuant to the Motor Vehicle Act, Utah Code Ann. § 41-1a-101 et seq.
8. "Owner" means any person who, alone or with others, has title or interest in any building or premises, with or without accompanying actual possession. For the purpose of giving notice, the term "owner" also includes any person in physical possession.
9. "Premises" means a plot of ground or open area, whether occupied or not.
10. "Property" means a building or structure, or the premises on which the building or structure is located, or undeveloped land.
11. "Public place" means an area generally visible to public view and includes alleys, bridges, driveways, parking lots, parks, plazas, sidewalks, streets, and buildings open to the general public, including those that serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.
12. "Responsible person" means the person responsible for correcting or abating a nuisance pursuant to this chapter. The "responsible person" includes the property owner and any person who causes or permits a nuisance to occur or remain upon property in the City, and includes the owner, lessor, lessee, or other person entitled to control, use, or occupy property where a nuisance occurs. In cases where there is more than one responsible person, the City may proceed against one, some or all of them.
13. "Vehicles" includes trailers, travel trailers, semitrailers, road tractors, recreational vehicles, pickup trucks, motorboats, manufactured homes, motor vehicles, motorcycles, off highway vehicles, farm trucks, farm tractors, commercial vehicles, campers, all terrain Type i and Type ii vehicles, reconstructed vehicles, sailboats, special interest vehicles, and specially constructed vehicles, all as defined in the Motor Vehicle Act, Utah Code Ann. § 41-1a-101 et seq.

9.02.030 Nuisance Defined – Specifically

- A. Scope and Applicability. This section defines “nuisance” by providing five (5) general definitions of what constitutes a nuisance in subsection B of this section. Subsection C provides specific examples of conditions, situations, conduct, or activities that constitute a nuisance. The purpose of the general definitions is to allow the City to classify as violative a condition, situation, conduct, or activity as a nuisance, not specifically listed as a nuisance in subsection C. The first three (3) general definitions in subsection B are definitions in state code. The purpose of listing the specific examples is to identify some of the specific conditions, situations, conduct, or activities that the City intends to abate as nuisances.
- B. General Definitions of Nuisance. Any activity that meets any one or more of the four (4) definitions as provided in this subsection B shall constitute a nuisance if it occurs in the City:
1. A nuisance is anything this is injurious to health, indecent, offensive to the senses, or an obstruction of the free use of property, so as to interfere with the comfortable enjoyment of life or property. A nuisance may be the subject of an action. Utah Code Ann. § 78B-6-1101.
 2. Any item, thing, manner, or condition whatsoever that is dangerous to human life or health or renders or that renders soil, air, water, or food impure or unwholesome. Utah Code Ann. § 76-10-801. Any person, whether as owner, agent, or occupant, who creates, aids in creating, or contributes to a nuisance, or who supports, continues, or retains a nuisance, is guilty of a Class B misdemeanor.
 3. As provided in Utah Code § 76-10-803, unlawfully doing any act or omitting to perform any duty, which act or omission:
 - a. annoys, injures or endangers the comfort, repose, health, or safety of three or more persons;
 - b. offends public decency;
 - c. unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage, any lake, stream, canal, or basin, or any public park, square, street; or highway;
 - d. is a nuisance as described in Utah Code Ann. §§ 78B-6-1107; or
 - e. in any way renders three or more persons insecure in life or in the use of property. Any act which affects three or more persons in any of the ways specified in state code is still a nuisance regardless of the extent to which the annoyance or the damage inflicted on individuals is unequal.

4. Anything specifically provided in subsection C of this section.
- C. A nuisance is declared as every condition, situation, conduct, or activity in this subsection C and which may be abated pursuant to this chapter and Title 12, Code Enforcement and Community Preservation. The first seven (7) listed nuisances are also provided in Utah Code Ann. § 78B-6-1101:
1. drug houses and drug dealing as provided in Utah Code Ann. § 78B-6-1107;
 2. gambling as provided in Utah Code, Title 76, Chapter 10, Part 11;
 3. criminal street gang activity committed in concert with three or more persons as provided in Utah Code Ann. § 76-3-203.1;
 4. criminal activity committed for the benefit of, at the direction of, or in association with any criminal street gang as defined in Utah Code Ann. § 76-9-802;
 5. criminal activity committed to gain recognition, acceptance, membership, or increased status with any criminal street gang as defined in Utah Code Ann. § 76-9-802;
 6. party houses that frequently create conditions defined Utah Code subsection 78B-6-1101(1);
 7. prostitution as provided in Title 76, Chapter 10, Part 13, Prostitution;
 8. weapons violation that occurs on the premises as provided in Title 76, Chapter 10, Part 5, Weapons;
 9. tobacco smoke that drifts into a residential unit that a person rents, lease or owns, from another residential or commercial unit and the smoke drifts in more than once in each of two or more consecutive seven-day periods which creates a condition defined as a nuisance, excluding a short term rental, hotel or motel room or timeshare development unit;
 10. any unsafe condition that unreasonably or unlawfully affects the health or safety of one or more persons;
 11. any fire hazard or the unlawful burning or use of fireworks;
 12. any emanation of noxious or unreasonable odors, fumes, gas, smoke, soot, or cinders within one mile of the City;
 13. weeds located on vacant lots or other property, along public sidewalks or the outer edge of any public street, or weeds in any other location which are in excess of six inches (6"), or constitute a fire hazard or unsightly condition;

14. storage or accumulation of any refuse or waste matter which interferes with the reasonable enjoyment of nearby property;
15. stagnant or polluted water;
16. improper accumulations of soil, litter, debris, plant trimmings or trash, visible from the street or an adjoining property;
17. accumulation of commercial goods or materials in areas not approved or zoned for such storage;
18. accumulation of used or damaged lumber, junk, salvage materials, abandoned, discarded or unused furniture, stoves, sinks, toilets, cabinets, or other fixtures or equipment stored that are visible from a public street, alley or adjoining property, excluding stacked firewood for personal noncommercial use on the premises;
19. attractive nuisances on any vacant lot or open area of ground to which the public and particularly children have access that are dangerous, including ponded or impounded water, open pits, shafts, caves, ditches, or dilapidated unoccupied buildings, weeds, noxious or otherwise, or overgrown vegetation, trash, debris, or garbage, equipment or machinery, abandoned, broken or neglected household appliances, abandoned foundations or excavations, or improperly maintained or secured pools;
20. vegetation that is dead, decayed, or diseased, hazardous trees, weeds, hedges and overgrown or uncultivated vegetation which is in a hazardous condition, an obstruction to pedestrian or vehicular traffic, or likely to harbor rats, vermin or other pests;
21. noise or vibration which is annoying or disruptive to the public peace and quiet.
22. dust which is excessive dust due to lack of landscaping, maintenance, or other causes;
23. storage, deposit, maintenance, or accumulation on the premises or in the public right-of-way for an unreasonable period of time dirt, sand, gravel, concrete, or other similar materials, excluding material stored as part of an active construction project;
24. garbage cans or refuse containers left in the street, other than on collection day, for more than twenty four (24) hours after the collection day;
25. construction equipment or machinery of any type or description parked or stored on property when it is readily visible from a public street, alley or adjoining property, except if excavation, construction, or demolition operations authorized by an active building permit are in progress on the subject property or an adjoining

property, or where the property is zoned for the storage of construction equipment or machinery;

26. improper parking or storage of inoperative, unregistered, abandoned, wrecked or dismantled vehicles, boats, trailers, or vehicle parts, including recreational vehicles, on a premises or in the public right-of-way, excluding storage or parking that is specifically allowed by City ordinance;
27. parking or storage of registered vehicles, trailers, or boats in violation of City ordinance;
28. parking in an area required to be landscaped by City ordinance or by a site plan, subdivision, or condominium approval;
29. parking of commercial vehicles if prohibited by City ordinance;
30. hazardous or dangerous conditions, including any wall, sign, fence, gate, hedge, or structure maintained in such condition of deterioration or disrepair as to constitute a hazard or danger to persons or property;
31. graffiti which remains on the exterior of any building fence, sign or other structure and is visible from a public street;
32. improper maintenance of buildings or structures in such condition as to be deemed defective or in a condition of deterioration or disrepair, including, but not limited to:
 - a. any building or structure which is unfit for human habitation, or which is an unreasonable hazard to the health of people residing in the vicinity thereof, or which presents an unreasonable fire hazard in the vicinity where it is located;
 - b. any building or structure set up, erected, constructed, altered, enlarged, converted, moved, or maintained contrary to the provisions of City ordinance, or any use of land, buildings, or premises in violation of City ordinances;
 - c. any building which is abandoned, partially destroyed, or left in an unreasonable state of partial construction for a period of six (6) months or longer. An "unreasonable state of partial construction" is defined as any unfinished building or structure where the appearance or condition of the building or structure does not meet the requirements for finished buildings or structures as required by applicable City ordinances or building codes. The building or structure shall not be considered to be a nuisance if it is under active construction;

- d. any building with dry rot, warping, termite infestation, decay, excessive cracking, peeling, or chalking as to render the building unsightly or in a state of disrepair;
 - e. any building with missing doors or windows, or doors or windows containing broken glass or no glass at all if of the type which normally contains glass;
 - f. any building exteriors, walls, fences, gates, driveways, sidewalks, walkways, signs, or ornamentation, or alleys maintained in such condition as to render them unsightly or in a state of disrepair; or
 - g. any building with conditions that violate any building, electrical, plumbing, fire, housing, or other code adopted by the City or state;
33. unlawful alcohol on any property or premises not licensed under applicable state law or City ordinance if any intoxicating liquors or alcohol are kept for unlawful use, sale, or distribution;
34. inappropriate conduct that occurs on any property or premises because there exists an environment which causes, encourages, or allows individuals or groups of individuals to commit one or more of the following acts on the property, premises or adjacent public place, including, but not limited to:
- a. illegal consumption of tobacco, drugs, intoxicating liquor or alcohol;
 - b. public urination or defecation;
 - c. assault by any physical action, intentionally causing or attempting to cause another person to reasonably fear imminent bodily injury or the commission of a criminal act upon their person or upon property in their immediate possession;
 - d. violent acts, including assault and fights among the participants;
 - e. discharge of a firearm or explosive in violation of City ordinance or state law;
 - f. unreasonable noise which disturbs others;
 - g. intentional obstruction of pedestrian or vehicular traffic;
 - h. indecent public exposure or public sexual activity; or
 - i. solicitation for acts of prostitution.
35. zoning violations;

36. sign posting or distributing written materials in violation of City ordinance;
 37. incomplete landscaping due to failure to install or maintain landscaping required by City ordinance or by a site plan, subdivision, or condominium approval;
 38. unsanitary conditions that impede fly control including:
 - a. a privy, cesspool, sink, pit, or similar place that is not securely protected from flies;
 - b. garbage that is not securely protected from flies; or
 - c. vegetable waste, trash, litter, rags, or refuse of any kinds where flies may breed;
 39. any condition that creates a habitat for mosquitoes or other harmful insects;
 40. accumulation of garbage or refuse consisting of waste, anima, or vegetable matter upon which rats may feed;
 41. dead animals on any premises that include any animal parts or animal matter; or
 42. storage or usage of hazardous materials as defined in Utah Code § 58-37d-3 and any illegally manufactured controlled substances; and
 43. failure to timely remove hail, snow, or sleet on City sidewalks or curbs.
- D. The nuisance conditions provided in this section are not exclusive and include any other violation under any City code provision that may be defined or categorized as a nuisance under this chapter.

9.02.040 Exceptions

Any act which is done or maintained under the express authority of City ordinance, state law, or court ruling may not be declared a nuisance.

9.02.050 Responsibility For Nuisances – Enforcement Authority

- A. The responsible person for abating nuisances pursuant to this chapter is the person who has charge, care, or control of any premises, dwelling, or dwelling unit as the legal or equitable owner, agent of the owner, lessee, or as an executor, administrator, trustee, or guardian of the estate of the owner. In any case, the person with legal title to any premises, dwelling, or dwelling unit shall be considered a responsible person, with or without accompanying actual possession thereof.
- B. If the director or any City designated enforcement official finds that a nuisance exists, the director or designee shall attempt to have the responsible person abate the nuisance.

Although the officer's first step in correcting or abating the nuisance will always be to obtain voluntary compliance, the officer may pursue any remedy or combination of remedies available pursuant to this chapter, state law, or common law in order to abate the nuisance.

- C. Abatement of nuisances shall be administered and enforced by the director of Kearns Planning and Development Services Department or the director's designee, police precinct chief, chief building official, or the code enforcement official. In case of nuisances involving dangerous buildings or violations of codes typically administered and enforced by other City departments, this chapter may also be administered and enforced by the respective departments.
- D. In establishing performance standards or an obligation to act by a Kearns officer, employee, or designee, including the City designated enforcement official, the standard or obligation shall not be construed to create a mandatory duty for purposes of tort liability if the officer, employee, or designee fails to perform the performance standards or obligation to act.
- E. Kearns has sole discretion in deciding whether to file a civil or criminal case or both for the violation of any of its ordinances as provided in Section 9.02.080.
- F. For purposes of civil or criminal remedies administered by the director or any designated enforcement official, the definitions of Section 12.02.110 shall be construed as also pertinent to this section, unless the context or subject matter requires a different meaning as specifically provided.
- G. The provisions of Chapter 12.02.300 through 12.02.370 shall apply to general enforcement authority for the abatement of a nuisance violation pursuant to this title.

Commented [LW28]: Perhaps we leave out this limitation on liability since governmental immunity already applies.

9.02.060 General Code Enforcement Provisions

The provisions of Kerans Code, Chapter 12.02, General, are incorporated by reference to be applied to nuisances as provided in this chapter.

9.02.070 Administrative Code Enforcement Procedures

The provisions of Kearns Code, Chapter 12.04, Administrative Code Enforcement Penalties and Costs, are incorporated by reference to be applied to nuisances as provided in this chapter.

9.02.080. Administrative and Judicial Remedies

The provisions of Kearns Code, Chapter 12.06, Administrative and Judicial Remedies, are incorporated by reference to be applied to nuisances as provided in this chapter.

9.02.090 Recovery of Code Enforcement Penalties and Costs

The provisions of Kearns Code, Chapter 12.08, Recovery of Code Enforcement Penalties and Costs, are incorporated by reference to be applied to nuisances as provided in this chapter.

9.02.100 Causes of Action

- A. Kearns has sole discretion in deciding whether to file a criminal case or civil case or both for the violation of any of its nuisance ordinances. The enactment of the administrative remedies in this title shall not interfere with Kearns's right to prosecute ordinance violations as criminal offenses in a court of law. Kearns may use any of the remedies available under the law in both civil and criminal prosecution. If Kearns decides to file both civil and criminal charges for the same day of violation, no civil penalties may be assessed, but all other remedies may be available. Kearns may at its discretion proceed with a civil enforcement action under this title in district court without first holding an administrative hearing or exhausting other administrative remedies.
- B. Civil Actions: Kearns has sole discretion in deciding whether to file a civil case for the violation of any of its nuisance ordinances.
- C. Private Right of Action.
 - 1. An adversely affected person may bring a private right of action against the nuisance-causing party if the person's property is injuriously affected or whose personal enjoyment is lessened by the nuisance caused by the nuisance-causing party as provided in Section 9.02.110. Upon judgment, the nuisance may be enjoined or abated.
- D. Criminal Actions: Criminal actions may be initiated by criminal citation from the code compliance officer or by long form information. Kearns has sole discretion in deciding whether to file a criminal case for the violation of any of its nuisance ordinances. The enactment of the administrative remedies in this title and Title 12, Administrative and Judicial Remedies, shall not interfere with Kearns's right to prosecute ordinance violations as criminal offenses in a court of law. Kearns may use any of the remedies available under the law in both civil and criminal prosecution. If Kearns decides to file both civil and criminal charges for the same day of violation, no civil penalties may be assessed, but all other remedies will be available.

9.02.110. Private Right of Action for Civil Enforcement

- A. Civil Enforcement Private Right of Action

This section creates a civil private right of action by the adversely affected person for violations of Kearns City Code. by an adversely affected person.

B. Limitation of Remedies

C. The remedies available in any such action shall be limited to declaratory and injunctive relief.

D. Notice of Intent Prerequisite to Filing

1. A person who is adversely affected by a violation of Kearns Code shall provide written notice of the violation to the City Recorder and the person's intent to pursue a private civil action under this section prior to filing the action.

E. Initiation and Notice of Action

1. If the City does not initiate enforcement proceedings, including any legal action, civil or criminal, before an administrative law judge or court of competent jurisdiction, within 60 days after service of the notice described in subsection 9.02.080 B. on the City Recorder, the aggrieved person may bring a civil action in the Third District Court in and for Salt Lake County, Utah.
2. If the adversely affected person brings a civil action, the person shall provide the City Recorder with notice of the action, including the assigned case number, within 14 days of service of the action upon the violator.

F. Right of the City Intervene in the Action

The City has an unconditional right, but no obligation, to intervene in any such action.

G. No Private Right of Action Against the City

This section does not create a private right of action against the City.

H. No Waiver of Governmental Immunity

This section does not waive the City's immunity under the Governmental Immunity Act of Utah, Utah Code Ann. § 63G-7-101 *et seq.*, federal or state law, common law, or doctrines.

9.02.120. Appeals and Hearing Procedures

The provisions of Kearns Code, Sections 12.04.500, Part 5, Appeal and Hearing Procedures, 12.04.600, Part 6, Administrative Enforcement Appeals, and 12.04.700, Part 7, Administrative Citations, are incorporated by reference to be applied to nuisances as provided in this chapter.

TITLE 10 PUBLIC PEACE, MORALS AND WELFARE

CHAPTER 10.01 STATE CRIMINAL STATUTES ADOPTED

10.01.010 Adoption of State Criminal Code

- A. Pursuant to the authority provided in Utah Code Ann. § 10-8-84, the criminal statutes of the State of Utah, including any subsequent amendments thereto, with the corresponding penalty of infraction, class C misdemeanor, or class B misdemeanor are hereby adopted and incorporated by reference as if fully set forth herein.
- B. The omission to specify or enumerate in this chapter those provisions of general criminal law and offenses applicable to all law enforcement agencies or political subdivisions of the state shall not be construed as a waiver of the benefits and enforcement of any such provisions.
- C. If no other penalty is prescribed, any person convicted of violating any provision of City code shall be considered guilty of a Class B misdemeanor.

CHAPTER 10.02 LOCAL CRIMINAL OFFENSES

10.02.010 Curfew

- A. Age Restrictions - Minors. Except as provided in subsection C of this section, it shall be unlawful for any minor person under the age of eighteen (18) years to be in or upon any sidewalk, street, alley or public place between the hours of twelve o'clock (12:00) midnight and five o'clock (5:00) a.m. of any day.
- B. Parents And Guardians. It shall be unlawful for any parent, guardian, or other person having legal care and custody of any minor person, to allow, permit, or suffer the minor person to go or be in or upon any of the sidewalks, streets, alleys or public places in the City within the times provided in subsection A of this section.
- C. Exceptions. Subsection A of this section shall not apply when any minor person is:
 - 1. Accompanied by an adult having the care and custody of such person;
 - 2. Attending or returning home from a function of any school or church;
 - 3. Attending or returning home from a lawful entertainment, amusement, or commercial activity;
 - 4. On an emergency errand or specific business or activity directed by the person's parent, guardian, or other adult having custody or care of the person; or
 - 5. Engaged in legitimate employment which requires the person's presence at the public places during the prohibited hours.

- D. Business Premises: A person who owns or operates a business in the City shall not permit any minor person under the age of eighteen (18) years to be or to remain on the premises if the business is not conducted between twelve o'clock (12:00) midnight and five o'clock (5:00) a.m., unless in the immediate presence of the parent or other adult person having legal care and custody of the minor person. This subsection may not apply to any minor who is lawfully employed on the premises.
- E. Aiding Minor To Violate Curfew: It is unlawful for any person to assist, aid, abet, or encourage any minor to violate the provisions of subsection A of this section or to use influence, enticement, or persuasion to cause the minor person to remain away from parents, guardians, or other persons having charge or custody of the minor person without the consent of such parents, guardians, or custodians.
- F. Penalty. A violation of this section shall be a class C misdemeanor, subject to penalty as provided in section **XXX** of this code.

10.02.050 Discharge of Air Guns Prohibited

- A. Air Gun Defined. As used in this section, the words "air gun" mean and include the following: air gun, air pistol, air rifle, paintball gun, BB gun, blowgun, toy gun, or device of any kind or nature when so designed, contrived, or modified, can propel, by air, compressed air, gas, electricity or spring loaded plunger, any pellet, bean, pea, BB (metal or plastic), paintball, rock or other hard substance a distance greater than twenty five feet (25').
- B. Unless otherwise prohibited pursuant to Utah Code Ann. § 76-10-508.1 and interpreted to comply with Utah Code Ann. § 53-5a-102, it is unlawful within the City limits when on public property, in public rights of way or on property open to the public for any person to draw or exhibit any air gun:
 - 1. in such a manner that a reasonable person would feel threatened by such a display, or
 - 2. with the intent to intimidate another person.
- C. Minors: It is unlawful for an adult, parent, or guardian to knowingly allow a minor to display or discharge any air gun within the City limits when on public property, in public rights of way, or on property open to the public, contrary to the provisions of this section.
- D. Projectile Entering Property: It is unlawful to discharge an air gun on private property in a manner that results in a projectile entering public property, public rights of way, property open to the public, or the private property of a nonconsenting third party who has not given prior written permission for the projectiles to enter his or her property.

- E. Third Party Permission: No person shall shoot or discharge any air gun while on private property owned by a nonparticipating third party without the third party property owner's prior written permission.
- F. Exception: The provisions of subsections B, C, and D of this section shall not apply when a person is possessing or using an air gun on a gun range or course, operated or conducted by the City, or any school, educational institution, business or other group, pursuant to rules and regulations promulgated by the City and all applicable state and federal laws.
- G. Penalty: Police officer discretion may be exercised by issuing a "warning" for a violation of this section.
 - 1. A violation of this section shall be punishable as a class C misdemeanor.
 - 2. Any subsequent violation of this section shall be enhanced to be punishable as a class B misdemeanor.

10.02.060 Discharge of Archery Equipment Prohibited

It is unlawful for any person to discharge archery equipment of any description within the corporate limits of the City except in areas authorized by the state of Utah for hunting or by authorized agents working in direct connection with the City's urban deer program.

10.02.070 Hunting

- A. Definitions: The following definitions shall apply to this section in addition to the definitions set forth in Section 1.02.060:
 - 1. "Hunting" means to take or pursue a reptile, amphibian, bird, or mammal by any means.
 - 2. "Wildlife" means crustaceans, including brine shrimp and crayfish, mollusks, and vertebrate animals living in nature, except feral animals.
- B. Hunting Unlawful: It is unlawful for any person to hunt any wildlife within the corporate limits of Kearns.
- C. Exceptions: Nothing under this section shall be construed to supersede the authority of Utah Division of Wildlife Resources pursuant to Utah Code, § 23A-2-201 from establishing methods within City limits to abate a nuisance complaint involving wildlife or the use of firearms under Utah Code § 53A-5a-102.

10.02.080 Parachute Jumping

It is unlawful for any person, except in an emergency, to make a parachute jump, or for any pilot in command of an aircraft to allow a parachute jump to be made from that aircraft, within the limits of the City, unless prior written permission is received from the Mayor.

10.02.090 Disregard Of Warning Or Barricade

A person who willfully fails to observe any temporary or permanent barricade, warning light, sign, cone, or other object used as provided in state law, or to obey a flagman, is guilty of a Class B misdemeanor.

10.02. Livestock Highway Use Restrictions

It is unlawful for any person to drive livestock upon public highways when a livestock highway is available and can be used without undue inconvenience.

10.02.110 Injury To Trees On Highway—Penalty

Any person who, without authority, willfully and intentionally cuts down or carries off any wood or underwood, tree or timber, or girdles or otherwise willfully or intentionally injures any tree or timber on the land of the City or any City highway is liable to the City, for treble the amount of damages sustained which may be assessed in a civil action.

10.02.120 Liability For Damage To Highway Of Structure

Any person who willfully or negligently injures or damages any City highway, highway equipment, or road sign shall be liable for such damage. The amount of such damage may be recovered in a civil action brought by the attorney in the name of the City.

10.02.130 Liability For Damage To Sidewalk Or Curb Ramp

Any person who willfully or negligently injures or damages any City sidewalk or curb ramp shall be liable for such damage. The amount of such damage may be removed in a civil action brought by the City attorney in the name of the City.

10.02.140 Liability For Damages Due To Illegal Operation

Any person illegally driving any vehicle, object, equipment, or contrivance upon any City highway or highway structure shall be liable for any damage that the highway or structure may sustain as a result of the illegal operation, driving, or moving of the vehicle, object, equipment, or contrivance weighing in excess of the maximum weight specified by City code. If the driver is not the owner of such vehicle, object, equipment, or contrivance, but is operating the same with the express or implied permission of the owner, then the owner and driver shall be jointly and severally liable for the damage. Any damage claim may be filed and recovered in a civil action brought by the City attorney at the request of the public works department.

TITLE 11 VEHICLES AND TRAFFIC

CHAPTER 11.01.010

Commented [NB29]: This will require review from the MSD staff.

11.01.010. State Traffic Code Adopted By Reference Purpose

- A. Pursuant to the authority provided in Utah Code Ann. § 10-8-84, the Council hereby adopts Utah Code, § Title 41, Chapter 61, Traffic Code, including any subsequent amendments thereto, with the corresponding penalty of infraction, class C misdemeanor, or class B misdemeanor and incorporates the statutory provisions by reference as if fully set forth herein.
- B. The omission to specify or enumerate in this chapter those provisions of general criminal law and offenses applicable to all law enforcement agencies or political subdivisions of the state shall not be construed as a waiver of the benefits and enforcement of any such provisions.
- C. If no other penalty is prescribed, any person convicted of violating any provision of City code shall be considered guilty of a Class B misdemeanor.

11.01.020. Definitions

- A. “Department” means the Department of Public Safety of the State of Utah or the Kearns Police Precinct of the Unified Police Department of Greater Salt Lake;
- B. “Department of Transportation” means the Utah Department of Transportation.
- C. “Justice Court Judge” means the Justice Court Judge of the City of Kearns.

11.01.030 Prima Facie Speed Limit

Unless otherwise provided in this chapter, or in any other ordinance of the City, the prima facie speed limit on the streets of the City shall be twenty-five (25) miles per hour.

11.01.040 Weight Limitation of Restricted Vehicles on Public Streets

- A. A vehicle or combination of vehicles may not be driven intentionally or knowingly on the streets of the City which have a maximum gross weight in excess of nine thousand five hundred (9,500) pounds on one wheel, or an axle load in excess of twelve thousand (12,000) pounds, except with the permission of the Council.
- B. A vehicle or combination of vehicles may not be driven intentionally or knowingly on the streets of the City in excess of the maximum gross weight or axle load posted on the street if the posting was authorized by the Council.

- C. As used in this section, "axle load" means the total load on wheels the centers of which are included between two (2) parallel transverse vertical planes.
- D. Any person that violates this section is guilty of a Class C misdemeanor.
- E. Any commercial, excavation, and construction equipment that is delivering to a property or approved construction site located on a weight restricted street shall be exempt from this section.

11.01.050 Authority to Erect Regulatory Signs

The City Manager, or the Mayor in the absence of a City Manager, authorize any person employed by the City to erect or install any sign or traffic control device required to enforce the provisions of this title.

11.01.060 Motorcycles and All-Terrain Vehicles Restricted

It shall be a Class C misdemeanor for any person to operate any motorized vehicle, motorcycle, or all-terrain vehicle on any property within the City, except on dedicated public streets where permitted, private property which has a business license to permit the use of motorcycles or all-terrain vehicles in a commercial capacity, private residential property with the owner's consent, or on commercial property used for the sale, lease, rent or display of motorized vehicles.

11.01.070 Skateboards, Rollerblades, Long Boards, Sleds and Other Nonmotorized Conveyances:

- A. Use Prohibited. A person may not intentionally or knowingly ride upon or utilize roller skates, skateboards, long boards, rollerblades, scooters or other similar conveyances on any public roadway or sidewalk on Eaglewood Drive, Eagleridge Drive, Center Street, or Lacey Way.
- B. Towing Devices. It is unlawful for the driver of any motorized vehicle intentionally or knowingly to drive or operate such vehicle upon a City street or sidewalk while any sled, sleigh, skateboard, wagon, or similar device is towed, attached to, or connected with the vehicle.
- C. Penalty: Violation of this section shall be a Class C misdemeanor.

11.01.080 Penalties

Unless otherwise provided in this chapter or the adopted State Traffic Code, any person violating, causing or permitting violation of any provision of this chapter shall be guilty of a Class C misdemeanor pursuant to Utah Code §§ 76-3-204 and 76-3-301.

CHAPTER 11.02 PARKING REGULATIONS

11.02.010 Purpose

- A. This chapter is intended to serve, promote, and protect the public health, safety, and welfare:
1. To reduce congestion upon the public streets of the City;
 2. To promote safety and accommodate efficient snow removal on City streets;
 3. To accomplish traffic control;
 4. To ensure that land use development provides the parking needed to serve the associated uses, residents, tenants, and visitors;
 5. To achieve an appropriate balance between the demand for and supply of off-street parking; and
 6. To accommodate multi-modal transportation usage.

11.02.020. Definitions

- A. "Construction equipment" means heavy-duty vehicles, including vehicles specially designed for executing construction tasks or earthwork operations.
- B. "Impound" means to remove or seize a vehicle or trailer to an impound yard or if none, a garage or other place of safety.
- C. "Move" means to move or relocate a vehicle or trailer to a location off the public roadway or street.
- D. "Park or parking" means the standing of a vehicle or trailer, whether occupied or not. "Park" or "parking" does not include the standing of a vehicle temporarily for the purpose of and while engaged in loading or unloading property or passengers.
- E. "Peace officer" means a sworn member of the City of Kearns Police Precinct and certified as defined under Utah Code Ann. § 53-13-103.
- F. "Permit" means a specific written authorization for a use that is regulated by this Code.
- G. "Person" means the individual or business to which a vehicle or trailer is registered, whether in the State of Utah or another state.
- H. "Snow event" means a weather system that produces any type or combination of winter precipitation such as ice, snow, hail, sleet, or freezing rain.

Commented [NB30]: These are completely new and different from the SLCo code and will require review from the MSD.

- I. “Stand” or “standing” the temporary halting of a vehicle or trailer, whether occupied or not, for the purpose of and while engaged in receiving or discharging passengers or property.
- J. “Stop” or “stopping” means any prohibited halting even momentarily of a vehicle or trailer, whether occupied or not, except when:
 - 1. Necessary to avoid conflict with other traffic; or
- K. In compliance with the directions of a peace officer or official traffic-control device.
- L. “Traffic Control Device” means sign, signal, marking, light, painting, or other device on the road, sidewalk, curb, or street for the purpose of regulating, warning, or guiding traffic, including standing or stopped vehicles.
- M. “Trailer” means a vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle.
- N. “Vehicle” means any motorized device such as an automobile, including a truck, trailer, farm equipment, construction equipment, specialty equipment, off highway vehicle, or tractor by which any person or property is or may be transported or drawn upon a roadway.

11.02.030 Registered Owner Responsible

- A. If any vehicle or trailer is used in violation of the parking provisions of this title, the person or entity in whose name the vehicle or trailer is registered shall be strictly liable for the violation and the penalty for the violation.
- B. If a peace officer or code enforcement official witnesses a person stop or park a vehicle or trailer in violation of this chapter, the officer shall assess the civil penalty against that operator in lieu of the registered owner.

11.02.040. Authority to Erect Regulatory Signs

The Mayor or designee may authorize any person employed by the City to erect or install any sign or traffic control device required to enforce the provisions of this chapter.

11.02.050 Peace Officer Authority to Move or Remove Vehicle or Trailer in Violation

- A. If a peace officer determines that a vehicle or trailer parked in violation of this chapter must be moved to avoid public inconvenience, ensure public safety, or remove if abandoned, the peace officer is authorized to move, remove, or impound the vehicle or trailer, or to order the owner or operator of the vehicle or trailer to move or remove it.

- B. A peace officer who causes a vehicle or trailer to be removed under this section shall have the vehicle or trailer removed by a tow truck service that meets the standards established Utah Code Ann. § 72-9-101 et seq.
- C. The City shall not be liable for any lost, damaged, or stolen items or damage to any vehicle or trailer moved, removed, or impounded pursuant to this section.
- D. The registered owner of a vehicle or trailer moved, removed, or impounded under this section is liable for all related costs.

11.02.060 Applicability

- A. Any provision of this chapter that prohibits the stopping, standing, or parking of a vehicle or trailer shall apply at all times as specified by ordinance or as indicated on an official traffic control device except when necessary to stop a vehicle or trailer due to emergency conditions, to avoid conflict with other traffic, or to comply with the directions of a peace officer or an official traffic control device.
- B. A permit may be issued under this chapter that temporarily authorizes stopping, standing or parking that would otherwise be a violation of this chapter.

11.02.070 Prohibited Acts

- A. Restrictions On Stopping, Standing, Or Parking.
 - 1. It is unlawful for any person to cause or permit a vehicle or trailer to stop, stand, or park, whether occupied or not, in any of the following places:
 - a. On the roadway side of any vehicle or trailer stopped or parked at the edge or curb of a street;
 - b. On or across a sidewalk or curb;
 - c. Within an intersection or roundabout;
 - d. On a crosswalk or designated crossing;
 - e. Adjacent to a clear view area as defined by City Code XXX, unless a different length is identified by signs or markings;
 - f. Adjacent to or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;
 - g. Upon any bridge or other elevated structure, on a highway, or within a tunnel;
 - h. On any railroad track or railroad signal area;

- i. On any controlled-access highway;
 - j. At any place where an official traffic-control device prohibits stopping, standing, or parking; or
 - k. Alongside any curb during times when prohibited.
 2. It is unlawful for a person to cause or permit a vehicle or trailer to be standing or parked, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:
 - a. In front of a public or private driveway;
 - b. Within fifteen feet (15') of a fire hydrant;
 - c. Within twenty feet (20') of a crosswalk or designated crossing;
 - d. Within thirty feet (30') upon the approach to any flashing signal, stop sign, yield sign, or other traffic-control signal located at the side of a roadway;
 - e. Within twenty feet (20') of the driveway entrance to any fire station and on the opposite side of a street opposite the entrance to any fire station within seventy five feet (75') of the entrance when posted by signs; or
 - f. At any place where official traffic-control devices prohibit standing or parking.
 3. Any vehicle or trailer stopped, standing, or parked within a public right-of-way shall be parked in the direction of lawful traffic movement, with the wheels parallel to and within twelve (12) inches of the curb, asphalt edge, or shoulder, except where lawfully striped.
 4. It is unlawful and strictly prohibited for any person to park a vehicle or trailer perpendicular to a curb within a cul-de-sac.
- B. Restrictions on Passenger Or Freight Curb Loading Zone.
 1. It is unlawful for any person to stop or park a vehicle or trailer for any purpose other than for the loading or unloading of passengers in any place marked as a passenger curb-loading zone during the hours when the curb-loading zone regulation is in effect, and then only for a period not to exceed three (3) minutes, provided the driver remains with the vehicle.
 2. It is unlawful for any person to stop or park a vehicle or trailer for any purpose other than for the expeditious loading or unloading of property or materials in any place marked as a freight curb-loading zone during hours when curb-loading zone regulation

is in effect. In no case may the person's stop for loading or unloading of property or materials exceed thirty (30) minutes.

3. It is unlawful for a driver of a passenger vehicle to stop at a place marked as a freight curb-loading zone while freight loading is occurring if the unloading passenger interferes with any vehicle loading or unloading freight or the driver does not remain with the vehicle.

C. Bus Stops.

1. It is unlawful for any person driving a vehicle to stop, stand, or park a vehicle or trailer, other than a bus or coach, in a bus stop that has been officially designated (60 feet prior to the stop and 20 feet past the stop) as prohibited and appropriately signed or marked. It is unlawful for a person to temporarily stop a passenger vehicle within a marked bus stop unless the person is actively loading or unloading a passenger, the stopping does not interfere with any bus or coach, and the driver remains with the vehicle.

D. Vehicle Left Unattended.

1. It is unlawful for any person to leave a vehicle or trailer standing unattended unless the engine is stopped, the ignition is locked, and the ignition key is removed. If the vehicle or trailer is standing upon any perceptible grade, the brakes shall be set and the front wheels turned to the curb or side of the roadway.

E. Parking In Disabled Parking Stalls.

1. It is unlawful for any person to park a vehicle or trailer in any parking spot designated for parking by a disabled person, unless:
 - a. The driver or a passenger in the vehicle is disabled and the vehicle displays a disability special group license plate, temporary removable windshield placard, or removable windshield placard issued by the State, another state, territory, or foreign jurisdiction; or
 - b. The driver of the vehicle is parked to load or unload a passenger who is disabled and the vehicle displays a disability special group license plate, temporary removable windshield placard, or removable windshield placard issued by the State, another state, territory, or foreign jurisdiction.
2. This section shall be enforceable if the driver of the vehicle or trailer parked upon public property and on private property that is used or intended for use by the public.

F. No Parking During Snow Removal/Plowing Hours:

1. It is unlawful for any person to park or leave parked any vehicle or trailer upon the City's paved portion of the street or roadway during a snow event or until snow removal or plowing from pavement edge to pavement edge is complete.
2. Any vehicle parked in violation of subsection F1 of this section may be impounded and subject to a penalty. A person may not recover any impounded vehicle without first paying the cost of impound and storage.
3. Any vehicle or trailer which requires circumvention for plowing is considered abandoned or in continued violation of this chapter and shall be subject to citation, removal, and impoundment.

G. Vehicle Registration:

1. Every vehicle or trailer shall, at all times while being driven, stopped, or parked upon the streets, alleys, roadways, municipal property, or publicly owned parking lots of this City:
 - a. Be registered in the name of the owner thereof in accordance with the laws of the state, unless such vehicle is not required by the laws of Utah to be registered;
 - b. Display in proper position at least one (1) valid unexpired registration plate, on the rear of such vehicle; and
 - c. The current validation or indicia of registration shall be attached to the rear plate in compliance with state law and free from defacement mutilation, and other obscuring matters, so as to be plainly visible and legible at all times. However, if such vehicle is not required to be registered in this state, and the indicia of registration issued by another state, territory, possession, or district of the United States, or of a foreign county, substantially complies with the provisions hereof, such registration shall be considered as compliant with this code.
2. Any registered vehicle that has not yet received a permanent validation or indicia of registration shall display the temporary indicia of registration issued to such vehicle in accordance with Utah Code Ann. § 41-1a-211 or its successor section.
3. The registration and plate validation requirements shall also apply to any trailer, vessel, outboard motor, or other conveyance pursuant to Utah Code Ann. § 41-1a-101 et seq.

H. Time Limitations.

1. No vehicle or trailer shall be parked on any street or roadway for longer than:
 - a. forty-eight (48) consecutive hours; or

b. permitted by appropriate signs or markings giving notice of such parking time limitation.

2. For the purpose of this subsection H, moving a vehicle or trailer shall mean relocating the vehicle or trailer to a location off of the public right-of-way, street, or roadway.

I. Parking or Standing Vehicles, Trailers, or Equipment on Street:

1. It is lawful for a person to temporarily park construction equipment within a right-of-way during periods of active construction as authorized by permit or agreement.

2. It is unlawful for a person to park, place, store, abandon, or otherwise leave an inoperable vehicle or trailer on any public street, alley, sidewalk, park strip, curb, or right-of-way at any time.

3. It is unlawful for any person having control of a motorized vehicle to permit the vehicle to stand unattended without first stopping the engine, locking the ignition, and removing the key.

4. It is unlawful for any person to allow a vehicle to stand upon a perceptible grade without effectively setting the emergency brake and turning the front wheels to the curb or side of the roadway.

5. It is unlawful to any person to park or stand a vehicle other than parallel with the edge of the roadway, headed in the direction of lawful traffic movement, and with the right hand wheels of the vehicle within twelve inches of the curb or edge of the roadway, except as otherwise provided.

6. It is unlawful for any person to park, stand, or stop a vehicle upon the roadway side of another vehicle that is parked, standing or stopped, except while actually engaged in loading or unloading passengers, or in compliance with directions of any law enforcement or traffic device, or when necessary to avoid other traffic.

7. It is unlawful for a person to park any vehicle upon a street so as to leave available less than ten feet of the width of the roadway for free movement of vehicular traffic.

8. It is unlawful for a person to park or operate a vehicle upon any roadway for the principal purposes of greasing or repairing the vehicle, except repairs necessitated by an immediate emergency, or selling foodstuffs or other merchandise in any business district unless otherwise permitted.

9. There is a rebuttable presumption that a vehicle that is parked illegally shall constitute evidence that the registered owner was in control of the vehicle at the time it was parked.

Commented [LW31]: These sections from Kearns were retained but renumbered: 11.20.080; 11.20.090; 11.20.110; 11.20.120; 11.20.140; 11.20.150; 11.20.170

10. It is unlawful for a person to park, place, store, abandon, or otherwise leave on any public street, roadway, alley, or right-of-way at any time for a period longer than two (2) hours any motorized vehicle, combination of vehicles, or combination of vehicles and load which have a length of more than forty five feet (45'), a width of more than eight feet (8'), a height of more than fourteen feet (14'), a gross vehicle weight over eighteen thousand (18,000) pounds, or more than two (2) axles unless:
 - a. The vehicle or combination is actually engaged in loading or unloading passengers or freight; or
 - b. The vehicle or trailer is located on a street or roadway within an XX or XX Zone, with the exception of [name streets that apply] in which case the time limit shall be forty eight (48) hours.
 - c. For the purposes of this subsection, a vehicle shall be considered parked, even if the engine is running, if the vehicle is left standing for any period longer than three (3) minutes, unless the vehicle is actually loading or unloading passengers or property.
 - d. The provisions of this subsection do not apply to passenger buses operated under the authority of the Public Service Commission of the State of Utah, to authorized emergency vehicles, or to City vehicles.
- J. Parking Or Standing Near Mailbox Restricted: It is unlawful to stop or park any vehicle or trailer, whether occupied or not, within fifteen feet (15') of a public or private curb mailbox between the hours of eight o'clock (8:00) a.m. and five o'clock (5:00) p.m., except when necessary to avoid conflict with other traffic, to comply with law or the directions of a peace officer or official traffic control device, or to momentarily load or unload passengers.
- K. Parking In City-Owned Parking Lots:
 1. It is unlawful for any person to park a vehicle or trailer in a City-owned parking lot, including Kearns City Hall, City parks, or other City-owned parking lots in violation of any sign posted that restricts parking.
 2. The Mayor or designee may grant written permission for temporary use of a parking lot owned by the City of Kearns under special circumstances.
 3. It is unlawful for any person to park a motorized or non-motorized vehicle or trailer outside of a designated parking stall designated by painted lines or other markings, unless specifically authorized by the City in any parking lot owned by the City.
- L. Any parking violation on City streets or roadways shall be punishable as an infraction.

M. Any applicable state, county, or City traffic or parking regulations may be enforced upon school and school district property.

11.02.080 Regulations Not Exclusive

The provisions of this chapter that impose a time limit on stopping, standing, or parking shall not relieve any person from the duty to comply with any other more restrictive provision that prohibits or limits the stopping, standing, or parking of vehicles or trailers in specified places or at specified times.

11.02.090 Notice of Parking Violation and Procedures

- A. Any person who receives a Notice of Parking Violation shall pay the civil penalty for the infraction as provided in City of Kearns Consolidated Fee Schedule, Parking Violation, Minor. If the owner or operator requests a hearing before the administrative law judge within thirty (30) days, as provided in this chapter, the penalty is not due until the hearing process is complete.
- B. Any person who fails to request a hearing within thirty (30) days of the Notice of Parking Violation shall waive the right to a hearing.
- C. Any person's failure to pay the civil penalty shall result in an increased fee being assessed, with a second increase for violations which remain unpaid after sixty-one (61) days as provided in the City of Kearns Consolidated Fee Schedule.
- D. For any person who receives the Notice of Parking Violation and pays the civil penalty within thirty (30) days for the date of the notice, but who has requested a hearing, the administrative law judge shall determine the civil penalty paid and the matter resolved.
- E. For any civil penalty that remains unpaid after sixty (60) days from the issuance of the Notice of Parking Violation, or thirty (30) days from the date the administrative law judge rules, it shall be considered in default.
- F. The City may use any lawful means to collect on the default. The owner or operator shall be subject to all fines, including court, constable, and attorneys' fees. Nonappearance of an owner or operator may result in a default judgment.
- G. The City may use any lawful means to collect and satisfy the judgment, including costs and reasonable attorney's fees.

11.02.100 Administrative Law Judge - Procedures

The administrative law judge is the presiding officer who shall be appointed in accordance with Title 12, Code Enforcement and Community Preservation, to consider matters relating to a

violation to this title. The administrative law judge may not be a member of the Kearns Police Precinct or city council.

A. City Recorder Responsibilities

The City Recorder or designee shall accept penalty payments, offers of proof, manage payment plans, or schedule hearings.

B. Make Payment or Request Hearing

Any person who has received a Notice of Parking Violation on the person's vehicle or trailer, by mail or in person, shall make payment in one of the methods identified on the citation or may contact the City Recorder to request a hearing before the administrative law judge.

1. A request for hearing shall be in writing on a request form provided by the City.
2. The form shall be filed with the City Recorder, signed by the person named in the Notice of Parking Violation, state the request for a hearing, and identify the Notice of Parking Violation.
3. If the City Recorder determines that the request for hearing does not comply with this subsection, the person named in the Notice of Parking Violation shall be sent notice of the noncompliance within three (3) business days. The petitioner may amend the request for hearing to comply with this subsection within ten (10) days of receiving notice.

C. Standard Of Proof - Burden

1. The burden of proof is upon the petitioner.
2. If the administrative law judge finds by a preponderance of the evidence that no violation occurred, or that a violation occurred but one or more of the defenses set forth in this subsection is applicable, the administrative law judge may dismiss the Notice of Parking Violation and release the owner or person named in the notice from liability.
3. A petitioner may allege the following defenses under this subsection:
 - a. At the time of the observed violation, the subject vehicle or trailer had been acquired, possessed, or under the control of someone other than the registered owner, in violation of the criminal laws of the State.
 - b. At the time of the observed violation, the compliance with this chapter would have presented an imminent and irreparable injury to persons or property.

- c. At the time of receipt of the Notice of Parking Violation, possession of the subject vehicle or trailer had been acquired pursuant to a written lease agreement or other similar written agreement;
 - d. The subject vehicle or trailer was mechanically incapable of being moved from such location; provided, however, that this defense shall not apply to any vehicle or trailer which remains at such location in excess of twelve (12) hours;
 - e. Any marking, sign, or other indicia of parking regulation:
 - i. Was not clearly visible or comprehensible; or
 - ii. Was not properly installed; or
 - f. There exists another mitigating circumstance as may be determined by the administrative law judge.
4. If the administrative law judge finds that a violation occurred and no applicable defense exists, the administrative law judge may, in the interest of justice and for good cause, enforce the penalty and may set up a plan for the timely or periodic payment of the applicable penalty.

11.02.110 Judicial Review - Appeal of Parking Code Enforcement Decision

- A. Any party may appeal any decision made by the administrative law judge in the exercise of the provisions of this chapter to the Third District Court within thirty (30) days after the administrative decision is rendered.
- B. The decision or order by the administrative law judge constitutes final agency action.
- C. A party may seek judicial review only after exhausting all administrative remedies available.
- D. The petition shall name the agency and all other appropriate parties as respondents and shall meet the form requirements specified.
- E. At the time of the appeal to Third District Court, the appellant may request within thirty (30) days a transcript of the hearing and shall be responsible for all associated costs of the transcription.
- F. The Third District Court's review is limited to the record of the administrative decision that is being appealed. The court shall not accept or consider any evidence that is not part of the record of that decision.

G. The Third District Court shall presume, subject to rebuttal, that the decision or order of the Parking Code Enforcement administrative law judge is valid.

H. The Third District Court shall review the record to determine whether or not the decision was arbitrary, capricious, or illegal.

11.02.120 Penalties

A. Any parking regulation in this chapter is subject to penalties as currently adopted in the City of Kearns Consolidated Fee Schedule, Parking Violation, Minor.

B. Any vehicle or trailer with unpaid Kearns parking tickets may be subject to impound at the owner's expense.

TITLE 13 PARKS AND RECREATION

CHAPTER 13.01 CITY PARKS, TRAILS, AND OPEN SPACE

13.01.010 Defined Terms

For purposes of this chapter, "parks," "trails," or "open spaces" mean the real property dedicated for public use and enjoyment which the City owns, leases, or controls or the City owns and maintains. . This real property may be developed or undeveloped, planted with trees, lawns and other landscaping, and include facilities for sport, entertainment, or other recreation in compliance with City regulations.

13.01.020 Regulations

The Council may promulgate rules and regulations relating to the City parks, including any administrative rule, procedure, policy, or decision of the City which is designed to govern one or more activities or services of the City regarding City parks, trails, and open spaces.

13.01.020 Park Hours

City parks, trails, and open spaces are open to the public between the hours of five o'clock (5:00) a.m. and eleven o'clock (11:00) p.m. The City Manager, or the Mayor in the absence of a City Manager, or their designee may extend the hours for special events with prior approval.

13.01.030 Reservation of Park Facilities

Facilities are available for reservation pursuant to the current rental policy, as determined by the City manager or designee.

13.01.040 Prohibited Activities

It is unlawful for any person to:

- A. Discharge any firearm or air gun provided the prohibition is not preempted pursuant to Utah Code Ann. § 76-10-508.1 and if interpreted to comply with Utah Code Ann. § 53-5a-10;
- B. Use of archery equipment, except as authorized by the City for City recreation programs;
- C. Discharge of any fireworks, firecrackers, powder, or other explosive material, except for professional displays approved by the City;
- D. Discharge of any self-propelled rockets or torpedoes, regardless of propulsion material.
- E. Use of radio-controlled planes or drones;
- F. Use of golfing equipment;
- G. Horseback riding except in designated areas or by special event permit;
- H. Permit the release of unleashed animals except in designated areas or by special event permit.
- I. Buildup and inflate or use inflatable play equipment, including bounce houses and bounce structures, inflatable jumps, jump tents, inflatable obstacle course structures, inflatable water features, water slide apparatus or similar items, except as authorized by the City for City events;
- J. Hunt in any park, trail, or open space, except to fish as permitted in designated areas;
- K. Make or kindle a fire unless in a designated cooking area or as otherwise permitted by the parks superintendent or designee;
- L. Smoke in outdoor places of public access owned by the City;
- M. Possess or consume alcohol;
- N. Use the parks, trails, or open spaces after operating hours;
- O. Sell food, drinks, or other items without permission from the City;

- P. Amplify sound or music without prior written approval by the parks superintendent or designee;
- Q. Fight, riot, or engage in threatening or indecent conduct;
- R. Deface or destroy property;
- S. Litter; and
- T. Bathe or swim, except in public or private swimming pools or bathhouses or as otherwise expressly permitted.

13.01.050 Motor Vehicles

- A. It is unlawful to operate or drive any motor vehicle within any park, trail, or open space at a speed in excess of the speed posted on the particular road, trail or location.
- B. It is unlawful to operate or drive any motor vehicle other than in those areas specifically designated, authorized, and posted, except if the motorized or self-propelled equipment is used within the park by officers or employees of the City in the performance of their official duties.
- C. It is unlawful to operate any motor vehicle within any park, train, or open space in a manner that endangers the peace, health, and safety of any other person within the area.
- D. For purposes of this section, motor vehicles include automobiles, trucks, ATVs, motorcycles, motor bikes, snowmobiles, and any and all other self-propelled mechanical vehicles.

CHAPTER 13.02 COMMUNITY FORESTRY

13.02.010 Purpose

This ordinance establishes regulations and standards to ensure that the City realizes the benefits provided by street trees planted in public rights-of-way. It is not intended to resolve or regulate disputes over trees on private property that do not affect general public safety. This ordinance is enacted to:

- A. Promote the general welfare of the City by establishing and maintaining the maximum amount of canopy coverage provided by trees;
- B. Preserve and enhance the City's environmental, economic and social character with mature trees;
- C. Protect public safety, health and welfare;

- D. Encourage site and utility planning, building, and development practices to prevent indiscriminate removal or destruction of trees and avoid unnecessary disturbance to trees within the City and its Area of Impact;
- E. Maintain trees in a healthy, non-hazardous condition through the application of tree care standards contained in these ordinances;
- F. Establish and maintain appropriate species diversity and age classes in order to provide a stable and sustainable community forest;
- G. Establish a process by which trees are to be planted, pruned and removed; and
- H. Implement the goals and objectives of the New General Plan (Ord. 2022-09-01).

13.02.020 Definitions

For the purposes of this chapter, the following words and phrases shall have the following meanings in addition to the definitions set forth in Section 1.02.060:

ADJACENT PROPERTY OWNER:	Any person owning property adjacent to public rights-of- way.
ALTERNATE HOST PLANT:	One of two kinds of plants on which a pest must develop to complete its life cycle.
ANSI A300:	The American National Standard for Tree Care Operations - Tree, Shrub and Other Woody Plant Maintenance - Standard Practices. This is a document offering basic performance standards for tree pruning, published in 1995 by the American National Standards Institute (ANSI) or the same as amended from time to time.
ARBORICULTURE:	The cultivation of trees, including planting, pruning, removal or any other action which affects the growth and maintenance of trees.
CRITICAL ROOT ZONE:	The area under a tree extending from the base of a tree in all directions to an imaginary line 10 feet outside of the dripline or as determined at a preliminary site inspection by the Parks Superintendent.

DUTCH DISEASE:	ELM	A disease condition in elm trees caused by fungal organisms known by the scientific names <i>Ophiostoma ulmi</i> or <i>Ophiostoma novo-ulmi</i> .
FAMILY:		Single or group of genera of trees that closely or uniformly resemble each other in general appearance and technical character.
GENUS:		A group of tree species that have fundamental traits in common but that differ in other, lesser characteristics.
HAZARD:		Any tree, public or private, with visibly defined structural defects likely to cause failure of all or part of the tree, and be a danger to public safety.
PARKS SUPERINTENDENT:		The Kearns Parks Superintendent or designee.
PERMIT:		Written approval issued by the City for any activity on public trees or within the critical root zone of public trees.
PEST:		Any insect, disease or other organism harmful to trees.
PRUNING:		The practice of cutting tree limbs according to standards contained in ANSI A300.
PUBLIC NUISANCE:		For the purpose of this chapter, the term “public nuisance” is defined to mean any condition or use of street trees that are detrimental to the health or safety of persons, or the property of others, or which is declared to be a nuisance by this chapter, any other provision of this Code, or by any other State or Federal law. The following are defined and declared to be public nuisances under this chapter:
		A. Any dead or diseased tree or shrub harboring insects or disease which constitutes a threat to other trees in the City, whether located on public or private property.

	<p>B. Any tree with structural defects likely to cause failure of all or part of the tree and pose a danger to public safety or property.</p> <p>C. Any tree or shrub which obstructs the free passage of pedestrian or vehicular traffic or which obstructs a traffic sign, or interferes with the clear sight zones at intersections.</p> <p>D. The roots of any tree or shrub which cause the surface of the public street, curb, or sidewalk to be upheaved or otherwise disturbed.</p> <p>E. Any tree species indicated in this chapter as being undesirable or not suitable for use as a street tree.</p>
PUBLIC PROPERTY:	Any property owned by, dedicated to, or deeded to, the public or for the public's use. City parks, public rights-of-way and other publically owned, controlled, leased or managed properties are included in this definition.
PUBLIC RIGHTS-OF-WAY:	Improved or unimproved public property owned by, dedicated to, or deeded to the public or for the public's use, for the purpose of providing vehicular, pedestrian and other public use. Such public property provides circulation and travel to abutting properties and includes, but is not limited to, streets, sidewalks, landscaping, provisions for public utilities, cut and fill slopes, and open public space.
PUBLIC SAFETY:	The condition of being safe from bodily harm or property damage resulting from tree conditions or from failures while using public property.
PUBLIC TREES:	Any tree (inclusive of roots within the critical root zone) whose trunk is located, partly or in whole, on public property.
SPECIES:	A natural group of trees in the same genus made up of similar individuals.

STREET TREES:	All trees located within the public street rights-of-way, with a focus on street trees planted in park strips located on the edges of the associated roadway.
TOPPING:	“Rounding” or “heading back” or any other term that can be described as severe cutting back of limbs within a tree crown to buds, stubs, or laterals not large enough to assume a terminal role or as defined in ANSI A300.
TREE:	Any woody plant, which is 15 feet or more in height at maturity, with a single or multiple trunk, often unbranched for several feet above the ground and having a definite crown.
TREE LITTER:	Plant material such as leaves, bark, needles, twigs, and fruit that have fallen to the ground. (Ord. 2019-11, 9-17-2019)

13.02.030 Standards And References

- A. Most recent versions of the following apply:
 - 1. ANSI A300 Tree Care Operations - Tree, Shrub and Other Woody Plant Maintenance - Standard Practices.
 - 2. Tree Care Operations Standard ANSI Z-133.1, Pruning, Trimming, Repairing, Maintaining, and Removing Trees, and Cutting Brush - Safety Requirements.
 - 3. ISA Best Management Practices.
- B. In the case of a discrepancy between the standards between the references above and City Code or Design Standards and Specifications, City Code and Design Standards and Specifications take precedence.

13.02.040 Role Of Parks Superintendent

- A. Jurisdiction.

1. Public Property.
 - a. The Kearns Parks Superintendent as designated by the Council shall manage and regulate the planting, maintenance, protection, removal and replacement of all public trees within the City limits, including park strips and medians.
 2. Private Property.
 - a. The Parks Superintendent shall have jurisdiction to determine if a tree located on private property constitutes a public nuisance as defined in this section and if the trees should be pruned or removed.
- B. The Parks Superintendent shall reserve the right to perform the duties as follow:
1. Administrative Duties
 - a. Enforce specifications, as adopted, for tree planting on public property.
 - b. Recommend modifications to tree lists or specifications.
 - c. Implement temporary restrictions on species which pose a threat to the health of the tree.
 2. Major Tree Maintenance Duties
 - a. Order the pruning of public trees to ensure public health, safety, and welfare while considering the health of the tree and other elements of the infrastructure.
 - b. Declare trees as public nuisances.
 3. Tree Removal Duties
 - a. Remove trees located on or near public rights-of-way which have been declared to be a public nuisance.
- C. It shall be unlawful to interfere with the Parks Superintendent, or sub-contracted professionals, assigned to carry out the enforcement of this chapter.

13.02.050 Public Nuisances - Abatement

- A. The following are hereby declared public nuisances under this chapter:

1. Any tree or its part, public or private, which by reason of location or condition, constitutes a hazard to public safety as determined by the Parks Superintendent;
2. Any tree or its part on public or private property which obstructs the free passage of pedestrian or vehicular traffic on a public street or right-of-way or which obstructs public street lighting; and
3. Any tree or alternate host plant or its part on public or private property which harbors pests which reasonably may be expected to injure or harm public trees. This includes any standing elm tree infected to any degree with Dutch Elm Disease or which harbors elm bark beetles, and any dead elm tree or part thereof, including logs, stumps, or other elm material from which the bark has not been removed.

B. Abatement Of Public Nuisances.

1. Any public nuisances shall be abated as provided in Title 12, Code Enforcement and Community Preservation.

13.02.060 Tree Maintenance And Pruning

- A. City Powers. The City reserves the right to prune or order the pruning of trees in the public rights-of-way and utility easements, as necessary, including to maintain minimum clear heights for public trees in public rights-of-way maintained by the City as provided in this chapter.

- B. Private Property Owner Responsibilities for Public Trees. Private property owners, occupants and their agents shall have the following responsibilities for the protections of trees in park strips abutting their real property except those in park strips that are maintained by the City:
 - 1. Maintain trees upon adjacent public rights-of-way and any trees upon private property which may affect public property, in a safe, healthy condition in compliance with the provisions of this chapter.
 - a. Pruning of trees located on public rights-of-way adjacent to the owner's private real property.
 - i. Trees shall be pruned and maintained in accordance with ANSI A300 and City Design Standards and Specifications.
 - ii. Topping, heading, shearing or rounding over are not acceptable forms of tree pruning and are not allowed on public trees unless first approved by the Parks Superintendent.
 - iii. Except as otherwise determined by the Parks Superintendent, branches that overhang sidewalks or streets shall be pruned to provide sufficient vertical clearance over the sidewalk and street so as not to interfere with public travel. Trees shall be pruned to provide 8 feet of clearance on the sidewalk side of the tree, and 14 feet of clearance on the roadway side of the tree.
 - iv. Trees shall be pruned to remove dead limbs or other limbs that are considered a public nuisance.
 - b. Control pests on trees located on public rights-of-way adjacent to the owner's private real property.
 - c. Provide water and fertilization sufficient to keep trees located on public rights-of-way adjacent to the owner's private real property in a healthy, growing condition.

- d. Rake, clean up, and properly dispose of tree litter that falls from trees so litter does not impede the storm water system, sidewalks or pedestrian walkways.
- e. Notice is not required when determined to be an emergency or immediate hazard to public safety by the Parks Superintendent.
- f. If pruning of tree is anticipated to impede traffic in any way, a permit must first be obtained from the City's engineer or engineering division for traffic control.

C. Tree Protection and Preservation

- 1. To avoid creating public nuisances or damaging trees in the public rights-of-way, the City is authorized to require the protection of the tree, including the critical root zone, from construction or other harmful practices.
- 2. Any person performing any activity which may harm any part of a tree in the public rights-of-way, inclusive of the critical root zone, shall obtain a permit from the City prior to commencing work.
- 3. Any person performing any activity which has harmed any part of a public tree, inclusive of the critical root zone, shall notify the City.
- 4. No person shall use a public tree for the attachment of any items such as signs, nails, wires, ropes, chains, swings, hammocks, slack lines, or treehouses.

D. Private Property Owner Responsibilities for Private Trees. Private property owners, occupants and their agents shall have the following responsibilities for the protection of trees located on the owner's private real property:

1. Routine Tree Maintenance

- a. Removal or pruning of trees located on the owner's private real property that are considered a public nuisance.
- b. Branches that overhang sidewalks or streets shall be pruned to provide sufficient vertical clearance over the sidewalk and street so as not to interfere with public travel. Trees shall be pruned to provide 8 feet of clearance on the sidewalk side of the tree, and 14 feet of clearance on the roadway side of the tree.
- c. Control of pests on trees located on the owner's private real property which may, upon determination by the Parks Superintendent, pose a threat to public trees.

- d. Removal of all debris, including wood, branches and leaves from public property by sunset of the day on which any tree work is done.
- e. Rake, clean up, and properly dispose of tree litter that falls from trees so litter does not impede the storm water system, sidewalk, or pedestrian walkways.
- f. If pruning of tree is anticipated to impede traffic in any way, a permit must first be obtained from the City's engineer or engineering division for traffic control.

13.02.070 Tree Removal

A. City Powers. The City reserves the right to:

- 1. Remove diseased or dying trees in park strips or other public property maintained by the City that are beyond reclamation.
- 2. The Parks Superintendent shall make a determination of the need to remove trees in the public rights-of-way.
- 3. The City may require removal of any tree that is declared a public nuisance or that does not meet the requirements of this chapter, at the discretion of the Parks Superintendent. The City shall notify the property owner adjacent to the public right-of-way, in writing, stating the reason and date for removal at least 7 days prior to removal.
- 4. Notice is not required when determined to be an emergency or immediate hazard to public safety by the Parks Superintendent.

B. Private Property Owner Responsibilities

- 1. Private property owners, occupants, and their agents shall have the following responsibilities for the trees in park strips abutting their real property except those in park strips that are maintained by the City:
 - a. Removal of diseased or dying trees that are beyond reclamation.
 - b. De-stumping.
 - c. Removal of all debris, including wood, branches, and leaves from public property by sunset of the day on which any tree work is done.
 - d. Obtain Permits.
 - i. Meet all requirements and obtain all permits necessary for removal of any public trees.

- e. Meet all requirements and obtain all permits necessary prior to commencing repair of damage done to public streets or sidewalks adjacent to any public trees.
- f. If removal of tree is anticipated to impede traffic in any way, a permit must first be obtained from the City's engineer or engineering division for traffic control.

13.02.08 Tree Planting

A. Responsibilities.

1. City Responsibilities.

- a. Establish and maintain specifications for tree planting on public property.
- b. Plant trees in City owned and operated parks, on the grounds of City buildings, and in park strips and medians that the City administration has designated will be maintained by the City in accordance with this chapter.
- c. Issue permits, including approval of tree species and location.

B. Private Property/Owner Responsibilities.

1. Any person in possession of private property adjacent to public rights-of-way shall plant new or replacement trees in public rights-of-ways in compliance with the provisions of this chapter, including the acquisition of a permit from the City.
2. Adjacent land owners shall purchase street trees at their own expense, except where the park strip is maintained by the City.
3. Certain Permits.
 - a. Meet all requirements and obtain all permits necessary for planting of any public trees.
 - b. Meet all requirements and obtain all permits necessary prior to commencing repair of damage done to public streets or sidewalks adjacent to any public trees.

C. Planting Requirements.

1. Street trees shall be located in the middle of the parking strip, equidistant between Sidewalk and curb.
2. Adjacencies and proximity standards. Street trees shall be located at minimum distances from other elements, including infrastructure, objects, sidewalks, curbs, other trees, signs, or driveway cuts as provided in this subsection. Distances may be altered by the Parks Superintendent to protect the public health, safety, and welfare.
 - a. Street trees shall be located 5 feet from:
 - i. Water meter or utility box;

- ii. Side property line of the adjacent property;
 - iii. Non-traffic conducting signage;
 - iv. Utility pole or light;
 - v. Traffic conducting signage not located within a clear-view area.
- b. Street trees shall be located 10 feet from:
 - i. Fire hydrant;
 - ii. Driveway.
- c. Street trees shall be located 15 feet from:
 - i. Any tree that is small in size at maturity (less than 30 feet tall).
- d. Street trees shall be located 20 feet from:
 - i. Any tree that is medium in size at maturity (30 to 45 feet tall).
- e. Street trees shall be located 30 feet from:
 - i. Any tree that is large in size at maturity (more than 45 feet tall).
- f. Street trees shall be located 40 feet from:
 - i. The point of intersection of street curb lines at all intersections.
- g. Street trees shall be maintained to provide clear view of intersecting streets
 - i. Street trees shall meet the City's requirements for the clear view of intersecting streets as provided in City code.
- h. Trees in Parking Islands.
 - i. Trees in parking islands shall meet the City's landscaping standards as provided in City code.

13.02.110 Tree Selection

Trees in the City's Approved Street Tree List are those which, if given proper and consistent maintenance including supplemental irrigation, proper pruning and avoidance of chemical contaminants, will be assets to the City's urban tree canopy. Any tree planted on public property, including park strips, shall comply with the standards in this chapter.

A. Any selected tree shall meet all requirements of this chapter and be on the City's Approved Street Tree List, which addresses soil type, location, and park strip width.

1. Any tree not included on the approved Street Tree List may not be planted in the public rights-of-way unless expressly permitted in writing by the parks superintendent or designee.

2. Minimum Standards.

a. Nursery Stock Specifications.

i. Trees shall be grown in a recognized nursery in accordance with good horticultural practice (American Association of Nurseryman Standards, ANSI Z60.1).

ii. Trees shall be healthy, vigorous stock grown under climatic conditions similar to the locality of the project and free of disease, insects, eggs, larvae, and defects such as knots, sun-scale, injuries, abrasions, or disfigurement.

b. Minimum Tree Size.

i. The minimum size of all trees planted in the public rights-of-way shall be 2 inch caliper minimum as measured 4 feet above grade.

ii. Evergreen trees may not be planted in the public rights-of-way unless expressly permitted in writing.

B. Prohibited Street Tree List. The following trees are not to be planted on any public rights-of-way in the City:

1. American Elm – *Ulmus americana* (exceptions are new species that are resistant to Dutch Elm disease)

2. Ash – *Fraxinus* sp.

3. Birch – *Betula* sp.

4. Black Locust – *Robinia pseudoacacia*.

5. Box Elder – *Acer negundo*.

6. Cottonwood, Quaking Aspen, and Poplars – *Populus* sp.

7. Flowering Plum – *Prunus cerasifera*.

8. Idaho Locust – *Robinia x ambigua*.

9. London Plane Tree – Platanus sp.
10. Russian Olive – Elagnus angustifolia.
11. Siberian Elm – Ulmus pumilla.
12. Silver Maple – Acer saccharinum.
13. Trees of Heaven – Alianthus.
14. Willow – Salix sp.
15. Evergreens – including but not limited to Colorado Blue Spruce, Austrian Pine, Ponderosa Pine, Pinyon Pine, Mugo Pine, White Fir, Douglas Fir, Subalpine Fir, and Upright Junipers

C. Street Tree Selection Criteria.

1. Street trees shall be selected based on a combination of their approximate size at maturity, the location within the City and the width of the park strip. Soil conditions, tree areas, and approved street trees are provided in the Kearns Design Standards and Specifications.
 - a. Size at maturity.
 - i. Small Trees – Less than 30 feet tall at maturity.
 - ii. Medium Trees – 30 to 45 feet tall at maturity.
 - iii. Large Trees – 45 feet tall or greater at maturity.
 - b. Location within the City. Several conditions including soil type and location within the City warrant the use of different street trees. The Tree Area map shall be found in the Kearns Design Standards and Specifications.

Commented [NB32]: Does Kearns want to have design standards and specifications to which tree details can be added?

13.02.110 Tree Permits

It shall be unlawful for any person to plant or remove any tree on public property or to cause such acts to be done by others without first obtaining a permit from the City. The City may issue such permits if, in its judgment, the work is necessary and if the proposed methods of workmanship are satisfactory. No permit fee is required. The person receiving the permit shall abide by the specifications and standards of practice adopted by the City and the specific conditions and methods listed on the permit.

A. Application Process.

1. The applicant shall obtain a permit for planting or removing a public tree prior to the commencement of the proposed work.

B. Requirements – Tree Planting Permits.

1. Each application for a planting permit shall designate the species and location of public tree proposed.
2. The permit shall designate the proposed tree species, spacing, placement and minimum tree well sizes.
3. The City may remove any public tree that has been planted without a permit or that is in conflict with the provisions of this chapter.

C. Requirements – Tree Removal Permits.

1. The applicant shall obtain a permit for the removal of any public tree prior to its removal.
2. If a tree within public rights-of-way is removed, the applicant shall replace the tree removed as a condition of issuance of a permit for removal, unless such requirement is waived by the City for good cause shown.

13.02.110 Damaging, Destroying Or Mutilating Public Trees

A. It shall be unlawful for any person to:

1. Damage, mutilate or destroy any public tree;
2. Attach any device or structure, including tree houses or lights, to or on public trees unless otherwise authorized by the Parks Superintendent;
3. Store, spill, or dump substances, whether liquid or solid, which may be harmful to a public tree, any part of a public tree, or within the critical root zone of a public tree;
4. Damage public trees through construction activities in violation of the conditions of a permit issued under this chapter. Such activities include, but are not limited to:
 - a. Making excavations or cuts in the soil near roots of public trees unless otherwise approved by the Parks Superintendent;
 - b. Damaging roots of a public tree by compacting or placing fill within the critical root zone of a tree;
 - c. Engaging in any pruning activity on public trees not in accordance with ANSI A300, including, but not limited to: topping, heading, rounding or shearing unless otherwise approved by the Parks Superintendent.

B. Compensatory Payments.

1. If any person removes, destroys, or damages any public tree except as otherwise required by law, that person shall be required to replace such tree with a tree of equivalent dollar value on public property, unless otherwise determined by the Parks Superintendent. The value of a tree shall be determined by the Parks Superintendent in accordance with accepted plant appraisal methods as provided in the most recent edition of the Guide for Plant Appraisal, published by the International Society of Arboriculture.
2. If no suitable location exists in the vicinity of the public tree removed or if the replacement tree is of lesser value, the person causing the tree to be removed shall make a compensatory payment to the City of Kearns equal to the difference in value between the tree removed and any replacement tree.
3. Any public tree that is determined by the Parks Superintendent to be damaged, but not sufficiently to justify its removal, shall be considered to be devalued. The amount of devaluation shall be paid to the City by the person causing the damage.
4. Any compensatory payment shall be deposited into a special fund established for that purpose and restricted to use for community forestry programs.

13.02.120 Penalties For Violation

- A. Any person who violates any provision of this chapter or who fails to comply with a lawful order of the Parks Superintendent may be subject to the assessment of civil penalties for each violation in accordance with Title 12, Code Enforcement and Community Preservation.
- B. In addition to any civil penalties and restitution for actual damages that may be imposed, the City may pursue criminal penalties in accordance with state law.

TITLE 14 HIGHWAYS, SIDEWALKS, AND PUBLIC PLACES

CHAPTER 14.01 DEFINITIONS

- A. For the purposes of this chapter, the following definitions shall apply:
 1. "Construction" means the construction, reconstruction, replacement, or improvement of the public highways, including the acquisition of rights-of-way and material sites.
 2. "Curblineline" means a line on either side of the center of a highway ten feet inside the right-of-way line and running parallel to the right-of-way line. Any individual exceptions to this definition must be approved by the City.
 3. "Engineering division" means the engineering division as designated by the City.

Commented [NB33]: This title has been provided to the MSD staff to review and will require their input and feedback. Thus, changes are anticipated.

4. "Fenceline" means a line on either side of the center of a highway coterminous with the outside boundary or limits of the highway.
5. "Highway authorities" means the Utah Department of Transportation for those roads that are under its jurisdiction or the Council for those roads that are under the City's jurisdiction.
6. "Limited-access facility" means a highway, road, or street especially designed for through traffic and over, from, or to which neither owners nor occupants of abutting lands, nor other persons, have any right to easement, or have only a limited right or easement of access, light, air, or view.
7. "Maintenance" means the performance of necessary maintenance to keep a public highway in serviceable condition.
8. "Operations division" means the operations division as designated by the City. .
9. "Public highway" or "highway" means any road, street, lane, court, place, viaduct, tunnel, culvert, bridge, alley, or other public way situated within this City laid out or erected as such by the public, or dedicated, abandoned, or open to the public, or made such in any action for the partition of real property, or such other public property so designated by any ordinance or statute, and includes the entire area within the right-of-way.
10. "Right-of-way" means land, property, or an interest therein, usually in a strip, acquired for or devoted to use as a public highway.
11. "Section" means a section of this chapter unless some other section is specifically mentioned.
12. "Sidewalk" means that area between the curblineline and the fence line on either side of a highway.

CHAPTER 14.02 STANDARDS FOR ROADWAY DEVELOPMENT

14.02.010 Definitions

- A. For the purposes of this chapter, the following definitions shall apply:
 1. "AASHTO guidelines" means the engineering and development standards published by AASHTO in the current edition titled "A Policy on Geometric Design of Highways and Streets."

2. "ADA Accessibility Guidelines (ADAAG)" means the minimum standards set forth in the Regulatory Information, 56 Fed. Reg. 144 (July 26, 1991), regarding the accessibility to places of public accommodation and commercial facilities by persons with disabilities.
3. "Arterial" means generally signalized streets that serve primarily through-traffic and provide access to abutting properties as a secondary function.
4. "Clearview" means that portion of the corners at intersections where obstructions are limited to two feet in height in order to preserve a safe sight distance for motorists entering intersections.
5. "Collector street" means streets providing land access and traffic circulation service within residential, commercial, and industrial areas. They enable moderate quantities of traffic to move efficiently between local streets and the major street network.
6. "Corner lot" means a lot abutting on two intersecting or intercepting streets, where the interior angle of intersection or interception does not exceed one hundred thirty-five degrees.
7. "Curb ramps" means a short ramp cutting through a curb or built up to a curb.
8. "Decision sight distance" means the distance required for a driver to detect an unexpected or otherwise imperceptible information source or hazard in a roadway environment that may be visually cluttered, to recognize the hazard or its threat potential, to select appropriate speed and path, and to initiate and complete the required safety maneuver safely and efficiently.
9. "Developed parcel" means those land uses other than agricultural.
10. "Driveway" means an access constructed within and adjoining a roadway, connecting the roadway with adjacent property, and intended to be used in such a way that the access into the adjacent property will be complete and will not cause the blocking of any sidewalk border area or roadway.
11. "Local street" means any street primarily providing access to immediately adjacent properties. Transit or passage may be possible but is not encouraged.
12. "Multifamily driveway" means a driveway providing access to more than four dwelling units.
13. "Private roadway" means a roadway in private ownership which is controlled and maintained by the owners and not the City.

14. "Public roadway" means a roadway which has been dedicated, deeded, or otherwise conveyed to public use.
15. "Public works department" means the department as designated by the City.
16. "Roadway" means the entire width between the boundaries of any highway, street, or road which is used for vehicular traffic. The terms "roadway," "highway," "street," and "road" are used interchangeably in this chapter.
17. "Ramp" means a walking surface which has a running slope greater than 1:20.
18. "Sight distance" means the same as stopping sight distance.
19. "Stopping sight distance" means the minimum sight distance required that will allow motorists traveling at or near the design speed to stop before reaching a stationary object in its path.
20. "Sidewalk" means a paved pathway for pedestrians that is publicly owned or in the public right-of-way, including with a commercial or residential area, segregated from vehicular traffic by a curb.

14.02.020 Roadways, Curb Ramps, Ramps, And Sidewalks To Comply With Standards

All public and private roadway, curb ramp, ramp, and sidewalk development located within the City subject to the jurisdiction of the City of Kearns shall meet the requirements of this chapter. If specific elements of design and construction are not addressed in this chapter, roadway design and construction shall comply with the engineering guidelines for design set forth in the AASHTO publication, 4.17: A Policy on Geometric Design of Highways and Streets," 6th Edition, and any successor editions. The public works engineer shall utilize the AASHTO manual, commonly referred to as the "Green Book," in setting safe design requirements.

14.02.030 Policies

The public works department shall adopt policies, including the complete streets policy, for use by City departments, developers, and others in the overall layout and design of streets and adjacent developments. The public works department shall keep and make available to the public copies of the policy.

14.02.040 Clear View Of Intersecting Streets

- A. Corner sight distance for local streets as defined in the AASHTO guidelines shall be a minimum of three hundred feet. All other locations shall be provided with sight distance in accordance with AASHTO guidelines.
- B. No constructed or planted obstruction to view, in excess of two feet in height above the level of the adjacent street pavement (measured at the edge of the pavement), shall be

allowed within the clear view of intersecting streets. Exception to this are signs that conform to Chapter 19.52; a reasonable number of trees pruned to ten feet; and pumps at gasoline service stations. In the event the provisions of this subsection conflicts with Chapter 19.52, the most restrictive shall apply.

- C. Landscaping material which infringes the clear view of intersecting streets and creates a safety hazard may be trimmed by the operation division after due notice to property owner has been given.

14.02.050 Sidewalks

- A. Sidewalks shall be located as far as practical from travel lanes. As the minimum standard, paved sidewalks shall be four feet in width with a five-foot utility strip between the roadway edge of sidewalk and back of curb.
- B. A five-foot sidewalk shall be integral with the back of curb where exceptional topographic conditions exist. If an integral sidewalk is permitted, the right-of-way may be reduced accordingly.
- C. When properties are adjacent, but do not access or front on public right-of-way, a stamped brick pavement in the utility strip or other suitable approved finishing material shall be required to reduce maintenance in these areas unless a homeowners association or special service district is provided.
- D. In areas zoned R-1-43 and other developments which have a minimum lot area of one acre, aesthetic alternatives may be approved in lieu of standard concrete, except areas along collectors and arterials. The public works engineer shall review and approve all design and geometric standards for such requests.

Commented [LW34]: Policy question. Concrete throughout and uniform or not?

14.02.060 Curb Ramps

- A. Curb ramps shall be provided wherever an accessible route crosses a curb.
- B. The least possible slope shall be used for any curb ramp. Slope shall be measured by: Slope equals Y:X, where X is a level plane.
- C. The maximum slope of a curb ramp in new construction shall be 1:12. Curb ramps to be constructed on existing sites or in existing buildings or facilities may have slopes and rises less than 1:12 as follows:
 - 1. A slope between 1:10 and 1:12 is allowed for a maximum rise of six inches;
 - 2. A slope between 1:8 and 1:10 is allowed for a maximum rise of three inches;
 - 3. A slope steeper than 1:8 is not allowed.

- D. The minimum width of a curb ramp shall be thirty-six inches, exclusive of flared sides.
- E. Surfaces of curb ramps shall be stable, firm, and slip-resistant.
- F. If a curb ramp is located where pedestrians must walk across the ramp, or where it is not protected by handrails or guardrails, it shall have flared sides; the maximum slope of the flare shall be 1:10. Curb ramps with returned curbs may be used where pedestrians would not normally walk across the ramp.
- G. Built-up curb ramps shall be located so that they do not project into vehicular traffic lanes.
Curb ramps shall be located or protected to prevent their obstruction by parked vehicles.
- H. Curb ramps at marked crossings shall be wholly contained within the markings, excluding any flared sides.
- I. If diagonal (or corner type) curb ramps have returned curbs or other well-defined edges, such edges shall be parallel to the direction of pedestrian flow. The bottom of diagonal curb ramps shall have forty-eight inches minimum clear space. If diagonal curb ramps are provided at marked crossings, the forty-eight-inch clear space shall be within the markings. If diagonal curb ramps have flared sides, they shall also have at least a twenty-four-inch long segment of straight curb located on each side of the curb ramp and within the marked crossing.
- J. Any raised islands in crossings shall be cut through level with the street or have curb ramps at both sides and a level area at least forty inches long between the curb ramps in the part of the island intersected by the crossings.

14.02.070 Horizontal Clearance To Obstructions

On all streets a minimum clearance of twenty-four inches shall be provided between the curb face or shoulder edge and any obstruction, including utility poles and fire hydrants, except standard mailboxes approved by the U.S. Postal Service.

14.02.080 Cul-De-Sacs

- A. Cul-de-sacs and turnaround shall have a minimum right-of-way radius of fifty feet in residential areas and sixty feet in commercial and industrial areas. A circular left hand offset is desirable.
- B. Hammerhead, "L," "Y" and "T" turnarounds shall only be allowed when approved by the planning commission upon written recommendation and design review of the public works engineer.

- C. A temporary turnaround for stub streets in excess of one hundred fifty feet long shall be provided where the extension of a street is planned and anticipated.
- D. The length of cul-de-sacs shall vary inversely with density to accommodate a maximum of twenty-five lots and shall not be longer than one thousand feet.

14.02.090 Roadway Design

- A. All vertical grade shall be a maximum of ten percent.
- B. A minimum vertical grade of four-tenths of one percent and a minimum crown slope of two percent shall be provided for adequate drainage of runoff.
- C. All approach legs of intersections shall provide vertical crest grades not to exceed two percent for a distance of at least fifty feet from right-of-way line of intersecting streets.
- D. The length of crest and sag vertical curves shall be designed in accordance with AASHTO guidelines.
- E. Vertical and horizontal curves shall be designed to provide a minimum stopping sight distance in accordance with AASHTO guidelines using the design speeds listed below. Decision sight distances, however, may be required as outlined in AASHTO's guidelines where more complex driver information error is likely to occur.
- F. All roadways shall be designed in accordance with the following design speeds using AASHTO's guidelines, principles, and practices:
 - 1. Local: Twenty-five mph;
 - 2. Collector: Forty mph;
 - 3. Arterial: Fifty mph.
- G. Superelevation rates above 0.06 ft./ft. shall be prohibited to minimize slipping across a roadway when stopped or attempting to slowly gain momentum from a stopped position. Superelevation will not be allowed on local residential streets.
- H. Where a centerline deflection angle of more than ten degrees occurs, a circular curve shall be introduced. There shall be a tangent of at least fifty feet on local streets and one hundred feet for collectors and arterials between reverse curves.

14.02.100 Right-Of-Way And Pavement Design

- A. Pavement width and pavement design standards shall be provided as follows:

B.	Right-of-Way Width	Pavement Width	Minimum Design Section
Local	42'	25'	8' base 3" asph.
Local	50'	25'	8" base 3" asph.
Collector	60'	35'	8" base 3" asph.
Collector	66'	41'	8" base 3" asph.
Collector	80'	55'	10" base 4" asph.
Arterial	106'	55' - 81'	12" base 6" asph.

C. All roadway sections shall be designed with minimums specified. The City shall require analysis and additional design requirements when unusual site or traffic conditions exist.

D. All canyon roads, as classified in Chapter 14.08 of this code, shall be provided with the following minimum standards:

E.	Right-of-Way	Pavement Travel Width	or Design Section
Cat. 1	66'	15' - 36'	10" base 4" asph.
Cat. 2	50'	25'	8" base 3" asph.

Cat. 3	50'	25'	8" 3" asph. base
Cat. 4	25'	20'	6" base only
Cat. 5	25'	20'	4" base only
Cat. 6	25'	20'	4" base only

14.02.110 Intersection Design

- A. The minimum radius of curb return on local streets in residential areas shall be twenty-five feet. A larger radius shall be used in industrial areas or higher functional classification streets as approved by the public works engineer in accordance with AASHTO guidelines.
- B. Streets shall intersect at an angle of ninety degrees where possible, but in no case shall the angle of intersection be less than eighty degrees.
- C. Offset intersections shall be avoided whenever possible and offsets shall be provided with minimum distances as follows:

1. Local streets:	one hundred fifty feet
2. Collectors	five hundred feet
3. Arterials:	eight hundred feet

- D. Left turns shall be prohibited within two hundred feet of major intersections either by signs or concrete medians.

14.02.120 Private Roadways

- A. The width of all private roadways shall consist of a minimum of twenty feet of unobstructed travel surface. Roadways shall be twenty-five feet wide where they form cul-de-sacs greater than five hundred feet in length. Short sections may be reduced to preserve trees or other features as approved by the fire department.

Commented [LW35]: UCA 10-9a-533 sets residential street width limits to nothing in excess of 32 feet. Does Kearns want to maintain this at 20' for private roads?

- B. All surfaces shall consist of an approved design capable of carrying twenty-four ton vehicles.
- C. The owner of any interest in a private roadway shall be jointly and severally responsible for the maintenance and repairs to the roadway. The City shall have no responsibility or liability for the maintenance of or repair to any private roadway. Each private roadway shall be maintained in a manner which allows easy access and passage of emergency vehicles throughout the entire length of the roadway.

Commented [LW36]: Does the city want to say the provisions of the HOA agreement or other similar instruments shall govern on private roads? This is problem for cities, and the code should be clear.

14.02.130 Street Direction and Grade

No street shall vary from the direction and grade of other City streets unless an exception in the direction and grade is obtained from the City engineer and Mayor.

14.02.140 Exceptions

If unusual topographical, aesthetic, or other exceptional conditions or circumstances exist, variations or exceptions to the requirements of this chapter may be approved in writing by the City Engineer and the City Manager, or the Mayor in the absence of a City Manager, after receiving recommendations from the planning commission and the public works engineer, provided that the variations or exceptions are not detrimental to the public safety or welfare.

CHAPTER 14.03 EXCAVATION

14.03.010 Right-Of-Way—Excavation

- A. No person, other than the City, may dig into or under the surface of any street, sidewalk, or public way, including any breaking or undermining of the surface of any street sidewalk, or public way, any tunneling under such surface, and any other activity affecting the physical characteristics of any street in a manner adverse to the common use of the street within such right-of-way except as permitted by the City engineer and in compliance with the permit regulations of the City engineering division.
- B. The City shall charge a permit fee and impose a cash bond for the excavation of the public right-of-way. The fee shall be in the amount specified in the consolidated fee schedule.
- C. Any cuts or open excavations on newly constructed, paved, or overlaid rights-of-way are not allowed for three years since the last completed construction, pavement or overlay work. If an emergency cut or excavation occurs, the responsible person shall comply with any special conditions imposed by the City regarding restoration of the roadway as detailed in subsection C.
- D. Any person making any excavation, bore, or boring in or under any City right-of-way shall restore the surface at the person’s own expense to its same type and depth of pavement as that which is adjoining, including the gravel base material (at a minimum 3" Bituminous

surface and 8" untreated base course). The restoration shall conform to the City standards and be accomplished within seventy-two (72) hours from the time of the excavation, unless additional time is granted in writing by the City.

- E. The permittee shall, at its own expense, restore the surface of any public way to its original condition and replace any removed or damaged pavement with the same type and depth of pavement as that which is adjoining, including the gravel base material. All restoration shall conform to the latest engineering regulations, design standards, and specifications published by the City engineer and adopted by the City and shall be accomplished within the time limits set forth in the permit, unless additional time is granted in writing by the City engineer.
- F. At its option, the permittee doing the actual excavation work may request that the City restore the surface to its original condition. The fee for such resurfacing shall be determined by the City engineer in accordance with its reasonable costs for such work and shall be charged to the person, firm, or corporation making the excavation. Payment for the work shall be received by the City prior to the release of the bond.
- G. If the road has been constructed, reconstructed, or overlaid within the preceding three (3) years, or the pavement has been chip-sealed or slurry sealed within the preceding two (2) years, the permittee shall be responsible for the following:
 - 1. The asphalt surface shall be milled down to a minimum depth of two inches from curb (or edge of asphalt) to center of road and resurfaced with asphalt. If the cut extends through the centerline of the road, the milling and paving will be from curb to curb (or edge of asphalt to edge of asphalt). Milling and paving shall extend to a length of 15' in each direction from each side of the cut. The City engineer or designee reserves the right to require a length greater than fifteen feet in each direction and a depth greater than two inches if there are special circumstances.
 - 2. The pavement shall be re-slurry sealed with an approved type II slurry from curb (or edge of asphalt) to center of road and a minimum of 15' in each direction from each side of the cut. If the cut extends through the center-line of the road the application of slurry seal will be from curb to curb (or edge of asphalt to edge of asphalt).
 - 3. In winter months, the permittee shall maintain a temporary patch until such time as the permanent surfacing may be accomplished. The temporary patch shall provide a smooth driving surface and be restored within 72 hours of being notified that repairs are required. Any excavation of City rights-of-way from October 15 through April 15 may be allowed only if the work is an emergency, a new service connection, required maintenance, or otherwise approved and permitted by the

City. Any permanent patching of a city right-of-way excavated in winter shall be delayed until April 15 or later and the outdoor ambient temperature is 50 degrees and rising.

H. Any person who violates the provisions of this section is guilty of a Class C misdemeanor.

14.03.020 Right-of-Way – Excavation - Encroachment – Permit Required

A. No person, other than the City, may use, place, erect, construct or maintain any sign, advertisement, pipeline, power line, messenger carrier, conduit, or conveyor across, over, under, or above any public way in the City, or to place, erect, or maintain any structure, including curbs, gutters, sidewalk, stairs, driveways, paving, valley gutters, waterways, park strips, or to use the public way to place temporary appurtenances within the public way in the City without first obtaining a permit therefor as provided in this chapter. The decision by the City to issue an encroachment permit shall include, among other factors determined by the City, the following:

1. The capacity of the public way to accommodate the facilities or structures proposed to be installed in the public way;
2. The capacity of the public way to accommodate multiple wires in addition to cables, conduits, pipes or other facilities or structures of other users of the public way, such as electrical power, telephone, gas, sewer and water;
3. The damage or disruption, if any of public or private facilities, improvements, or landscaping previously existing in the public way; and
4. The public interest in minimizing the cost and disruption of construction from numerous excavations of the public way.

B. The City shall charge a permit fee and impose a cash bond for the encroachment of the public right-of-way. The fee shall be in the amount specified in the consolidated fee schedule.

14.03.030 Permits—Required

A. It is unlawful for any person to engage in any excavation or encroachment activity in any street, alley, or other public place, including the area between the fence line on one side of the street or alley and the fence line on the opposite side, in the City without complying with the provisions of this chapter and obtaining a permit therefor and paying the fee as required in this chapter.

B. An emergency excavation or encroachment may be made without the prior permit if the reason for the excavation or encroachment is to prevent loss of life or damage to property that appears to be imminent if the excavation or encroachment would be delayed by waiting

to contact the engineering division. In an emergency situation, the excavating or encroaching parties shall contact the engineering division on the first working day following the excavation or encroachment and complete and secure a formal permit. None of the provisions of these specifications are waived for emergency situations except for prior permit requirement.

14.03.040 Permits—Application

- A. The application for the permit shall contain the following:
1. The name and address of the permit applicant, including the identities and authority to act if the applicant is a partnership or corporation;
 2. The name and address of the person who will perform the actual digging, tunneling, trenching, and backfilling or the encroaching and related work;
 3. The exact location of the intended excavation or encroachment, with a complete description of the place where the cut is to be made in, along, or across the roadway or highway, or the place where any use, placement, erection, construction, or maintenance shall occur, and a brief sketch showing the designated excavation or encroachment activity,
 4. The mechanical means or method to trench and backfill the exact location or address any damage or disruption to the right-of-way.
 5. The signed agreement that the applicant will comply with all ordinances and laws of the City and the state relating to the work to be done; and 6. The required certificate of insurance and completion bond.

14.03.040 Fees

The applicant shall pay to the public works department the permit fee in addition to a cash bond for the excavation or encroachment in the public right-of-way. The fee shall be in the amount as identified in the consolidated fee schedule.

14.03.050 Insurance Requirements

- A. The City may not issue a permit unless and until the permit applicant has posted with the City recorder evidence of comprehensive general liability and property damage policy that includes contractual liability coverage with minimum limits and provisions:
1. A minimum of two million dollars (\$2,000,000.00) combined single limit per occurrence for bodily injury, personal injury, and property damage and not less than three million dollars (\$3,000,000.00) in the aggregate unless otherwise approved by the City risk manager. The coverage shall be in the nature of broad

form commercial general liability coverage. The City attorney may increase or decrease minimum insurance limits, depending on the potential liability of any project;

2. All policies shall include the City, its employees, officers, officials, agents, volunteers and assigns, as insureds. Any reference to the "City" shall include the City, its employees, officers, officials, agents, volunteers and assigns;
3. The coverage shall be primary insurance as respects the City, its employees, officers, officials, agents, volunteers and assigns. Any insurance or self-insurance maintained by the City, its employees, officers, officials, agents, volunteers, and assigns shall be in excess of the permittee's insurance and shall not contribute to or with it;
4. Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the City, its employees, officers, officials, agents, volunteers and assigns;
5. Coverage shall state that the permittee's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability;
6. Underwriters shall have no right of recovery or subrogation against the City, it being the intent of the parties that the insurance policy so affected shall protect both parties and be primary coverage for any and all losses covered by the described insurance;
7. The insurance companies issuing the policy or policies shall have no recourse against the City for payment of any premiums due or for any assessments under any form of any policy;
8. Each insurance policy shall be endorsed to state that the coverage shall not be suspended, voided, canceled or reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested sent to the City;
9. Each policy shall be endorsed to indemnify, save harmless and defend the City and its officers and employees against any claim or loss, damage or expense sustained on account of damages to persons or property occurring by reason of permit work done by the permittee, or his or her subcontractor or agent, whether or not the work has been completed and whether or not the right-of-way has been opened to public travel;

- B. Each policy shall be endorsed to indemnify, hold harmless and defend the City, and its officers and employees against any claim or loss, damage or expense sustained by any person occurring by reason of doing any work pursuant to the permit, including, but not limited to, falling objects or failure to maintain proper barricades and/or lights as required from the time work begins until the work is completed and right-of-way is opened for public use.
- C. Insurance is to be placed with insurers with an A.M. Best rating of no less than an A carrier, with a rating of A7 or higher.
- D. The permittee shall furnish the City with certificates of insurance and original endorsements affecting coverage required by the permit. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The City expressly reserves the right to require complete, certified copies of all required insurance policies at any time. Consequently, the permittee shall be prepared to provide such copies prior to the issuance of the permit.
- E. If any of the required policies are, or at any time become, unsatisfactory to the City as to form or substance, or if a company issuing any such policy is, or at any time becomes, unsatisfactory to the City, the permittee shall promptly obtain a new policy, submit the same to the City for approval, and thereafter submit verification of coverage as required by the City. Upon failure to furnish, deliver and maintain such insurance as provided herein, the City may declare the permit to be in default and pursue any and all remedies the City may have at law or in equity, including those actions outlined in this chapter.
- F. The permittee shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.
- G. Any deductibles or self-insured retentions shall be declared to and approved by the City. At the option of the City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its employees, officers, officials, agents, volunteers or assigns, or the permittee shall procure a bond, in a form acceptable to the City, guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
- H. A property owner performing work adjacent to his or her residence may submit proof of a homeowners' insurance policy in lieu of the insurance requirements of this section.
- I. A provider may be relieved of the obligation of submitting certificates of insurance under the company shall submit satisfactory evidence in advance that:

1. It is insured in the amounts set forth in this chapter, or has complied with state requirements to become self-insured. Public utilities may submit annually evidence of insurance coverage in lieu of individual submissions for each permit; and
2. The coverage provides to the City the same scope of coverage that would otherwise be provided by a separate policy as required by this chapter; or
3. The work to be performed under the permit issued to the applicant is to be performed by the City, in which case insurance requirements shall be negotiated between the City and the applicant by separate agreement.

14.03.060 Completion Bond

No such permit shall be issued unless and until the applicant therefor has posted with the engineering division a completion bond, the amount of which is to be determined by the engineering division. The amount of the bond shall be sufficient to reasonably insure the proper restoration of the ground and the laying of pavement, if any. If the applicant fails to perform, the expense to the City of restoring the surface of the ground and pavement or mitigating any encroachment damage or disruption shall be deducted from the bond and the balance shall be returned to the applicant without interest after the excavation or encroachment restoration is completed. A separate completion bond shall not be required. However, if the restoration of the ground and the laying of the pavement is specifically granted under the provisions of another bond, the bond shall further guarantee the restoration of the worksite for a period of three years from the completion date of the restoration, reasonable wear and tear excepted.

14.03.070 COMPLETION BOND; WHEN REQUIRED; CONDITIONS; WARRANTY

- A. Each applicant, before being issued a permit, shall provide the City with an acceptable corporate surety bond or other bond in a form as accepted by the City attorney. The bond amount shall be determined by the City engineer to guarantee faithful performance of the work authorized by a permit granted pursuant to this chapter. The amount of the bond required may be increased or decreased at the discretion of the City engineer whenever it appears that the amount and cost of the work to be performed, and not satisfactorily completed, may vary from the amount of bond otherwise required under this chapter. The form of the bond and the entity issuing the bond shall be subject to the approval of the City attorney.
- B. Public utilities franchised by the City shall not be required to file a corporate surety bond if such requirement is expressly waived in the franchise documents.
- C. The bond required by this section shall be conditioned as follows:

1. The permittee shall fully comply with the requirements of the City ordinances and regulations, specifications and standards promulgated by the City relative to work in the public way, and respond to the City in damages for failure to conform therewith;
2. After work is commenced, the permittee shall proceed with diligence and expedition and shall promptly complete such work and restore the public way to construction specifications, so as not to obstruct the public way or travel thereon more than is reasonably necessary;
3. The permittee shall guarantee the materials and workmanship for a minimum period of time, as required by state statute at the time the permit is executed, from completion of such work, with reasonable wear and tear excepted; and
4. Unless authorized by the City engineer on the permit, all paving, resurfacing or replacement of street facilities on major or collector streets shall be done in conformance with the regulations contained herein within three (3) calendar days, and within seven (7) calendar days from the time the excavation commences on all other streets, except as provided for during excavation in winter or during weather conditions which do not allow paving according to engineering regulations. In winter, a temporary patch must be provided. In all excavations, restoration of pavement surfaces shall be made immediately after backfilling is completed or concrete is cured. If work is expected to exceed the above duration, the permittee shall submit a detailed construction schedule for approval. The schedule will address means and methods to minimize traffic disruption and complete the construction as soon as reasonably possible.

14.03.080 HOLD HARMLESS AGREEMENT; LIMITATIONS ON CITY LIABILITY

- A. The permittee agrees to save the City, its officers, employees and agents harmless from any and all costs, damages and liabilities which may accrue or be claimed to accrue by reason of any work performed under the permit. The issuance and acceptance of any permit under this chapter shall constitute such an agreement by the permittee to this section.
- B. This chapter shall neither be construed as imposing upon the City, its officers, employees and agents, any liability or responsibility for damages to any person injured by or by reason of the performance of any work within the public way, or under a permit issued pursuant to this chapter; nor shall the City, its officers, officials, employees, agents, volunteers or assigns thereof be deemed to have assumed any such liability or responsibility by reason of inspection authorized hereunder, the issuance of any permit, or the approval of any work.

14.03.090 WORK WITHOUT PERMIT; PENALTY

- A. A stop order may be issued by the City engineer directed to any person or persons doing or causing any work to be done in the public way without a permit. The abutting property owner shall be responsible for causing work to be done.
- B. Any person found to be doing work in the public way without having obtained a permit, as provided in this chapter, shall be required to pay a permit fee equal to two (2) times the normal permit fee. For replacement work, where a fee is not normally charged, the normal permit fee for new construction shall apply.

14.03.100 FAILURE TO COMPLY; DEFAULT IN PERFORMANCE

- A. Any permit may be revoked or suspended and a stop order issued by the City engineer, after notice to the permittee for any of the following reasons:
 - 1. Violation of any condition of the permit, the bond, or of any provision of this chapter;
 - 2. Violation of any provision of any other ordinance of the City or law relating to the work; or
 - 3. Existence of any condition or the doing of any act which does constitute, may constitute or cause a condition endangering life or property.
- B. A suspension or revocation by the City engineer, and a stop order, shall take effect immediately upon entry thereof by the City engineer and notice to the person performing the work in the public way. Notice to the person performing the work shall be accomplished when the City engineer has posted a stop work order at the location of the work and written notice has been mailed, return receipt requested, to the address indicated by the permittee on the permit.
- C. Whenever the City engineer finds that a default has occurred in the performance of any term or condition of the permit, written notice thereof may be given to the principal and to the surety on the bond, if there is a surety bond. Such notice shall state the work to be done, the estimated cost thereof, and the period of time deemed by the City engineer to be reasonably necessary for the completion of the work.
- D. In the event that the surety or principal, within a reasonable time following the giving of such notice (taking into consideration the exigencies of the situation, the nature of the work, the requirements of public safety and for the protection of persons and property), fails either to commence and cause the required work to be performed with due diligence, or to indemnify the City for the cost of doing the work, as set forth in the notice, the City may perform the work, at the discretion of the City engineer, with City forces or contract forces or both, and suit may be commenced by the City attorney against the contractor and

bonding company and such other persons as may be liable, to recover the entire amount due to the City, including attorney fees, on account thereof. In the event that cash has been deposited, the cost of performing the work may be charged against the amount deposited, and suit brought for the balance due, if any.

14.03.110 FAILURE TO CONFORM TO DESIGN STANDARDS; PENALTY

A. For failure to conform to the design standards and regulations, the City engineer may:

1. Suspend or revoke the permit;
2. Issue a stop order;
3. Order removal and replacement of faulty work;
4. Require an extended warranty period; and/or
5. Negotiate a cash settlement to be applied toward future maintenance costs.

14.03.120. APPEAL OF SUSPENSION, REVOCATION, OR STOP ORDER

Any suspension, revocation or stop order by the City engineer may be appealed by the permittee by filing a written notice of appeal with the public works director within ten (10) days of the action of the City engineer. The public works director shall hear the appeal, if written request therefor is timely filed, as soon as practicable, and render a written decision with findings of fact and conclusions of law within a reasonable time following filing of notice of appeal. The permittee may appeal the public work director's decision to the administrative law judge as provided in Title 1.

14.03.120 INSPECTION REQUIRED

The City engineering department shall from time to time inspect or cause to be inspected all excavations or encroachments being made in any public way, and all permitted activities to ensure the enforcement of the provisions of this chapter. The inspector may reject any excavation or restoration work or encroachment which do not conform to the requirements of this chapter.

14.03.130. MUNICIPAL WORK EXCEPTED

The provisions of this chapter shall not apply to excavations or encroachments of any kind in municipal streets, bridges, sidewalks or any other public ways which are conducted by City personnel with the direct supervision of the public works director.

14.03.140 CONFLICT WITH GOVERNING PROVISIONS

If there exists a conflict between the provisions of this chapter and the provisions of any other ordinance, agreement, franchise, or other document governing the excavation of a public way, the more restrictive provisions of the aforesaid documents shall apply.

14.03.150 VIOLATION; PENALTY

Unless otherwise specified in this chapter, a violation of any provision of this chapter, or failure to comply with an order of suspension, revocation or stop work, shall be a class B misdemeanor. Each day the violation exists shall be a separate offense. No criminal conviction shall excuse the person from otherwise complying with the provisions of this chapter.

14.03.160 FRANCHISE GRANT OR PERMITS

The City might on occasion grant exclusive or nonexclusive franchises or a permit to any utility operating within the City for the purpose of allowing that utility to erect, install, construct, repair, replace, reconstruct, maintain and retain within, across or through any City streets or rights of way such facilities as are necessary and acceptable to the City in order for the utility to provide a service to persons located within or outside the boundaries of the City. Any permit or franchise shall be valid during those periods set forth in such permit or franchise. All such permits or franchises shall be approved by the Council before taking effect.

14.03.170 EXCAVATIONS BY UTILITIES

Prior to excavating within any City owned street or public way, each utility shall be required to obtain a permit, franchise or other written agreement from the City allowing such excavation. Utilities desiring to so excavate shall make written application to the City for a permit, franchise or agreement as the case may be. Upon receiving such application the City shall have the right to investigate the proposed work or project and facts surrounding the application and to hold a public hearing with respect to the application where deemed appropriate in the sole discretion of the City. In conducting the investigation, the City shall have the right to review any plans or specifications with respect to the installation of facilities by the utility and all easements which are located with or cross any City owned streets or public way. The utility's application shall be accompanied with a fee, which shall be determined by the Council. All excavations performed by any utility shall be done in conformance with the requirements of all applicable City ordinances as well as technical and construction standards adopted by the City and shall be inspected by the City engineer.

14.03.180 INDEMNITY

Any utility excavating within any City owned streets or public way or any portions thereof or crossing the same with facilities or easements owned by the utility, shall agree to indemnify and hold harmless the City, its officers, officials, representatives and employees from and against any and all claims by or on behalf of any person, firm or corporation arising from the installation and/or maintenance of any facilities installed by the utility, or arising from acts or omissions on the part of the utility to be performed pursuant to any agreements with the City or arising from any negligent acts or omissions of the utility or its agents, contractors, subcontractors, servants, employees or licensees. This indemnification shall include all costs and attorney fees, expenses

and liabilities incurred by the City in connection with any such claims or any proceedings brought thereon.

14.03.190 UTILITY INSTALLATIONS

All utility facilities shall be installed and maintained in a safe, proper condition. All facilities installed by any utility shall conform to any applicable codes, rules and regulations applicable thereto whether adopted by federal, state or local government entities.

14.03.200 TRANSMISSION PIPELINES

- A. It is the purpose of this section to address the health, safety and welfare concerns surrounding the hazards of a gas transmission pipeline located in the City. These regulations are designed to improve the level of public safety and to reduce possible damage to the pipeline. These provisions do not relieve any person from any obligation under any other regulations imposed by the City or by federal and state law, nor do they impose any liability upon the City.
- B. This section shall apply to any new pipeline construction and to subdivisions, buildings, or addition to buildings proposed to be located on property within one hundred feet (100') of the pipeline. For purposes of this section, "pipeline or transmission pipeline" means a pipeline operated at a pressure of more than five hundred (500) psi that carries natural gas.
- C. In addition to the other requirements of this chapter, any person constructing or operating a pipeline in the City shall provide the following information to the City:
 - 1. Two (2) copies of a centerline survey showing the proposed right-of-way or easement for the pipeline and the exact location of the pipeline within that right-of-way or easement;
 - 2. Identification of the location and extent of topographical or geographical problems in relation to the pipeline, such as faults, waterways, rights of way and other similar items, and show how these problems will be addressed prior to construction;
 - 3. A twenty four (24) hour emergency contact number and the names of pipeline personnel to notify in case of an emergency.
- C. The following items shall be provided to the City by any person constructing or operating a pipeline within twelve (12) months after the completion of construction or commencement of operations, whichever occurs first:
 - 1. Two (2) copies of as built drawings showing the actual location of the right-of-way and the exact location of the pipeline within the right-of-way;

2. An emergency response plan submitted to and approved by the United States department of transportation;
 3. Two (2) copies of a plan for public awareness of the pipeline;
 4. Two (2) copies of a damage prevention program required under U.S. department of transportation, 1983, Section 192.614;
 5. Other applicable information required by the City.
- D. The pipeline right-of-way shall be kept clear and unobstructed, except for pipeline facilities and except for uses which are temporary in nature that may be removed quickly during emergency situations. The storage of any explosive or combustible materials shall not be located within the right-of-way. The pipeline shall be properly signed for easy identification. Where fences are erected over or around the pipeline, they shall be built in such a manner as to allow ready access to the pipeline for emergency vehicles and pipeline maintenance.
- E. At the time of application for a building permit, site plan review or preliminary plat of any subdivision or other development, the applicant therefor shall provide a scaled site plan that shows the location of any pipeline within one hundred feet (100') of the applicant's site or proposed development. The elevation of the pipeline shall be shown in a site plan and on a grading plan, when such plan is required to be submitted.
- F. Any person that causes an extraordinary expense to the City in preparation, response, litigation or recovery from pipeline associated emergency services shall be responsible for the cost of said services.
- G. Any future construction or relocation of the pipeline or pipeline facilities within the right-of-way shall be reported in writing to the City at least twenty four (24) hours before commencing such activities except in the case of construction required to respond to an emergency.

CHAPTER 14.04 EXCAVATION PERMITS FOR MONUMENTS

14.04.010 Prohibition Against Covering Monuments

It is unlawful for any person to damage, remove or cover with any hard surface, including asphalt, concrete, or metal of any public survey monument or section corner, including the metal ring and cover, except as permitted by this chapter.

14.04.020 Public Survey Monument Defined

"Public survey monument" means and includes any survey monument, benchmark, or section corner, including metal ring and cover, owned by Salt Lake County or the City of Kearns, the state

of Utah, the United States or any department, division, or agency of any such governmental entity, whether located on privately owned or publicly owned land.

14.04.030 Permit Application

Prior to disturbing, damaging, removing, moving, or covering any public survey monument a person shall apply for a permit on a form provided by the Salt Lake County surveyor.

14.04.040 Permit Fee

The applicant for a public survey monument excavation permit shall pay the applicable fees set forth in the City's fee schedule.

14.04.050 Other Governmental Entity Concurrence

The county surveyor may not issue a public survey monument permit for work on a public survey monument owned by the City until the applicant has provided the county surveyor with documentation for the City's approval.

14.04.060 Licensed Land Surveyor Required

Any work performed pursuant to a public survey monument permit shall be performed only under the supervision of a licensed Utah land surveyor in compliance with any specifications, requirements, and conditions imposed by the Salt Lake County surveyor and the City.

14.04.070 Penalty For Work Without A Permit

A person who disturbs, damages, moves, removes, or covers a public monument without a permit as required by this chapter shall, in addition to any other penalty, pay double the permit fee required in the consolidated fee schedule.

14.04.080 City Restoration, Replacement, Repair, Or Uncovering

The City may restore, repair, raise, replace, or uncover any public survey monument owned by the City, which is disturbed, damaged, moved, removed or covered in violation of this chapter. The cost of such restoration, repair, raising, replacement or uncovering, including any necessary resurveying, shall be paid by the person who disturbed, damaged, moved, removed, or covered the public survey monument, or by the person for whom such actions were performed.

14.04.090 Stop Work Order

In addition to any other penalty, the City may issue a stop work order. The stop work order may be issued if the City has reasonable suspicion or knowledge that one or more public survey monuments are in danger of being damaged, removed, or covered. The work may be stopped by giving notice in writing served on any person engaged in doing or causing the damage, removal, or covering of the monument. The notice shall be given three days prior to the actual work

stoppage, allowing the person time to be heard by the City and come into compliance with the chapter. The City shall issue a stop work order for failure to comply until compliance occurs.

CHAPTER 14.05 OBSTRUCTIONS

14.05.010 Obstructing Traffic On Sidewalk, Curb Ramp, Or Highway Prohibited

- A. It is unlawful for any person to construct, place, keep, or maintain upon or across any sidewalk, curb ramp, or highway in the City’s public right-of-way, any open ditch, flume, conduit, waterway, headgate, log, building material, vehicle, railway, or other obstruction; provided, building materials, vehicles, or objects may be placed there temporarily in such manner that does not impede, endanger, or obstruct ordinary traffic.
- B. It is unlawful for any person to permit any building material, vehicles, or other objects to remain on any sidewalk, curb ramp, or highway in the City’s public right-of-way contrary to instructions from the City’s public works department.
- C. It is unlawful for any person to pile any dirt or other material, or make any other defacement on any sidewalk, curb ramp, or highway in the City’s public right-of-way that interferes with the ordinary use.
- D. It is unlawful to drive or place any vehicle, animal, or other object upon or along any sidewalk, curb ramp, or highway located in the City’s public right-of-way or to permit the same to remain there in a manner likely to impede or obstruct the ordinary use, except as provided in subsection E.
- E. It is unlawful for any person to set out any container with garbage and other solid waste to be collected by Salt Lake County Special District No. 1, or any other solid waste collection provider, except as required and provided in an interlocal agreement or other contractual instrument.
- F. A violation of subsections A, B, C, and D shall be a Class B misdemeanor. A violation of subsection E shall be an infraction.

14.05.020 Removal Of Unlawful Installations

It is unlawful for any person to place, construct, or maintain any approach road, driveway, pole, pipeline, conduit, sewer, ditch, culvert, billboard, advertising sign, or any other structure or object of any kind or character within the right-of-way of any City road without complying with the regulations of the City’s public works department, which department may:

- A. Remove the installation from the right-of-way or require the person to remove it;
- B. Provide written notice to the person to remove the installation from the right-of-way. The City may serve the notice by personal service or by notice to the person by registered mail

and posting a copy of the notice on the installation for a period of ten (10) days pursuant to notice requirements as provided in Title 12. If the installation is not removed within ten (10) days after the notice, the public works department may remove the installation and recover costs and expenses of removal. The City may also charge and collect the sum of ten dollars by a separate action for each day the installation remains ; or

C. Abate the same as a nuisance and recover penalties and legal costs.

14.05.030 Advertising—Permit Required

It is unlawful for any person to place any form of advertising upon any part of the City's public property or along any City highway right-of-way without first receiving a permit from the Mayor or the consent of the owner of private land located along the highway..

14.05.040 Water Upon Highway Prohibited

It is unlawful for any user of water from any ditch, stream, or well to willfully or carelessly permit the water to run upon any City highway that damages or interferes with the proper use of the City highway causes pools of standing water on the City highway, or causes anything to be placed or to be left on the City highway that obstructs travel or endangers property or persons. The City may declare the condition to be a nuisance and abate as provided in Title 9.

14.05.080 Placing Snow Upon Highway Prohibited

It is unlawful for any person to remove snow, ice, or other material from a sidewalk or driveway and place or deposit the snow, ice, or other material upon any City road or highway that interferes with the proper use, obstructs travel, or endangers property or persons upon the City road or highway. The City may declare these conditions to be nuisances and abate them as provided in Title 9.

CHAPTER 14.06 POLES, POSTS, AND FENCES

14.06.010 Prohibited Generally

It is unlawful for any person to set, place, keep, or maintain any pole, post, fence, or similar obstruction upon or along any public highway, road, tree, avenue, lane, alley, trail, curb ramp, or sidewalk in the City, except as designated in this chapter or in Title 18.

14.06.020 Telephone and Telegraph Poles

Any telephone or telegraph pole shall be set along the pole line, with the face of the pole nearest the center of the street, one foot toward the property line from a line known as the curblin or in the area designated for utilities.

14.06.030 Electric Light Poles

Any electric light or other poles that carry electric current for commercial purposes shall be set one foot from the curblineline or in that area designated for utilities as provided in City code.

14.06.040 City’s Permission Required When

Any telephone, telegraph, electric light, or other pole used for support of wires carrying electric current may not set on any City highway without a prior City permit.

14.06.050 Mailboxes

Any post for carrying or holding mailboxes shall be set along the tree line or pole line as provided in City code or a sufficient distance back of the curblineline so as not to obstruct the street, highway, sidewalk, or curb ramp traffic.

14.06.060 Fences

Any fence post may be set along a fence line, designated as the distance from the center of any City road not less than half the surveyed and platted width of the City road. It is unlawful to place or maintain any fence or building the face of which is nearer the center of any road than the line designated as the fence line.

CHAPTER 14.07 SIDEWALK USE AND MAINTENANCE

14.07.010 Duty Of City

The City shall exercise ordinary care to keep public curbs, gutters, and sidewalks in a reasonably safe condition for travel purposes.

14.07.020 Inspections

The public works department shall periodically inspect the condition of the public curbs, gutters, and sidewalks to determine if any defects or repairs are needed.

14.07.030 Sweeping Sidewalks And Curb Ramps In Front Of Businesses Required

It is unlawful for the owners or occupants of places of business within the City to fail to cause the abutting sidewalks and any existing curb ramps to be swept or cleaned each morning before the hour of eight a.m.

14.07.040 Snow Removal—Required

It is unlawful for the owner, occupant, lessor, or agent of property abutting on a paved sidewalk to fail to remove or cause to be removed from the paved sidewalk and any existing curb ramp where any hail, snow, or sleet has fallen within twelve hours after the hail, snow, or sleet has ceased

to fall, provided that in case of a storm between the hours of nine p.m. and six a.m., the sidewalk and any existing curb ramp shall be cleared before eight a.m. following the storm.

14.07.050 Snow Removal—Clogging Gutter Prohibited

It is unlawful for any person to remove hail, snow, or sleet from a sidewalk or curb ramp and to deposit the hail, snow, or sleet or other material in a gutter that clogs or prevents the free flow of water

14.07.060 Obstructing Sidewalk Of Curb Ramp While Receiving Goods

- A. It is unlawful for any person to place or keep, or cause to be placed or kept, upon any sidewalk or curb ramp the receipt or delivery of any goods, wares, or merchandise without leaving a ten-foot passageway clear upon such sidewalk or curb ramp.
- B. It is unlawful for any person receive or deliver goods, wares, or merchandise and to cause or permit them to remain on the sidewalk or curb ramp for a period longer than one hour.

14.07.070 Cellar Doors

It is unlawful for the owner or occupant of any building with a cellar which opens upon any street, curb ramp, or sidewalk to fail to keep the cellar door or other covering in good repair and safe for the passage of the customary traffic on the street, curb ramp, or sidewalk.

14.07.080 Loitering Prohibited

It is an infraction for any person to congregate or to remain standing, lying, or sitting on any sidewalk, curb ramp, stairway, doorway, window, or in front of any residential dwelling or commercial business having access to the sidewalk or curb ramp, that obstructs or interferes with the free passage of persons entering, leaving, or occupying the buildings or premises.

CHAPTER 14.08 DRIVEWAYS

14.08.010 Permit Required

It is unlawful for any person to construct, build, establish, or maintain any sidewalk, curb ramp, curb and gutter, or driveway over, across, or upon any public street, road, thoroughfare, or parkway, or to cut or change the construction of any public sidewalk, curb, or gutter for any purpose, without having first obtained a permit for such construction, cut or change from the City.

14.08.020 Permit Requirements

- A. Before issuance of any permit issued pursuant to Section 14.08.010, the contractor or person proposing the construction shall obtain bonds, including construction, performance, or completion as provided in this code. The pertinent bonds shall be filed with the City. .

14.08.030 Specifications And Grades

Any construction authorized by the permit issued under Section 14.08.010 shall be in compliance with the specifications and grades of the public works department and planning division.

14.08.040 Inspection And Approval

The permittee shall be subject to supervision, inspection, and approval as provided in City code.

14.08.050 Construction Regulations

The City may not grant a permit under this chapter that does not comply with construction regulations as provided in City code.

CHAPTER 14.09 BRIDGES, DITCHES, AND WATERWAYS

14.09.010 Generally

It is unlawful for any person to construct, place, set, keep, or maintain any bridge, sewer, well, spill, or similar obstruction, upon, in, under or along any public highway, road, street, avenue, lane, alley, trail, sidewalk, or curb ramp in the City, except as provided in City code.

14.09.020 Bridges

Any bridge over any ditch, waterway, or opening across any sidewalk may not be less than the full width of the sidewalk. Any bridge over any ditch, waterway, or opening across any roadway section of any highway, trail, or sidewalk may not be narrower than the full width of the roadway. All bridges shall be set square with the road or sidewalk, and their coverings shall be made to conform to the grade of the road or sidewalk as determined by the public works department. The public works department has the authority to approve or deny plans and specifications for any bridge not in compliance with City code. All bridges connecting the roadway with the sidewalk shall be made to conform with the established grade of the roadway and sidewalk.

14.09.030 Ditches And Waterways

- A. All ditches, canals, or waterways constructed across or over any sidewalk or highway shall be securely bridged or flumed; the bridges or flumes shall conform to the regulations provided in this code.
- B. A ditch, canal, or waterway may not be constructed across any sidewalk, curb ramp, or highway except upon the prior approval from the City engineer or engineering division and in conformance with the established grade and location restrictions. If a change in the grade of any sidewalk, curb ramp, or highway becomes necessary, the person constructing the change in grade to the ditch, canal, or waterway shall bear the expense and is subject

to prior approval before construction and final release or project acceptance after construction by the City engineer or engineering division.

14.09.040 Headgates

All headgates for the control of irrigation or other water shall be placed in the ditch space or outside of the right-of-way line. 14.09.050 Watermains

All watermains for carrying water along or across any highway or excavations for laying watermains or pipes shall be subject to the prior approval of the City engineer or engineering division to ensure sufficient depth to keep the roadway secure and, when laid along any highway, to establish the location in the roadway.

14.09.060 Duty To Repair Bridges And Flumes

It is unlawful for any person conveying water through or along any ditch, canal, or waterway along or across any highway to fail to maintain the conveyance, and if notified, to fail to mitigate.

CHAPTER 14.10 STREET VACATIONS

14.10.010 Purpose

The purpose of this chapter is to provide consistent procedures regarding the petition to vacate a public street. Any person or the City of Kearns may request and the Council may approve the petition to vacate a public street in compliance with Utah Code Ann. § 10-9a-609.5 The Council shall hold a public hearing as required in Utah Code Ann. § 10-9a-208 to determine if good cause exists for the vacation and neither the public interest nor any person may be materially injured by the vacation. If the Council finds that good cause exists for the vacation and neither public interest nor any person will be materially injured by the vacation, the Council may adopt an ordinance granting the petition.

CHAPTER 14.11 SPECIAL EVENTS AND STREET PERFORMANCE PERMITS

14.11.010 Purpose

The purpose of this chapter is to establish clear procedures through which a proposed special event or street performance may be permitted within the City of Kearns. Special events are an integral component of the economy and sense of identity of Kearns. Special events frequently impact businesses, neighborhoods, and normal day-to-day municipal functions, which is why the City sets forth specific procedures and requirements to mitigate those impacts while ensuring a safe and successful event or street performance.

14.11.020 Definitions

A. The following definitions apply to this title:

1. “Applicant” means the person, persons, or entity submitting an application under this chapter and who is responsible for the conduct of the event. The applicant signs the special event permit application and all other documents relevant to the event. The applicant is legally responsible for compliance with all terms of an issued permit.
2. “Charge” shall be defined as requiring someone to pay a fee or to set, negotiate or establish a fee for a performance. Seeking voluntary contributions through passing around a hat, leaving an open instrument case or other receptacle, or soliciting donations after a performance is not defined as a charge.
3. “Debriefing” means a meeting held by the Special Events Review Committee (SERC) within thirty business days of the close of the event. Attendance/participation of the applicant at this meeting is mandatory.
4. “Fees” means all charges assessed by the City of Kearns for permitting, staffing, equipment use/rental, property use/rental, setup, cleanup, inspections, public labor charges, or public equipment rental charges assessed to a special event and established within the event permitting process.
5. “Mass gatherings” are defined by Rule 392-400 of the Utah Administrative Code. Applicants must contact the Salt Lake County Health Department for information about mass gathering permits and food handling permits to the extent otherwise required by Utah law.
6. “Nonprofit organization” means an organization that qualifies for tax-exempt status according to the U.S. Treasury under Section 501(c)(3) of the Internal Revenue Code, which is created and operated to benefit the public interest and which includes a charitable, educational, scientific, religious, recreational, or artistic purpose.
7. “Performance” shall be defined to include, but not be limited to, the following activities: playing music, singing, dancing, pantomiming, puppeteering, juggling, fire-spinning, reciting, etc. Performance does not include providing personal services.
8. “Permittee” means the applicant holding a valid permit under this chapter.
9. “Private event” means an event which is:
 - a. Closed to the general public;
 - b. Held entirely on private property for which such events are a permitted use under Title 17, or City property for which a permit has been obtained;

- c. Does not require installation of temporary water, power, cooking, sanitation, or waste management facilities; and
- d. Does not adversely impact City personnel, services, or facilities.

Private events do not include any event to which the public is invited, whether by advertisement or otherwise, or events where an admission fee is charged.

Private events are not regulated by this chapter except where specifically noted; however, the Kearns police department may take enforcement action in the event of a nuisance, breach of the peace, noise violation, or similar condition.

10. “Public event” shall be defined to mean any gathering which is open to all persons, which is advertised as open to the general public, or which is open to all persons who purchase admission.

11. “Special event” means a sporting, cultural, entertainment, commercial, or similar gathering, whether held for profit or on a nonprofit basis, occurring for a limited or fixed duration, not to exceed fifteen consecutive days, and which is likely to attract a large number of participants or spectators. By way of illustration, and not of limitation, special events subject to this chapter include: concerts, fairs, rallies, athletic events, or temporary sales events. Special events are further defined as follows:

- a. *Level I Event.* Events expected to be attended by not more than two hundred people per day and which include one or more of the following:
 - i. Partial or rolling street closure of City rights-of-way, including streets, sidewalks, and/or pathways;
 - ii. Vendor sales or concessions;
 - iii. Amplified sound; or
 - iv. An entrance fee or ticket charge for the event.

- b. *Level II Event.* Events expected to be attended by more than two hundred people per day and which may include one or more of the following:

Full public street closure of City rights-of-way;

- i. Vendor sales or concessions;
- ii. Amplified sound; or
- iii. An entrance fee or ticket charge for the event.

12. “Special Events Coordinator” means the City employee as designated by the City who administers the provisions of this chapter.
13. “Special Events Review Committee (SERC)” means a committee made up of representatives from City departments, including police, parks, and public works as identified by the Council. The Special Events Coordinator or designee shall be the chair of this Committee.
14. “Speech event” means an activity conducted primarily for the expression of political, social, religious, cultural, or other constitutionally protected speech. Speech events may include rallies, picketing, protesting, marching, demonstrating, or debating matters of public concern on any City street or other property. Speech events do not include events held in furtherance of a business or commercial purpose.
15. “Street closure” means the deliberate blockage of any public street or City owned parking facility to prohibit the flow of traffic or access of vehicles.
16. “Street performer” shall be defined as an individual or group who performs in a public area or a private outdoor area adjacent to a public street or sidewalk for the purpose of providing public entertainment.
17. “Substantial change” means changes to an existing special event that cause the need for a different review level or cause the need for review by the Council. These changes include, but are not limited to: increased need for street closures; increased need for police support; a change in duration; an increase in anticipated attendance; or the addition of vendor sales or concessions.
18. “Vendor” means a person selling food, beverages, souvenirs, or other merchandise at a special event. The term “vendor” does not include the sale of memberships in an organization which is the special event applicant.
19. “Venue” means the location or locations where a special event is held, including all ingress/egress routes, parking, and necessary facilities for the event.

Commented [LW37]: This section creates a special events review committee to vet the live events and guarantee uniform application without free speech violations. Does Kearns want this?

14.11.030 Permits required

It is unlawful for any person to hold a special event without first obtaining a special event permit. All permits issued pursuant to this chapter are nontransferable and expire on the date specified.

14.11.040 Permit exceptions

- A. The following activities are exempt from this chapter:
 1. Funeral processions by a licensed mortuary;

2. Activities lawfully conducted by a governmental agency on property or in facilities owned by that same agency;
3. Filming activities authorized by another type of permit;
4. Private events; or
5. Speech events that do not meet the definitions of a Level I or Level II event.

14.11.050 Application and review procedure

- A. All requests for a special event permit shall be made on a special event application as provided by the City. The applicant shall submit the permit fee with the completed application. Application materials are available at City Hall and online at the City of Kearns website, and must be completed and submitted to the Special Events Coordinator according to the guidelines below unless otherwise approved by the Special Events Coordinator upon a showing of good cause:
1. Not less than ninety days prior to the scheduled opening of any Level I or Level II event; or
 2. Not less than seven days prior to a speech event.
 3. Level II events may apply no earlier than one year prior to the requested date of the event.
- B. All event applications shall be reviewed to determine if the applicant has provided sufficient plans, including proof of financial responsibility and other licenses, equipment, personnel, and facilities to provide for the safe and orderly conduct of the event without imposing an unreasonable burden on public services, other businesses, or adjacent residents. Depending on the type and size of the event, the Special Events Coordinator may require the applicant to submit additional documentation prior to review by SERC, which may include:
1. Proof of financial responsibility, which may include damage deposit, a performance bond, and liability insurance sufficient to cover anticipated risks;
 2. A transportation and traffic control plan showing parking, ingress/egress routes, pedestrian access, and emergency access;
 3. A staffing and security plan, which shall identify and describe numbers and types of security personnel, emergency medical services (EMS) and fire personnel, other staff, support facilities, and other security resources;
 4. A facilities plan showing power, lighting, public address, stage, restrooms, waste disposal, water facilities, vending, and other facilities needed for the event;

5. Proof that the applicant has obtained or will obtain by the date of the event any other applicable governmental permits or licenses needed for the event, including sales tax licenses, alcohol licenses, access permits, or food service permits from the Salt Lake County Health Department;
 6. If applicable, a statement of authorization from the special event sponsor identifying all vendors intending to conduct business on the premises of the special event; or
 7. Any other information deemed necessary by staff for review of the event.
- C. Upon receipt of a complete special event permit application and the permit fee, the Special Events Coordinator shall schedule the application for review by the SERC. The SERC shall review and shall have the authority to administratively approve, approve with conditions, or deny the following applications:
1. Level I applications and renewals; and
 2. Level II applications for renewals with no substantial changes from the previous year's event.
- D. Where an application is not subject to approval by the SERC, it shall review the matter and provide an advisory recommendation to the Council.
- E. The city council shall review and approve, approve with conditions, or deny the following applications:
1. Applications for new Level II events; as used herein, a "new Level II event" shall mean any Level II event being proposed for the first time;
 2. An event renewal of a Level I event that now qualifies as a Level II event;
 3. Level II event permit renewals where material elements of the event have substantially changed from the previous application; and
 4. A Level II event which was not renewed for a period exceeding one year.
- F. The Special Events Coordinator shall promptly notify the applicant of the SERC recommendation to the Council and of the date the application will be scheduled before the Council. The application shall be heard at a duly noticed public meeting. The city council shall review the application for compliance with the standards set forth in this chapter.
- G. Conditions required as part of the approval of an event permit may include, but are not limited to:
1. Restrictions on duration or hours of operation;

2. Restrictions on total attendance;
 3. Limitations on vending or alcohol sales;
 4. Limitations on parking, participant transportation, ingress/egress;
 5. Limitations as to noise, dust, glare, or sound amplification;
 6. Security, EMS, or other public safety measures;
 7. Insurance, damage deposits, or other financial guarantees; and
 8. Other measures which may reasonably provide for public health, safety, and welfare in connection with an event.
- H. For purposes of this chapter, a special event permit is not deemed granted until the Special Events Coordinator certifies in writing that all conditions of approval required prior to the event date have been satisfied.
- I. A special event permit issued under this chapter is specific to the permittee, and may not be assigned. Any purported assignment shall result in the permit being deemed void.

4.11.060 Serving Alcohol at Special Events - Application

Any applicant who desires to serve alcohol at a special event must obtain written local consent from the Mayor and a State license under the Utah Alcoholic Beverage Control Act.

Concurrent with the application for local consent to serve alcohol at a special event, the applicant shall apply for a special event license, as provided under the City Code, all of which may be processed together by the City.

- A. *Contents of Application for Local Consent.* An application for local consent for a special event with alcohol shall include the following:
1. The times, dates, location, nature and a description of the event;
 2. A description or scaled floor plan designating:
 - a. The sites from which the applicant proposes that alcoholic beverages be sold or served, including all dispensing points. Dispensing points include storage areas, booths, tables, bars and other areas set apart for the sale of alcoholic beverages; and
 - b. The areas in which the applicant proposes that alcoholic beverages be allowed to be consumed;
 3. A statement of the purpose of the association or entity conducting the event;

4. A signed consent form authorizing law enforcement officers or City code enforcement officials an unrestricted right to enter the premises during the event for purposes of monitoring compliance with all license terms and City codes; and
5. An application fee, which sum shall be refundable in the event that the local consent is not granted.

B. Application Fee, Denial of Local Consent, or Conditions Attached to Local Consent.

1. Application fees for local consent for a special event serving alcohol shall be established by the Council and provided in the Consolidated Fee Schedule.
2. The Mayor shall review an application for local consent to serve alcohol at a special event, and may approve the application as submitted, deny the application, or approve the application subject to conditions. Those conditions may include, but are not limited to:
 - a. Restrictions upon the dates of operation, hours of operation or location;
 - b. Parking, traffic control, security, sanitary facilities or similar public safety conditions; and/or
 - c. Insurance, liability protection, or similar financial guarantees.
3. The City reserves the right to revoke local consent at any time, even after the applicant has received a license to serve alcohol from the State of Utah.

4.11.070 Operational restrictions

- A. All persons involved in the sale or serving of alcoholic beverages at the event shall do so only under the supervision and direction of the licensee. The licensee shall be solely responsible for compliance with all applicable terms of the license, City ordinances, and the Utah Alcoholic Beverage Control Act.
- B. No beer or other alcoholic beverage shall be brought by persons other than the licensee onto the premises of the event.
- C. Alcohol purchased for the event may not be stored in any place other than that described in the application for local consent and designated on the State permit.
- D. Alcohol purchased for the event may not be sold or served in any place other than the sites described in the application for local consent and designated on the State permit.
- E. Alcohol purchased for the event may not be consumed in any area other than that described in the application for local consent and designated on the State permit.

- F. Local consent for serving alcohol at a special event is not transferable, whether to another person or another location.
- G. Local consent shall be approved for a specific event scheduled on a date or dates certain and shall be valid for a period not to exceed five consecutive days.
- H. No more than two consents for special events with alcohol shall be granted in any calendar year to any applicant.
- I. No sale of beer shall exceed a sixteen-ounce serving.
- J. Minors shall not be permitted to serve or dispense alcoholic beverages, nor shall they be permitted to consume or purchase alcoholic beverages at the event.
- K. Alcoholic beverages shall be sold on a per serving basis; “all you can drink” or similar events where beer is served without limitation upon paying a fixed price are prohibited.
- L. Licensees shall properly train all event personnel on all operational restrictions, and shall assure that alcoholic beverages are not served to obviously intoxicated persons.
- M. The licensee shall provide adequate event security, given the nature of the event and the expected number of event patrons.
- N. No event sponsor or other person shall charge an admission fee or otherwise charge a price for alcoholic beverages served and consumed in any public place, except in conformity with the provisions of this chapter and the park use policies. Violation of this subsection is a strict liability offense and shall be punishable as a Class C misdemeanor.

14.11.080 Concurrent Event Applications

- A. The complete applications will be reviewed in the order that they are received. If it is found that another event has already been approved for the dates requested in a pending application, the applicant will be notified and given the opportunity to change the event dates so as not to overlap with any other event. If no date change is selected, the decision to allow multiple events on the same dates will be made by the SERC or the Council, as applicable. The determination will be based upon the following considerations:
 - 1. If the events will adversely impact one another or create unreasonable burdens on the public health, safety, or welfare;
 - 2. The geographic separation of the events;
 - 3. The proposed time and duration of the special events;
 - 4. Anticipated attendance volumes;

5. The demands upon public safety personnel, equipment, and transportation services; and
6. Anticipated traffic and parking impacts of the events.

14.11.090 Special Event Application Denials, Revocations, and Appeals

A. The SERC or Council, as applicable, may deny a special event application if the following apply:

1. Any grounds stated in Section 5.04.040;
2. The event presents significant or unacceptable adverse impacts upon the community, other businesses, or residents, which cannot reasonably be mitigated;
3. The event will pose an unreasonable burden on police, fire, EMS, public roads, or other essential public services so as to compromise services to other City residents;
4. The event will substantially interfere with any other event for which a permit has already been granted or with the provision of City services in support of other such events;
5. The applicant fails to provide the required documentation with the application or provides false or misleading statements in the application or supporting materials;
6. The applicant demonstrates an inability or unwillingness to conduct the event in conformity with the permit or the provisions of this chapter, or past events sponsored by the applicant or permittee have not been carried out in conformity with approved permits or this chapter;
7. The applicant has not obtained necessary licenses or permits from other governmental agencies required for the operation of the event; or
8. The applicant has not provided necessary proof of financial responsibility.

14.11.110 Permit revocation

A. A permit issued under this chapter may be revoked for any of the following reasons:

1. Failure by the permittee to comply with City permit conditions, other permit or license conditions, or the provisions of this chapter;
2. Failure by the permittee to comply with other City ordinances or Utah laws;
3. Any violations of the Utah Beverage Control Act;
4. False, inaccurate, or misleading statements by the applicant or permittee in the application for a permit under this chapter, or in any supporting documentation; or

5. A serious breach of the peace, riot, or significant unlawful activity occurring within or adjacent to the event venue or involving event participants, the permittee, its agents, or employees.
- B. The City shall deliver written notice of revocation to the permittee for the causes identified in subsections (A)(1) through (A)(5) of this section. The permittee may appeal any such revocation as provided under this chapter.
- C. Any City code enforcement officer may enter the premises of any event permitted under this section at any time to determine compliance with all applicable laws and conditions. Any law enforcement officer who reasonably believes that an event is out of compliance with applicable laws and conditions shall have the authority to curtail or terminate the event.

14.11.110 Appeal procedure

- A. Any special event applicant adversely affected by a permitting decision under this chapter may appeal as provided in this section.
- B. The administrative law judge is the appeal authority for appeals filed under this chapter.
- C. The applicant denied the permit may file an appeal of decision by the Special Events Coordinator, SERC, or the Council to the administrative law judge by delivering written notice to the City no later than seven calendar days from the date of the decision or order which is the subject of the appeal. If the applicant fails to timely file the appeal, the right to file an appeal shall be considered waived. The administrative law judge shall promptly hold a hearing and issue written findings and conclusions. The administrative law judge's decision shall be final.
- D. In any appeal proceeding under this chapter, the administrative law judge may only overturn the decision that is the subject of the appeal if it is found to be arbitrary, capricious, or unlawful.

14.11.120 Street Performers - Rules and regulations

- A. A street performer may not perform or solicit contributions for a performance:
 1. Within ten feet of any street corner or marked pedestrian crosswalk.
 2. Within ten feet of the outer edge of any entrance to any business, including but not limited to doors, vestibules, driveways, outdoor dining area entries and emergency exits during the hours that any business on the premises is conducting business, without express written permission from the affected business or business.

- B. A street performer may not block or obstruct the free movement of pedestrians. If a sufficient crowd gathers to observe a performer such that a passage of the public through a public area is blocked or obstructed, a police officer or other City official may disperse that portion of the crowd that is blocking or obstructing passage of the public.
- C. A street performer who performs for a charge shall obtain an appropriate business license as provided in Kearns Municipal Code.
- D. A street performer may not litter on the performance site.
- E. A street performer may not place any object on a public sidewalk which causes less than a four-foot contiguous sidewalk width to be kept clear for pedestrian passage.
- F. A street performer may not perform on any public sidewalk with more instruments, props, equipment, or other items than the performer can reasonably transport or remove at one time.
- G. A street performer may not perform in contravention to the allowable noise levels established by Title 9.
- H. A street performer may not block or obstruct a curb cut.
- I. A street performer may not connect or maintain an electrical cord to an adjacent building or to a City power source, except as part of an approved use of a public park.
- J. Any street performer utilizing outdoor private property shall obtain written permission from the private property owner to engage in a performance.
- K. Any street performer meeting one or more of the following conditions shall first obtain a performance permit as provided in this chapter prior to engaging in a performance:
 - 1. The performance involves more than two performers, unless the performance is in an established public park, subject to the reservation requirements and use regulations of the park;
 - 2. The performance involves the use or construction of any stage, platform, or similar structure for use during any performance;
 - 3. The performance involves the use of amplified music or sound;
 - 4. The performance involves any advertising off the premises of the performance, including flyers, posters, or signs;
 - 5. The performance involves an admission charge; or
 - 6. The performance involves the use of knives, swords, torches, axes, saws, fire, whips, lassoes, drones, or other potentially dangerous objects or involves

acrobatics, tumbling, unicycling, break dancing, stilts, trampolines, pogo sticks, karate, human pyramids, or other potentially dangerous activity.

14.11.130 Performance permit – Application

For any performance requiring a permit, a street performer shall complete and file a permit application with the City on a form approved by the City. A street performer whose act involves multiple performers shall be required to obtain one permit. The applicant shall provide the following information:

- A. The names, addresses, and contact information for all individuals performing under the permit;
- B. If a group is performing under a permit, a designation of the performing individual who shall be responsible for compliance with the provisions of this chapter;
- C. A detailed description of the nature of the act to be performed, including props, music, structures used, and any advertising methods;
- D. The proposed location and time, dates, and duration of the performance; and
- E. If within ten feet of or on private property, a written statement of authorization or consent from the affected property owner.

14.11.140 Permit – Issuance

Upon review of a performance permit application pursuant to this chapter, the Mayor shall determine if the application is in compliance with this chapter. The Mayor shall consider the health, safety and welfare of the public and any performer when determining if the application may be granted. The Mayor may place conditions on the issuance of the permit regarding time, location, and manner of the performance. After the Mayor's approval, the Mayor shall direct the City recorder or City treasurer to issue the performance permit showing the permit number, the date of permit issuance, and the nature of the performance, its location, date and time, and the name of any person authorized to perform.

14.11.150 Grounds for denial

The Mayor may deny the performance permit if the proposed performance is considered to be a significant threat to public health, safety and welfare.

14.11.160. Permit – Display

The permittee shall keep the permit on or about the persons authorized to perform under the permit.

14.11.170 Permit – Nontransferable

The permittee may not transfer any permit issued pursuant to this chapter to another person or performer.



STAFF REPORT

To: Kearns City Council

From: Nathan Bracken, Kearns City Attorney

Re: Draft Updates to Titles 1 and 2 of the Kearns Municipal Code

Date: August 7, 2025

I. INTRODUCTION

When Kearns incorporated as a metro township on January 1 2017, state law required it to follow the Salt Lake County Code provisions that were in effect as of that date. State law also authorized Kearns to replace the Salt Lake County Code provisions. In short, upon its incorporation, the Salt Lake County Code became the Kearns Municipal Code (the “Code”).

Following its incorporation, Kearns has replaced several provisions of its code. These include comprehensive restatements of Title 18 (Subdivision) and Title (19) Zoning. The City has also made several updates and amendments to specific chapters and sections throughout the code. Notwithstanding these updates, many “County-specific” code provisions remain, some of which are not applicable to Kearns. In addition, following Kearns’s transition to a city in 2024 pursuant to H.B. 35, changes are needed throughout the Code to reflect that change (e.g., replacing “metro township” with “city,” accounting for the direct election of the Mayor, changes in the fiscal year, etc.).

The Council authorized and directed my firm to prepare a complete restatement of the Code that will be specific to Kearns. This new restated code will replace the remaining Code provisions Kearns inherited from Salt Lake County, update the provisions Kearns adopted to account for its status as a city, and otherwise update and restate the Code to comply with current law.

Given the size and scope of these changes, the Mayor has directed me to present and discuss the restated Code in segments, with the goal of adopting the entire restated Code in October. To begin this process, I will present and discuss the restated draft versions of Titles 1 and 2. Importantly, I will only present these drafts for discussion purposes at the Council’s August meeting so that the Council may review these drafts, ask questions, and request changes in advance of adoption with the other restated provision in October. I expect this process to be iterative.

II. SUMMARY OF DRAFT TITLE 1 RESTATEMENT

Title 1 of the Code contains general provisions regarding the name of the Code, the effective date of the Code, the City seal and logo, administrative appeals, and similar provisions. The City previously updated several provisions of this Title, including changes last year to adopt the new City of Kearns logo and seal and to reflect the City's new official name – the "City of Kearns." The draft restatement to Title 1 retains these changes but is otherwise entirely new and includes the following provisions:

1. Includes more robust rules of statutory construction and definitions to assist in the interpretation and application of the Code; and
2. Includes an updated and more defined administrative appeal process. The County Code Kearns inherited included several different appeal procedures, which created confusion about which procedures applied under certain circumstances. The restated appeal process in Title 1 is intended to apply to all appeals of City actions, unless the Code authorizes another appeal procedure is specific to a particular title, chapter, or section of the Code.

The restated draft version of Title 1 is attached as **Exhibit 1**.

III. SUMMARY OF TITLE 2 RESTATEMENT

Title 2 governs the City's personnel and administration, including the duties of the Council and Mayor. Over the years, Kearns has largely revised Title 2 to be Kearns-specific, including a complete re-working of Chapter 2.04 in January 2025 to reflect Kearns's conversion to a city and to describe the powers and duties of the Mayor and the Council under a five-member council form of government. However, most of the other changes Kearns made to Title 2 predate Kearns's conversion to a city in 2024 (e.g., the City's ethics code and the City's emergency powers and procedures, records policy, and budget process), and still use the term "metro township" or otherwise do not account for Kearns's conversion to a city. A few County Code provisions also remain.

The draft restatement of Title 2 retains and updates the prior revisions the Council made to this Title to reflect Kearns's new status as a city, but removes the remaining County code provisions. As a result, the restated version of Title 2 is substantively similar to the current version.

There are, however, a few additions that I would like to bring to the Council's attention:

1. New sections have been added to set forth the duties of the City Recorder, Treasurer, Engineer, and Attorney. Most of these are based on, or taken almost verbatim from, the requirements of State Code as found in Title 10, Chapter 3, Part 9. These new sections also confirm the City's appointment of the Greater Salt Lake Municipal Services District to serve as Recorder (Chapter 2.03), Treasurer (Chapter 2.04), and Engineer (Chapter 2.05), and City Attorney (Chapter 2.06).

2. With respect to a potential city manager, I have included a new section to govern the city manager position (Chapter 2.02). Importantly, these provisions (and others in Titles 1 and 2) would only apply if the Council decides to appoint a city manager. If the Council does not hire a city manager to exercise the City's administrative functions, I have included language stating that the Mayor would otherwise perform any administrative function assigned to the City manager (see Section 2.01.070A.2). **Importantly, these provisions do not require such an appointment and are intended only provide a legal framework for the city manager to operate in accordance with the Code should the Council appoint a city manager.** Not addressing the possibility of a city manager in the restatement now would require extensive revisions to the Code should the Council elect to hire one at a later date. If the Council does elect to appoint a city manager, I have included language in Section 2.02.030 requiring the Council to use a competitive selection process to hire a city manager and to require a written employment contract with a term that cannot exceed four (4) years without renewal by the Council. Section 2.02.020 also specifies that the city manager would serve at the pleasure of the Council, would be an at-will employee, and could be terminated by the Council at any time for any legal reason (i.e., for any reason not based on their race, gender, age, religion, etc.).
3. I have included the Kearns purchasing policy as Chapter 2.17 of the restated draft of Title 2.
4. I have restated the City's budget process, as currently found in Chapter 2.95 of the current code to reflect the City's new fiscal year, which begins on July 1 and runs through June 30 of each year and is required under Utah Code § 10-6-105. When Kearns was a metro township, its budgeting process was tied to the calendar year.
5. I have included language in Section 2.01.230 of the draft restatement officially designating the MSD as Kearns's agent for the services it provides and authorizing the Greater Salt Lake Municipal Services District to provide those services.

The restated draft version of Title 2 is attached as **Exhibit 2**.

Please let me know if you have any questions.

EXHIBIT 1

TITLE 1. GENERAL PROVISIONS

CHAPTER 1 -- OFFICIAL NAME

1.01.010 Official Name

The official name of the City shall be the "City of Kearns." All official documents, agreements, letterheads, deeds, publications, and other City property shall bear the official name.

1.02.020 Adoption of City Seal and Logo

The following is adopted as the official seal and logo of the City:



CHAPTER 2 -- CODE ADOPTION

1.02.010 Code Adoption

Pursuant to the provisions of Utah Code §§ 10-3-701 and 10-3-707 the Council ordains as follows and has adopted the "Kearns Code of Municipal Ordinances, 2025."

1.02.020 Title; Citation; Reference

This Code shall be known as the "Kearns Code of Ordinances, 2025" and it shall be sufficient to refer to the Code as the "Kearns Code of Ordinances, 2025" in any prosecution for the violation of any provision therein or in any proceeding at law or equity. It shall be sufficient to designate any ordinance adding to, amending, correcting or repealing all or any portion thereof as an addition to, amendment to,

correction or repeal of the "Kearns Code of Ordinances, 2025." Whenever a reference is made to this Code as the "Code," the "Kearns Code of Ordinances, 2025" or to any portion thereof, or to any ordinance of Kearns, the reference shall apply to all amendments, corrections and additions made before, as of or after the effective date of the ordinance codified in this chapter.

1.02.030 Reference To Specific Ordinances

The provisions of this Code shall not in any manner affect matters of record which refer to, or are otherwise connected with the ordinances which are therein specifically designated by number or otherwise and which are included within this Code but such references shall be construed to apply to the corresponding provisions contained in this Code.

1.02.040 Effective Date Of This Code

This Code shall be effective on November 1, 2025.

1.02.050. Interpretations. Rules of Construction. Conflicting Provisions

- A. Interpretation, Generally. The provisions of this Code, Title 1, General Provisions, shall govern the interpretation of this Code, except if specifically provided otherwise.
- B. Words and Phrases. Words and phrases are to be construed according to the context and the approved usage of the language; but technical words and phrases, and such others as have acquired a peculiar and appropriate meaning in law, or are defined by statute, are to be construed according to such peculiar and appropriate meaning or definition.
- C. Promotion of Justice. Each provision of, and each proceeding under this Code are construed to effectuate the objectives of the provision and to promote justice.
- D. Retroactive Effect. A provision of the Code is not retroactive, unless the provision is expressly declared to be retroactive.
- E. Effect of Repeal. The repeal of an ordinance does not revive an ordinance previously repealed, or affect any right which has accrued, any duty imposed, any penalty incurred, or any action or proceeding commenced under the repealed ordinance.
- F. Specific Language Over General Language. If any Code provision is in conflict with another provision in this Title the more specific provision shall govern.

- G. Recent Enactment Governs. If any Code provision remains in conflict with another provision in this Title and is not be resolved as provided in Subsection F., the most recent enactment shall govern.
- H. State Code. If any Code provision conflicts or becomes in conflict with any state Code provision, the Code provision shall be considered to be repealed and to be of no effect for such period of time as such Code provision remains in conflict with state Code, and the state Code shall govern.
- I. Successor Statutes and Code Provisions. Any statute or Code provision cited in the Code shall be deemed to include that statute or Code provision as amended, restated, and/or replaced to the same general intent and effect.

1.02.060 Rules of Construction

A. General:

1. In the construction of an ordinance in Code, the general rules listed in this section shall be observed, unless the construction would be:
 - a. Inconsistent with the manifest intent of the city council; or
 - b. Repugnant to the context of the Title.
2. The singular includes the plural, and the plural includes the singular.
3. A word used in one gender includes the other gender.
4. A word used in the present tense includes the future tense.
5. In accordance with Title 46, Chapter 4, Part 5, of the Utah Code, Electronic Records in Government Agencies, a word related to the medium used in the provision of a government service may include an electronic or other medium.
6. A term described in section 2.a. may be used when unusual circumstances exist that require the use of the term, including the use of the term:
 - a. In an interstate compact; or
 - b. To ensure consistency with a federal law or rule.

B. Discouraged Terms

1. Except as provided in this Section, the use of the word "should" is strongly discouraged, but may be used to:

- a. Refer to a recommended action, including a provision that a person shall or may recommend whether an action "should" be taken;
 - b. Indicate an expected standard of knowledge, including a provision that a person "should" know:
 - a) whether a fact exists; or
 - b) that an action is likely to cause a specified result; or
 - c. Refer to a determination as to whether an action "should" have occurred.
2. The use of the word "must" is strongly discouraged when the term "shall" can be used in its place.
 3. Except as provided in this Section, the use of the following terms in this Title is strongly discouraged:
 - a. "shall not";
 - b. "should not";
 - c. "must not"; or
 - d. "but not limited to" after "include," "includes," or "including."

C. Definitions. In the construction of the ordinances set out in this Code, and all subsequent amended ordinances, the following definitions shall be observed, unless such construction would be inconsistent with the manifest intent of the council, or repugnant to the context of the ordinance. These definitions shall be in addition to other definitions the Council may approve for specific titles, chapters, and sections.

1. "Administration" means administrative services that the City provides, including any administrative services that the City's contractors or agents may provide.
2. "Administrative Law Judge" means a person appointed by the Mayor or the Mayor's designee to preside over administrative hearings as provided in the Code. An Administrative Law Judge shall be an attorney licensed to practice law in the State of Utah and must not be a City employee.
3. "Administrative Hearing" means a hearing held pursuant to the procedures established by the Code.

4. "Animal services" means the animal services the City provides through its contractors and agents.
5. "Assessor" or "County Assessor" means the elected assessor of Salt Lake County, Utah.
6. "Attorney" or "City Attorney" means the Kearns City Attorney.
7. "Board of health" means the Salt Lake County board of health.
8. "Business" means any enterprise carried on the purpose of gain, economic profit, or nonprofit for which a business license is required.
9. "Business enterprise" means a sole proprietorship, partnership, association, joint venture, corporation, limited liability company, or other entity used in the carrying on of business.
10. "Clerk" means the means the person who serves as the Recorder for Kearns.
11. "City Attorney" means the licensed attorney appointed by the Council to serve as the City Attorney pursuant to Chapter 2.06 of the Code.
12. "City Manager" means the person appointed by the Council to serve as the City Manager pursuant to Chapter 2.02 of the Code (if appointed by the Council).
13. "Code" means the ordinances of Kearns.
14. "Code Enforcement Official" means any person and the official's designee authorized by Kearns to enforce civil compliance with code, policies, regulations, or applicable state code as provided in Title 12 or otherwise in the Code.
15. "Council" means the Kearns City Council.
16. "County" or "Salt Lake County" shall refer to Salt Lake County.
17. "Disaster" means a sudden calamitous manmade, natural, or war-caused event bringing great damage, loss, or destruction.
18. "District attorney" means the elected attorney of Salt Lake County, Utah.

19. "Director" means the City Manager, or the Mayor in the absence of the City Manager, and includes any persons the City Manager or the Mayor, as applicable, have authorized to act on their behalf.
20. "Employee" means a person who is employed on a full-time, part-time, or contract basis by the City. "Employee" includes elected and appointed officers of the City.
21. "Enforcement Action" or "action" means any action by Kearns to enforce compliance with any ordinance, policy, regulation, or applicable state statute, and includes a notice of violation, an administrative citation, departmental determination or board finding, and related order or corrective action. This term shall not include any criminal prosecution.
22. "Enforcement Official" means any person and the designee authorized by Kearns, including the planning director, zoning officers, police officers, building and engineering inspectors, animal control officers, human resource officers, and health department officials to enforce compliance with code, policies, regulations, or applicable state code.
23. "Engineer" means the licensed engineer appointed by the Council to serve as the City's engineer pursuant to Chapter 2.05 of the Code.
24. "Fire department" means the department or entity authorized by Kearns to provide fire and emergency services to Kearns.
25. "General Rule" means that all words and phrases shall be construed and understood according to the common use and understanding of the language; the technical words and phrases; and such other words and phrases as may have acquired a particular meaning in law shall be construed and understood according to such particular meaning.
26. "Gifts" means anything of value including a loan at a rate that is substantially less than a prevalent commercial rate, compensation for goods or services exceeding fair market value, goods or services provided for less than fair market value, gratuity, entertainment, hospitality or forbearance, unless consideration of equal or greater value is received.
27. "Governing body" means the Council for legislative matters and the Mayor for executive matters.
28. "GRAMA" means the Utah Governmental Records Access Management Act, Title 63G, Chapter 2 of the Utah Code.
29. "Health department" means the Salt Lake County health department.

30. "Hearing Officer" means any person assigned by Kearns to hear administrative appeals of enforcement actions or other actions taken by Kearns, including an Administrative Law Judge.
31. "Highway" or "public highway" means any public road, street, alley, lane, court, place, viaduct, tunnel, culvert, bridge, or other public way situated within Kearns, laid out or erected for public use, or dedicated or abandoned to the public, or made public in an action for the partition of real property, including the entire area within the right- of-way.
32. "Honoraria" means the offering or acceptance of perquisite, gift or anything of value for speaking, writing or participating in a meeting, convention, social event, meal or like gathering.
33. "Individual" refers to any natural person including City clients and patrons; members of the public; and City officers, employees and volunteers.
34. "Justice Court Services" means the justice court, municipal prosecution, and indigent defense services authorized for Kearns.
35. "Kearns" means the City of Kearns, Utah.
36. "Knowingly" means intentionally or with intent, or willfully with respect to the nature of the conduct or the result of the conduct, when it is the conscious objective or desire to engage in the conduct or cause the result.
37. "Law" means applicable federal law, the United States Constitution, Utah Constitution, Utah Code, Salt Lake County ordinances, or the Code, and any rule or regulation promulgated thereunder.
38. "License" includes any certificate or license that Kearns may issue.
39. "License official" means the director of Kearns's planning and development services division or the director's designee.
40. "Local emergency" means the proclamation by the Mayor invoking special powers and the emergency operation plan as a result of a disaster, except the Mayor may not exercise powers to respond to a pandemic or an epidemic.
41. "May" means an action that is authorized or permissive.
42. "May not" means an action that is not authorized and is prohibited.
43. "Mayor" means the Mayor of Kearns.

44. “Mayor Pro Tempore” or “Mayor Pro Tem” means that member of the Council who the Council has elected to serve in the Mayor’s absence.
45. “Metro township” means the City of Kearns.
46. “MSD” or “municipal services district” means the Greater Salt Lake Municipal Services District” that is the local district that operates pursuant to Title 17B-, Chapter 1, Section 101 et seq., Utah Code, and provides municipal services to Kearns.
47. “Municipality” means the City of Kearns.
48. “Municipal services district” means the MSD, which provides one or more of the services to its members, including administration, planning and development, animal services, municipal parks, public works operations and engineering, justice courts, and legal services as permitted by applicable law.
49. “Must” means, depending on the context in which it is used, that:
1. An action is required or mandatory;
 2. An action or result is compelled by necessity;
 3. An item is indispensable; or
 4. An action or event is a condition precedent to:
 - a. The authority to act;
 - b. A prohibition;
 - c. The accrual or loss of a right; or
 - d. The imposition or removal of an obligation.
50. “Offense” means again act, action, or conduct prohibited by this Code or the failure to perform any acts required by this Code.
51. “Order” means any Kearns order including a stop work order, notice of non- compliance, clean-up order, abatement action, revocation or suspension of a license or permit, assessment of charges or costs, notice of zoning violation, seizure of any animal or property, Code enforcement order relating to the occupancy of any structure or building, any written

disciplinary action, the assessment of any costs or non- criminal penalty, or any other action seeking the cessation of any business or operation.

52. "Owner" applied to a building or land, means and includes any part owner, joint owner, tenant in common, joint tenant or less of the whole or of any part of the building or land.
53. "Parks and recreation" means the land and activities in Kearns that are serviced by Salt Lake County Parks through the Municipal Services District.
54. "Person" means any natural person, firm, joint venture, joint stock company, partnership, association, club, company, corporation, bodies politic, business trust, organization, or the manager, lessee, agent, officer, or employee of any of them, or any individual, partnership, association, corporation, or group of individuals, however styled or designated, and any other entity that is recognized by law as the subject of rights or duties, or who represents or is the agent of such person.
55. "Personal property" means and includes money, goods, chattels, things in action, and evidences of debt.
56. "Plan" or general plan means the Kearns General Plan.
57. "Planning and development" means the services provided to Kearns by the MSD.
58. "Police Department" means the department or entity authorized to provide law enforcement and police services to Kearns.
59. "Policy and Procedures" means a written statement formally adopted by the Council providing for the implementation of ordinances, powers and duties for Kearns's governance and administration.
60. "Property" means and includes real and personal property.
61. "Property Owner" means the record owner of real property as shown on the records of the Salt Lake County Recorder.
62. "Public Works" means Kearns's operations and engineering services.
63. "Purchasing agent" means any officer or employee who recommends for final action, prepares specifications, or approves or rejects any part of a specific procurement or disposal of goods, services, or real property or any specific contract related to a procurement of goods or services or disposal of property.

64. “Real property” means the means and includes lands, tenements, and hereditaments.
65. “Recorder” means the person who serves as the City’s Recorder pursuant to Chapter 2.03.
66. “Responsible Person” or "responsible party" means the person determined by Kearns who is responsible for causing, maintaining, or remedying a violation of the Kearns Code, policies, regulations, or applicable state codes. The term "responsible person" shall include a property owner, agent, tenant, lessee, occupant, business owner, business manager or employee, architect, builder, contractor, or other person who individually or together with another person is responsible for the violation of any provision of the Kearns Code, policies, regulations, or applicable state codes.
67. “Shall” means an action that is required or mandatory.
68. “Sheriff” means the Salt Lake County Sheriff.
69. “State” means the state of Utah.
70. “Street” includes alleys, lanes courts, boulevards, public ways, public squares, public places, sidewalks, gutters and culverts, crosswalks, and intersections.
71. “Surveyor” means the person who serves as the surveyor for Kearns.
72. “Tenant” or “occupant,” applied to a building or land, means and includes any person who occupies the whole or any part of such building, either alone or with others.
73. “Treasurer” means the person who serves as the City Treasurer pursuant to Chapter 2.04.
74. “Year” means a calendar year unless specified otherwise.
75. “Will” means an action that is required or mandatory.

1.02.070 Severability

The provisions of the Code are declared to be severable, and if any provision of the Code shall, for any reason, be held to be invalid or unconstitutional or if the application of the Code to any person or circumstance is held to be invalid or unconstitutional, such holding shall not affect the validity of the remaining

provisions of the ordinance codified in the Code.

1.02.080 Computation of Time

Except when otherwise provided, the time within which an act is required to be done shall be computed by excluding the first day and including the last day, if Saturday, Sunday or a holiday, in which case the last day shall be the next following business day. When the period of time is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded.

1.02.090 Liability Of Employers And Agents To Penalty For Violation Of Ordinances

When the provisions of an ordinance prohibit the commission or omission of any act, the person doing the prohibited act or omitting the directed act and the employer, if the act or omission is done within the course and scope of employment, and all other persons aiding or abetting therein, shall be guilty of the offense described and subject to the penalty prescribed for the offense.

1.02.100 Penalty For Violation Of Code Provisions

When no other penalty is prescribed for violations of the Code, such violations shall be classified as Class B misdemeanors shall be punished accordingly in accordance with state criminal code.

1.02.110 Remedies and Prosecution

The City shall have sole discretion in deciding whether to pursue civil remedies or seek administrative enforcement for the violation of the Code and of its ordinances, policies, regulations, and applicable state statutes. This Code shall not limit the powers of the City or the district attorney in pursuing criminal charges for the violation of any City ordinances or state statutes, in addition to any civil action the City may take.

CHAPTER 3 – APPEALS AND ADMINISTRATIVE HEARINGS

1.03.010 Purpose and Scope

- A. The purpose of this Chapter is to establish an administrative appeal process for City actions relating to the enforcement of this Code or other City ordinances, policies, regulations, and applicable state statutes through the City's administrative process.
- B. If the Code establishes an administrative appeal process for a specific Title, Chapter, or Section of this Code, the more specific administrative appeal process shall apply and the general administrative appeal process set forth in

this Chapter shall not apply.

- C. For appeals that are subject to this Chapter, no judicial review shall be available if the provisions of this chapter are not followed, and failure to timely request and participate in an administrative review under this Chapter shall bar any action in the state or federal courts by an aggrieved person.

1.03.020 Service of Notice Requirements

- A. Whenever a notice is required to be given under this chapter it shall be in the form of a notice approved by the director and the notice shall be served by one of the following methods:
 - 1. Personal service;
 - 2. Regular mail, postage prepaid, to the last known address of a responsible person;
 - 3. Posting the notice conspicuously on or in front of the property that is the subject of the action;
 - 4. Publication in a newspaper of general circulation if service has not been accomplished after reasonable efforts to comply Subsections 1 through 3; or
 - 5. As directed by the administrative judge.
- B. Failure of a responsible person to actually receive notice shall not affect the validity of any action taken hereunder if notice has been served in the manner set forth above.
- C. Service by regular mail in the manner set forth above shall be deemed served on the fourth day after the date of mailing.
- D. The failure of a person, other than a responsible person, to be served notice in accordance with this section shall not affect the validity of any proceeding taken hereunder by any party aggrieved by the City's actions.

1.03.030 Appointment of Administrative Law Judge

The Council shall appoint an attorney or attorneys licensed to practice law in Utah to serve as the City's administrative law judge or judges to hear all appeals made under the Code. To be eligible for appointment as an administrative law judge, an attorney must be in good standing with the Utah State Bar.

1.03.040 Powers of Administrative Law Judge

- A. An administrative law judge shall have authority to set the date, time, and place for holding an administrative hearing.
- B. An administrative law judge may issue a scheduling order to guide the conduct of the case, to set the limits of any pre-hearing discovery, to provide for the identification of witnesses and their expected testimony, to list and exchange proposed exhibits, to approve stipulations regarding facts, applicable law, foundation to exhibits, and to govern such other matters related to hearing of the matter as deemed appropriate.
- C. The administrative law judge holding a hearing shall arrange for the recording of any hearing.
- D. The administrative law judge is empowered to issue subpoenas for the production of documents and things and to compel the appearance of witnesses in the pending action. It shall be unlawful for any person to willfully refuse or fail to obey a subpoena issued for an administrative hearing. A violation of this section shall be a class B misdemeanor.

1.03.050 Request For Administrative Hearing

- A. A responsible person served with an enforcement action and the City shall have the right to request an administrative hearing.
- B. A party who has been adversely affected by an action by a county agency may also request an administrative hearing. Adverse effect may arise from:
 - 1. Any decision affecting the employment status, compensation, or treatment of an employee of the county;
 - 2. Denial, revocation, or termination of any license issued by the City;
 - 3. Any decision relating to the zoning or permitted use of real property located within the unincorporated limits of the City;
 - 4. Any decision relating to the award or failure to award a bid or proposal but which action must be brought within the time limitations and grounds set forth in the county ordinances and policies governing procurement;
 - 5. Any notice of violation, animal seizure, assessment of costs, or other action taken by animal services; or

6. Such other violation, assessment, or action as designated by the Code or other City ordinance, policy, regulation, or state law.
- C. The request for an administrative hearing shall be made in writing and delivered to the City Manager or the Mayor in the absence of a City Manager.
- D. The written request for hearing must be received by the City Manager or the Mayor, as the case may be, within fifteen (15) calendar days of the date the enforcement action is served upon the responsible party. Failure to request an administrative hearing within fifteen calendar days from the date of service shall constitute a waiver of the right to an administrative hearing and of the right to an appeal of the enforcement action to any state or federal court or agency.
- E. Within fifteen (15) days of the issuance of an enforcement action, the City may request an administrative hearing for the purpose of compelling a responsible person to comply with the action.
- F. If a responsible person fails to request a hearing after being issued an "enforcement action" the corrective action detailed within the action shall be considered the final administrative order and the person shall be deemed to have waived any appeal of that order.

1.03.060 Notification Of Administrative Hearing

- A. As soon as practicable after receiving the written notice of the request for an administrative hearing, the City Manager or the Mayor in the absence of a City Manager shall appoint an administrative law judge if one has not been previously appointed or assign the appeal to a previously appointed administrative law judge, who shall schedule a date, time, and place for the administrative hearing.
- B. Written notice of the date, time, and place of the administrative hearing shall be served on the responsible person as soon as practicable prior to its date.
- C. The notice shall be served by any of the methods of service set forth in Section 1.03.020 of this Chapter.

1.03.070 Rules Of Discovery And Evidence For Administrative Hearings

- A. The administrative law judge shall determine the scope of any pre-hearing discovery.
- B. The formal rules of evidence and of civil procedure adopted by the courts shall not be applied in any administrative hearings; however, the

administrative law judge shall determine the admissibility and weight to be accorded any evidence.

- C. The administrative law judge shall issue written findings of fact and conclusions of law within forty-five (45) days after the conclusion of the hearing.

1.03.090 Appeal

- A. Any responsible person or county agency adversely affected by a final administrative order issued pursuant to a hearing may file a petition for review in the Third Judicial District Court of the State of Utah in accordance with the Utah Rules of Civil Procedure.
- B. A petition for review shall be barred unless it is filed within thirty (30) days after the administrative order is final, unless a statute provides otherwise.
- C. The record of the administrative hearing including minutes, findings, orders and, if available, a true and correct transcript of the proceeding shall be transmitted to the reviewing court by the party filing the appeal and the costs of producing the record, including any transcripts, shall be borne by the party filing the appeal. If the proceeding was tape recorded, a transcript of such tape recording shall be deemed a true and correct transcript for purposes of this subsection.
- D. The filing of a petition does not stay execution of an administrative order. Before filing a petition, a responsible person may request the administrative law judge to stay an administrative order. Upon receipt of a request to stay, the administrative law judge may order the administrative order to be stayed pending district court review if the administrative law judge finds such stay to be in the best interest of the City.

1.03.100 Adoption of Additional Rules

The Council may establish rules and procedures in addition to those set forth in this Chapter to govern administrative hearings, which rules may differ depending on the category and type of violation and appeal.

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EXHIBIT 2

TITLE 2 -- ADMINISTRATION AND PERSONNEL

CHAPTER 2.01 -- CITY COUNCIL

2.01.010 Form of Government

Kearns operates as a five-member Council form of municipal government pursuant to applicable state law, and the powers of municipal government are vested in a Council consisting of five members, one of which is the Mayor.

2.01.020 Powers and Duties

The Council shall be the governing body of Kearns and may exercise those powers and authorities and be bound by those duties and responsibilities set out in state law and in Kearns' ordinances.

2.01.030 Eligibility and Voting Districts

The Council shall consist of a Mayor elected at-large and four Council members, elected by district as provided in state law. Voting districts shall be determined pursuant to state law.

2.01.040 Term Of Office

Council members shall be elected at the next municipal election preceding the expiration of the term of office of incumbents. Council members shall be elected for four-year terms pursuant to state law. Each Council member shall hold office for the term of which elected and until a successor is elected and has qualified as provided in state law.

2.01.050 Vacancies

When a vacancy occurs in the Council, through ineligibility, resignation or death of an incumbent or of an officer-elect before qualifying, or refusal to act, or for any other reason, the vacancy shall be filled as provided in state law.

2.01.060 Mayor Pro Tempore and Appointment of Staff

- A. With the consent of the Council, the Mayor shall designate a Council member at a duly noticed and open Council meeting to serve as the Mayor Pro Tempore to carry out all duties and responsibilities of the Mayor when the Mayor is absent or unable to perform his or her duties. The Recorder shall enter in the minutes of the Council meeting the appointment of a Council member as Mayor Pro Tempore.

- B. The Council may make such staff appointments as are necessary for the proper conduct of its business.
- C. The Mayor shall be responsible for the conduct of all meetings, overseeing the preparation of the agenda by the Recorder for all meetings, and meeting the needs of the Council between meetings, including the providing of assistance and the gathering of information for the Council and the performance of duties assigned by the Council or by ordinance, the plan or by law.
- D. If the Mayor or Mayor Pro Tempore are unable to act, the remaining Council members present at a duly noticed open meeting shall, by an order entered in their minutes, select one of the members to act as Mayor temporarily.
- E. The Recorder shall administer oaths to any person when necessary in the performance of official duties.

2.01.070 Powers And Duties of Mayor

- A. The Mayor shall:
 - 1. Be the chief executive officer of Kearns and shall have such powers and duties as are prescribed by state law and Kearns' ordinances;
 - 2. Serve as the City's chief administrative officer in the absence of a City Manager and exercise any duty or responsibility assigned to the City Manager.
 - 3. Be a regular and voting member of the Council;
 - 4. Serve as the chair of the Council and preside at all Council meetings;
 - 5. Exercise ceremonial functions on behalf of Kearns; and
 - 6. Except as otherwise limited by state law or Kearns ordinance, have the powers and duties described in Utah Code §§ 10-3b-104 and 10-3b-402 or applicable successor statute.
- B. The Mayor may not veto any ordinance, tax levy, or appropriation passed by the Council.

2.01.080 Powers and Duties of Council

- A. The Council shall exercise any executive or administrative power and perform or supervise the performance of any executive or administrative duty or function of Kearns that has not been given to the Mayor under state law and City ordinances.
- B. The Council may by ordinance:
 - 1. Pursuant to state law and Kearns' ordinances, remove from the Mayor any power, duty, or function of the Mayor pursuant to state law, excluding the Mayor's legislative powers, judicial powers, ceremonial functions, position as Chair of the Council, and any ex officio position the Mayor may hold;
 - 2. Reinstating to the Mayor any power, duty, or function previously removed under this Section;
 - 3. Delegate to the Mayor any executive or administrative power, duty, or function of the Council;
 - 4. Assign any or all Council members, including the Mayor, to supervise one or more administrative departments of Kearns;
 - 5. As provided in state law and this Title, appoint a City Manager to perform executive and administrative duties or functions that the Council by ordinance designates to the City Manager; and
 - 6. Dismiss a City Manager appointed by the Council.
- C. Removing or reinstating to the Mayor a power, duty, or function under this Code requires the affirmative vote of the Mayor or all Council members except the Mayor.
- D. Removing or reinstating to the City Manager, if the Council appoints a City Manager, any power, duty, or function under this Code.

2.01.090 Recorder-Minutes

- A. The Recorder, or designee, shall provide copies of the minutes of all meetings of the Council to its members in a manner and within the times as established by the Council and agreed upon by the Recorder.
- B. In accordance with state law, the books, records and accounts of the Council must be maintained at the office of the Recorder and open at all times during usual business hours for public inspection.

- C. The records and minutes of the Council must be signed by the Mayor and the Recorder.

2.01.100 Council Meetings

- A. All meetings of the Council must be public, except as provided in this Chapter and by state law. Official action may be taken by the Council only in open public meetings unless otherwise permitted by state law.
- B. The Council shall conduct its business in accordance with the Utah Open and Public Meetings Act, Chapter 4 of Title 52. Utah Code Annotate, 1953, as amended, as it now exists or as it may hereinafter be amended.
- C. The Council conducts the following types of meetings:
 - 1. Regular Meetings;
 - 2. Special Meetings;
 - 3. Closed Meetings;
 - 4. Work and other Meetings; and
 - 5. Emergency Meetings.
- D. The Council shall give public written notice at least once each year of its annual meeting schedule for regular meetings. The public notice shall specify the date, time and place of such meetings.
- E. The Council, by majority vote of the members present, may direct the removal of any person who willfully disrupts a Council meeting to the extent that orderly conduct is seriously compromised.
- F. The attorney and auditor or their designees may attend and assist the Council at all meetings but shall attend and assist the Council at all meetings when requested.

2.01.110 Work Meetings

- A. The Council shall conduct its regular work sessions at the hour and place designated by the Mayor.
- B. Work meetings shall be scheduled or cancelled as the public

business requires and shall consist of discussion, review, testimony, requests and information from City employees, presentations by the public, review of regular meeting agendas, preparation for regular meetings, and such other matters and activities as may be necessary or scheduled by the Mayor in consultation with the Council.

- C. Work meetings shall be open to the public in accordance with state law and public notice shall be given of all meetings in the same manner as required for regular meetings.
- D. A quorum of Council members is necessary to conduct work meetings.

2.01.120 Regular/Special Meetings

A. The Council shall:

- 1. By ordinance prescribe the time and place for holding its regular meeting; and
- 2. Hold a regular meeting at least once each month.

B. The Mayor or two Council members may order the convening of a special meeting of the Council.

- 1. Each order convening a special meeting of the Council shall:
 - a. be entered in the minutes of the Council; and
 - b. provide at least three hours' notice of the special meeting.

2. The Recorder shall serve notice of the special meeting on each Council member who did not sign the order by delivering the notice personally or by leaving it at the Council member's usual place of abode.

3. The personal appearance by the Council member at a special meeting of the Council constitutes a waiver of the notice required under this Section.

2.01.130 Closed Meeting

A. A closed meeting of the Council may be held upon the affirmative vote of two-thirds of the members present at an open meeting for which notice has been given in accordance with state law;

provided, however, that a quorum must be present.

- B. No closed meeting is allowed except for matters exempted from open meetings under the Utah Open and Public Meetings Act, as it now exists or as it may hereinafter be amended.
- C. No official action may be taken at a closed meeting.
- D. The reason or reasons for holding a closed meeting and the vote thereon shall be entered in the minutes of the meeting.

2.01.140 Emergency Meetings

When, because of unforeseen circumstances, it is necessary for the Council to hold an emergency meeting to consider matters of an emergency or urgent nature, the normal notice requirements for a meeting may be disregarded and the best notice practicable given to the Council members and the public. No such emergency meeting of the Council shall be held unless an attempt has been made to notify all Council members and a majority of the Council votes in the affirmative to hold the meeting. Action may not be taken at an emergency meeting unless a quorum is present. A record shall be kept of the means utilized to contact the members and the number voting and names of the members voting to hold the meeting.

2.01.150 Additional Committees

- A. The Council may establish additional committees as it deems appropriate and may convene committee meetings at any time for the purpose of study, discussion, investigation, formal hearings or inquiries, workshops, training, or presentations by or responses from citizens or other interested persons or groups.
- B. No official action may be taken in committee meetings other than the adoption of non-binding recommendations to the Council.
- C. Committee meetings shall be open to the public in accordance with state law and public notice shall be given of all committee meetings in the same manner as required for regular meetings.

2.01.160 Agenda

- A. An agenda shall be prepared by the Recorder in consultation with the Mayor or the Mayor Tempore in the Mayor's absence in advance of each meeting, including emergency meetings to the extent possible. The agenda shall be published as provided by state law at least twenty-four hours in advance of the meeting.

- B. Matters received from any member of the Council or the Mayor shall be placed on the agenda. Requests for matters to be placed upon the agenda by persons other than Council members or Mayor, shall be placed on the agenda at the discretion of the Mayor.
- C. The Council, for its regular, special and committee meetings, shall announce and post its agenda and provide notice of such meetings, in accordance with the provisions of state law, at least twenty-four hours prior to the convening of the Council meeting and posted on the Utah Public Notice Website. Written notice of the agenda and meeting shall be posted at the office of the Council or the meeting location, as the case may be. For an emergency meeting, public notice and notice to the news media shall be given as may be practical under the circumstances.
- D. The agenda may be changed by a majority vote of the Council, but no action may be taken on new matters introduced to the agenda unless twenty-four hours' notice has been duly given to the public or unless the matter is of an emergency nature, as approved by a separate majority vote of Council members present.
- E. All agenda items pertaining to pending or proposed actions shall be considered as proposals for adoption. In the absence of a motion to adopt, postpone, or table pending or proposed actions, the Mayor shall, upon the conclusion of discussion on the matter, declare that the proposal fails adoption or, at the Mayor's discretion, declare the matter to be held over for a subsequent meeting.

2.01.170 Public Hearings.

- A. Public hearings shall be deemed to include only those hearings specifically noticed and required to be conducted by the Council by state law or otherwise for the purposes of providing opportunities for the general public to comment upon and make inquiries or presentations with respect to specific proposals or matters under consideration by the Council including, but not limited to, planning and zoning, ordinances, budget hearings, hearings on the proposed issuance of bonds or debt, or other matters of significant public interest. The Council at its discretion may schedule public hearings for other matters under consideration.
- B. Public hearings may be held as part of a regular special, committee, emergency or other meeting of the Council. The decision to conduct a public hearing shall be made by the Council at a regular, special or emergency meeting.

- C. Schedules for public hearings shall be announced by the Mayor and public notice shall be given in the manner required for any public meeting of the Council as required by law and this Chapter. The notice shall include the specific subject matter of the public hearing as well as the time, date and place thereof.
- D. At the beginning of any public hearing, the Mayor may publicly state the rules of conduct for such public meetings including any time limits on speakers' presentations, any requirement of submitting materials in writing with sufficient copies for all Council members and the Recorder, and such other rules as may be reasonably necessary for the proper and expeditious conduct of the public hearing.
- E. Public hearings shall be opened upon the declaration of the Mayor that the Council is at that time in a public hearing and the Mayor shall state the specific purpose of that public hearing. Upon the conclusion of the public hearing and a motion duly made, seconded, and carried by a majority of the Council, the Mayor shall declare the public hearing concluded or continued to another date, if permitted by law. The Mayor shall state the conditions of any continuance.
- F. Where permitted by state law, the Council may rehear any matter decided after a public hearing where an aggrieved person files a written request for rehearing that includes new evidence which the Council determines to justify reconsideration of its decisions. A request for rehearing shall be filed within ten (10) calendar days from the date of the original decision. If a request for rehearing is granted by the Council, the rehearing shall follow the same procedures as the original hearing. No rehearing shall be allowed on any matter where a rehearing would be contrary to state law.

2.01.180 Electronic Meetings

- A. General: The Council may conduct an electronic meeting that some or all of the Council members may attend through an electronic video, audio, or both video and audio connection, including telephonic, telecommunication, or computer conference methods in compliance with Utah Code § 52-4-207. Any Council member may request that a meeting of the Council be an electronic meeting, provided that Council member makes the request at least 24 hours in advance of that meeting.
- B. Participation. The primary purpose for holding electronic meetings is to enable some or all members of the Council to participate in the meeting electronically. A member of the public may attend remotely by electronic

means to monitor an open meeting of the Council provided that the member of the public sends a written request to the Recorder and further provided that the Council is not required to acquire any equipment, facilities, or expertise which the Council does not already possess to accommodate the request. Notwithstanding anything to the contrary in this Section, with the exception of a public hearing, the Council is not required to provide the public an opportunity to participate in, as opposed to attend and monitor, an electronic meeting. The Council member who chairs the electronic meeting shall be physically present at the anchor location.

- C. Anchor Location: The Council shall provide space and facilities at an anchor location for all electronic meetings except as provided in this Section. The anchor location is the physical location from which the electronic meeting originates or from which the participants are connected. At least one anchor location for an electronic meeting shall be the principal office building, such as the city hall or principal location, where the Council would normally meet if not holding an electronic meeting. A quorum of the Council is not required to be present at a single anchor location for an electronic meeting to be convened and conducted. As few as one Council member may be present at the anchor location pursuant to this Policy and Utah Code § 52-4-207. If the meeting is a public hearing, the Council shall provide space and facilities at an anchor location so that the public may attend, monitor, and participate in the hearing. If all Council members attend the meeting remotely through an electronic video, audio, or both video and audio connection, there is no requirement to provide an anchor location for the public to attend unless the Council receives a written request to provide an anchor location with at least twelve (12) hours' notice before the scheduled meeting time.
- D. Notice: The Recorder shall provide public notice of the electronic meeting to the Council members and the public with at least 24 hours advance public notice, including the agenda, date, time, location, and a description of how each member the Council can be connected to the electronic meeting. The Recorder shall post a written notice for each electronic meeting at the principal office of Kearns or at the building where the meeting is to be held if no principal office exists. The Council shall provide written or electronic notice in accordance with the Open and Public Meetings Act. These notice requirements are minimum requirements and are not to be construed as precluding such additional postings and notifications as may be directed by the Council to members of the public.
- E. Budget or Logistical Considerations – Exceptions: The Mayor may determine, based upon budget, public policy, logistical considerations, or health or safety concerns, prior to or during the electronic meeting, that it is not in the best interest of the Council to hold an electronic meeting and provide public notice of said determination, the determinative facts, and alternative means for the public to participate. The Mayor may also restrict the number of separate

electronic connections that are allowed for an electronic meeting based on available equipment capacity. A request from a member of the public to participate in a meeting electronically may be denied by the Mayor based on budget, public policy, logistical considerations, or health or safety concerns as determined sufficient by the Mayor.

- F. **Conduct of Electronic Meeting:** No action may be taken and no business may be conducted at a meeting of the Council unless a quorum, consisting of a simple majority of the members of the Council, is present in person and electronically. A Council member who is not physically present may nevertheless participate in the meeting through electronic means and be counted toward the required quorum in accordance with Utah Code § 52-4-207. Any Council member participating via electronic means may make, second, and vote on any motion or recommendation to the Council and participate in the discussion as though present. Nevertheless, the Council member who chairs the meeting must be present at the anchor location. If the Mayor or Mayor Pro Tempore is not physically present at the anchor location and there is still a quorum, a Council member who is physically present at the anchor location shall preside over the meeting. In any event, any electronic meeting and notice of any electronic meeting shall comply with the Open and Public Meetings Act.

2.01.190 Form Of Action

The Council may take action in the form of ordinances, policies, resolutions, motions upon requests or memorials.

A. Ordinances.

1. The Council, except as expressly limited by statute, shall exercise its legislative powers through ordinances and may adopt any ordinance to regulate, require, prohibit, govern, control or supervise any activities, business, conduct, or condition.
2. All ordinances must be in written form before a vote is taken.
3. Any ordinance passed by the Council shall contain and be in substantially the following order and form:
 - a. Ordinance number and date;
 - b. A Title which indicates the nature of the subject matter of the ordinance;
 - c. An explanation stating the need or reason for the

ordinance and summarizing its contents;

- d. An ordaining clause which states “The Kearns Council ordains as follows;”
 - e. The body or subject of the ordinance;
 - f. When applicable, a statement indicating the penalty for violation of the ordinance;
 - g. A statement indicating the effective date of the ordinance;
 - h. A signature line for the Mayor;
 - i. An attestation line for the Recorder;
 - j. The votes of the Council members;
 - k. A space to indicate when the ordinance is posted pursuant to state law; and
 - l. An ordinance summary if required by statute.
4. Except in exigent circumstances, or when directed by a majority of Council members present, all ordinances, including ordinances relating to planning and zoning matters, shall be introduced in writing and read or described to the Council prior to the Council's consideration for adoption of the ordinance. Copies of the proposed ordinance shall be noticed and posted in accordance with state law, along with the agenda for the meeting at which the ordinance is to be considered.
5. Upon adoption, each ordinance shall be signed as required within five (5) business days.

B. Resolutions.

1. The Council may exercise all administrative powers by resolution, including, establishing fees and rates for municipal services, administrative policies and guidelines, and the use and operation of Kearns property.
2. Resolutions shall be considered and adopted in those matters required by law or otherwise and may be used for policy declarations and proposals not appropriately addressed by

ordinance and may be used to exercise Council authority in matters of statements of policy and communication.

3. Resolutions shall be in a form and contain sections substantially similar to that prescribed for ordinances, excluding those requirements that pertain to the posting of ordinances and ordinance summaries.
4. The Council may not impose a punishment, fine, or forfeiture by resolution.

C. Memorials.

1. Memorials shall be adopted in the form of resolutions or motions, as may be deemed appropriate, and shall be used as a statement of policy to respond to or commend persons or groups for notable activities which have been called to the attention of the Council.
2. Memorials may be considered and adopted at the same meeting in which they have been proposed and, in all events, shall be recorded in the minutes.

D. Policies, Procedures, Rules and Regulations.

1. Policies, procedures, rules and regulations shall be considered and adopted in those matters determined to be appropriate by the Council and not prohibited by statute.
2. Policies, procedures, rules and regulations shall be presented, considered and given notice in the same manner as prescribed for ordinances and shall be in such form as directed by the Council.

E. All resolutions, policies, procedures, rules, regulations and ordinances shall be numbered, recorded and maintained in accordance with provisions of state law.

2.01.200 Quorum

The number of Council members necessary to constitute a quorum is three.

2.01.210 Rules Of Order and Procedure-General

Procedural rules or order and procedure not specifically provided herein or by state law, or City ordinance, shall be regulated, interpreted and

construed in accordance with the Council's Rules of Order and Procedure as may be adopted by resolution from time to time by the Council.

2.01.220 Board Appointment Duties and Responsibilities

Pursuant to and in accordance with all applicable provisions of these ordinances, of the plan, and of the laws of the state, the appointment and reappointment of members of boards within the jurisdiction and under the appointment or consent power of the Council shall be as herein provided.

- A. All board appointments or reappointments of Council members shall be made annually with the consent of a majority of the Council.
- B. The following shall apply to board appointments involving individuals who are not members of the Council:
 - 1. Boards whose members hold terms of three years or less, board members may be reappointed to a consecutive term on their respective boards with the consent of a majority of the Council; and
 - 2. For boards whose members hold terms of longer than three years, no board member shall be reappointed to a consecutive term on the same board unless, for good cause shown and to prevent significant disruption of current board activities, the Council approves such reappointment.
- C. The restrictions upon the reappointment of board members, as provided under this section, shall be limited to the extent that this section may be in direct conflict with federal or state law and where the appointment of board members is set out by or limited under the laws of the United States or the State of Utah.
- D. When representing Kearns or the Council on any board or similar organization, Council members shall vote according to the will of the Council on those matters for which the Council has taken an official position. In the absence of an official position by the Council, Council members shall exercise their best judgment to determine how best to vote in accordance with the best interests of Kearns.

2.01.230 Greater Salt Lake Municipal Services District (“MSD”)

Kearns is a member of the MSD, which is a special district that provides certain administrative and municipal services to Kearns and its other members, including human resources, finance and budgeting, information

technology, communications, planning and zoning, engineering, business licensing, and code enforcement services. The MSD is authorized to act as Kearns's official agent in providing its services, provided that the Council may remove or expand the services the MSD provides in accordance with applicable law.

CHAPTER 2.02 -- CITY MANAGER

2.02.010 General

The provisions of this Chapter shall apply to the selection and appointment of a City Manager and shall only apply if the Council elects to appoint a City Manager.

2.02.020 Process to Appoint City Manager

The Council may budget for and appoint by ordinance a City Manager pursuant to a competitive selection process to direct the City's operations and to serve as the City's chief administrative officer with authority to implement municipal policy, oversee daily operations of City departments and employees, and exercise any other duties the Council may assign. The City Manager shall be an at-will employee and shall serve at the pleasure of the Council. The Council may terminate the City Manager's employment at any time and for any legal reason. The City Manager position is not a required position.

2.02.030 Term

The term of office, salary, benefits, duties and termination of the City Manager shall be set out in written contract prior to the time of appointment, which contract shall be negotiated and approved by a resolution of the Council, except that the Council shall employ the City Manager for a term not to exceed four (4) years and the contract may not automatically renew. The Council, however, may renew the City Manager's term of employment at any time. Any contract the Council may approve regarding a City Manager's employment shall comply with the provisions of Section 2.02.020.

2.02.040 Salary

The Council shall establish the City Manager's salary, benefits, and other compensation from time to time in accordance with applicable state law and city ordinances.

2.02.050 Powers and Duties

- A. The City Manager shall have the following powers and duties:

1. Exercise the City's administrative powers under the direction and supervision of the Council.
2. Serve as the chief administrative officer to whom all City employees, contractors, and agents shall report. All City employees shall make up the administrative service of the City and, as such, are subordinates to the City Manager.
3. The City Manager shall be responsible to the Council for the day-to-day operations of the City and for such other professional duties as assigned or needed.
4. The City Manager shall be at all times under the control and supervision of the Council and shall answer directly to the Council in all matters relating to the City, its employees, functions, relationships, activities and status.
5. The City Manager may examine and inspect the books, records, and official papers of any office, department, agency, board, or commission of the City and make investigations and require reports from all personnel.
6. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager and neither the Council, nor any member thereof, including the Mayor, shall give orders to any subordinates of the City Manager, either publicly or privately.
7. The City Manager shall have the right to attend and participate in meetings of the Council but shall not have the right to vote in said meetings.
8. The City Manager may make suggestions to the Council and shall advise the Council on matters of policy, procedure, and business requiring Council approval or awareness. The City Manager shall use his or her best efforts to lawfully implement the final decisions of the Council to lawfully implement the final decisions of the Council and shall represent and defend the final decisions of the Council.
9. The City Manager shall notify the Council and the Mayor of any emergencies existing in any department or matter under his or her supervision.
10. The City Manager is designated as the budget officer for the City

and shall perform or cause to be performed all of the duties of such office as set forth in the Uniform Municipal Fiscal Procedures Act. As budget officer, the City Manager shall prepare and submit the annual budget to the Council, along with any proposed amendments to the budget.

11. The City Manager shall have the authority to sign all contracts on behalf of the City provided:

- a. The contract has been approved by the Council, funds to be spent under the contract have been specifically appropriated through the City's budget process, or the contract does not require the expenditure of City funds; and
- b. The contract does not involve the conveyance of any real property interest of the City.
- c. The City Manager shall be employed by the City and carry out such duties and functions as set forth in state and federal law, City ordinances and policy, and as set forth in the City Manager's job description.

B. Pursuant to Section 2.01.070.A.2, if the Council does not appoint a City Manager, the Mayor shall serve as the City's chief administrative officer and shall exercise any duty or responsibility assigned to the City Manager, subject to the Council's authority to remove such delegation of authority under Section 2.01.080.C.

CHAPTER 2.03 -- RECORDER

2.03.020 Appointment

The Council appoints the MSD to serve as the Recorder in accordance with Utah Code § 17B-2a-1104, or applicable successor statute. Pursuant to applicable state law, the Council may appoint someone other than the MSD to serve as the Recorder, with the advice and consent of the Council.

2.03.030 Oath Required

The Recorder, before assuming the duties of the office, shall take and subscribe the constitutional oath required under state law.

2.03.040 Duties

A. The Recorder shall perform all duties as may by law devolve upon

him/her as Recorder of a City of the third class under state law. The Recorder shall keep records properly indexed of all City contracts, and the records shall be open to inspection by all interested persons. Unless otherwise provided by ordinance, the Recorder shall be ex-officio City collector. The Recorder shall perform such other and further duties as the Council may by ordinance provide. Within the office of the Recorder a properly qualified employee may be appointed by the Recorder as a deputy Recorder. The deputy Recorder is authorized to perform, and shall perform, all duties of the Recorder during such times when the Recorder is unavailable or unable to perform same. Any official act of the deputy Recorder taken in the absence of the Recorder shall be valid and binding to the same extent as if done by the Recorder. The Recorder, in addition to the powers and duties imposed by law and ordinance, shall perform the following duties:

1. The Recorder shall issue notices to the members of the Council, when directed to do so by that body, and to members of the different committees and to all persons whose attendance is required before any committee, when directed or requested so to do by the chairman of such committee. The Recorder shall also issue notices of special meetings of the Council.
2. The Recorder shall attest all licenses granted under this Code or any other ordinance of the City, and shall keep a record of the issuance thereof.
3. The Recorder shall, without delay, deliver to the officers of the City, and all committees of the Council, all resolutions and communications referred to such officers or committees by that body.
4. The Recorder shall, without delay, deliver to the Mayor all ordinances or resolutions which may be required to be approved or otherwise acted upon by the Mayor, together with all papers on which the same are founded.
5. The Recorder shall sign and attest all ordinances passed by the Council that are signed by the Mayor or other officer.
6. The Recorder shall certify to the publication of all ordinances, resolutions, or other official documents.
7. The Recorder shall attest all papers signed by the Mayor officially, and keep and affix the corporate seal.

8. The Recorder shall keep correct records and minutes of all proceedings of the Council, recording the same to the extent otherwise provided by law.
9. The Recorder shall countersign all contracts made on behalf of the City or to which the City is a party. Any City contract shall be void unless signed by the Recorder. The Recorder shall endorse a certificate upon every bond, warrant, or other evidence of debt issued pursuant to law by the City stating that the same is within the lawful debt limit of the City, and is issued according to law.
10. The Recorder shall deliver to the successor in office the corporate seal, together with all books, papers, records and other property of the City.
11. The Recorder shall have the power to administer oaths in all matters in any way connected with the City government.
12. The Recorder shall attend to all official correspondence and report the same to the Council as needed.

2.03.050 Record of Ordinances to be Kept

- A. The Recorder shall keep records of all ordinances, together with proofs of posting. Before taking effect, all ordinances shall be deposited in the office of the Recorder.
- B. The originals of all ordinances passed by the Council shall be filed in the Recorder's office.

2.03.060 Papers, Records, Transcripts – Copies

Upon request and upon the payment of such fees set by the Council, the Recorder shall make, affix the corporate seal thereto and certify copies of all papers filed in the Recorder's office and transcripts of all records of which the Recorder is the lawful custodian.

CHAPTER 2.04 -- CITY TREASURER

2.04.020 Appointment

The Council appoints the MSD to serve as the City Treasurer in accordance with Utah Code § 17B-2a-1104, or applicable successor statute. Pursuant to applicable state law, the Council may appoint someone other than the MSD to serve as the Treasurer, with the advice and consent of the Council.

2.04.030 Oath Required

The Treasurer, before assuming the duties of the office, shall take and subscribe the constitutional oath required under state law.

2.04.040 Appointment of Deputies and Assistants

The Treasurer shall have power to appoint from within the office of the Treasurer a properly qualified employee who shall be designated the Deputy Treasurer. The Deputy Treasurer is authorized to perform, and shall perform, all duties of the Treasurer during such times when the Treasurer is unavailable or unable to perform same. Any official act of the Deputy Treasurer taken in the absence of the Treasurer shall be valid and binding to the same extent as if done by the Treasurer.

2.04.050 Powers and Duties Generally

The Treasurer shall receive all money belonging to the City, including all taxes, license fees, utility billings, fines, and other funds owed to or held by the City, and shall keep an accurate and detailed account thereof, in such manner as may be provided by law, and shall collect all special taxes and assessments as provided by law. The Treasurer shall reconcile all accounts with the Recorder, as the Council may direct at the end of every month, and turn over all warrants, interest coupons, bonds or other evidence of the indebtedness of the City which may have been redeemed during the month, taking the receipts of the Recorder therefor, and all such warrants, orders or other evidence of indebtedness shall be cancelled by the Treasurer and have written or stamped thereon the date of their payment or redemption.

2.04.060 Collection of Special Taxes

The Treasurer is ex-officio collector of special taxes.

2.04.070 Receipts to be Given

The Treasurer shall give every person paying money to the City a receipt therefor, specifying the date of payment and upon what account paid; and he/she shall also file the duplicate of such receipt with the Recorder at the date of the monthly report.

2.04.050 Payments

The Treasurer shall not pay any funds owned or held by the City to any person unless the expenditure is duly appropriated and authorized upon action of the Council, the purchasing agent, or the City Manager (if appointed) as otherwise

provided by law.

2.04.060 Investment Decisions at Authorized Banking Institutions

- A. The Treasurer is authorized to take any and all such actions in the name of and on behalf of the City to utilize investment opportunities available at banking institutions approved by the Utah Money Management Act. Such actions shall include but not be limited to setting up sweep accounts, zero balance accounts, automatic transfer of funds accounts and similar deposit and investment arrangements, entering into transactions similar to the foregoing, and performing such actions as may be required in connection with any of the foregoing. From time to time the Treasurer shall present to the Council for approval all necessary resolutions for designation of depository institutions and authorized signatories.
- B. Agreements, instruments, or documents properly executed and delivered to any banking institution approved by the Utah Money Management Act by the Treasurer shall be binding and enforceable obligations of the City, enforceable in accordance with their respective terms.

CHAPTER -- 2.05 CITY ENGINEER

2.05.010 Appointment

The Council appoints the MSD to serve as the Engineer in accordance with Utah Code §§ 10-3-917 and 17B-2a-1104, or applicable successor statute. Pursuant to applicable state law, the Council may appoint someone other than the MSD to serve as the Engineer, with the advice and consent of the Council.

2.05.020 Engineer Required to be Licensed

Each person who serves as the Engineer shall be a registered professional engineer in accordance with applicable state law.

2.05.030 Powers and Duties

The Engineer shall perform all powers and duties required under applicable law, including those powers and duties set forth in Title 10, Part 9 of the Utah Code.

CHAPTER 2.06 -- CITY ATTORNEY

2.06.010 Establishment

There is established the office of City Attorney. The person(s) providing legal services to the City as City Attorney may be part-time or full-time employees of the City, or may be independent contractors.

2.06.020 Appointment Generally

The Council shall appoint the City Attorney, who shall serve as the Council's pleasure. The Council may appoint different individuals, firms, or entities to represent the City on civil and criminal matters, and may hire and retain special legal counsel to represent the City on specific matters as the Council may deem necessary. If the Council appoints an independent contractor to serve as City Attorney or to otherwise represent the City on a legal matter, the Council shall make such appointment in accordance with applicable state law and the City's purchasing procedures, as applicable. Persons, firms, or entities providing legal services to the City may do so without a specified term, provided that all contracts for legal services shall authorize the Council to terminate such contracts at any time as the Council may deem necessary.

2.06.020 City Attorney Required to be Licensed

Each person who serves as the City Attorney or otherwise provides legal representation to the City shall be a licensed attorney in good standing with the Utah State Bar in accordance with applicable state law.

2.06.030 Powers and Duties

The City Attorney, and other attorneys the Council may hire or otherwise retain, shall perform all powers and duties required under applicable law, including those powers and duties set forth in Title 10, Part 9 of the Utah Code.

2.06.040 Succession

Upon the termination of legal services or upon request by the City, the City Attorney shall promptly deliver to any successor or such person(s) designated by the City copies of all books and papers, including but not limited to those in electronic form, pertaining to pending or concluded city legal matters.

CHAPTER 2.07 – CITY ETHICS CODE

2.07.010 Purpose

The purpose of this Chapter is to establish the Kearns Ethics Code, which shall apply to all city elected officials, officers, and employees when acting in their official capacity on behalf of the City.

2.07.020 Definitions

A. For the purposes of this Chapter, the following definitions are in addition to the definitions in Section 1.02.060 and shall control:

1. "Compensation" or "compensated" means anything of economic value, however designated, which is paid, loaned, granted, given, donated, or transferred to any person or business entity for or in consideration of personal services, materials, property, or any other thing whatsoever.
2. "Conflict of interest" means either a restricted conflict of interest or an unrestricted conflict of interest as defined in this section.
3. "Financial interest" means, but may not be limited to, any employment by or compensated representation as an agent of any individual, corporation, business entity, organization, or committee. A financial interest also includes any beneficial ownership of one percent or more of a corporation or other business entity.
4. "Governmental action" means any official action on the part of the City, including, but not limited to:
 - a. Any decision, determination, finding, ruling, or order, or discussions thereof;
 - b. Any grant, payment, award, license, contract, subcontract, transaction, decision, sanction, or approval, or the denial thereof, or the failure to act in respect thereto; or
 - c. Any legislative, administrative, appointive, or discretionary act of any public servant or volunteer public servant.
5. "Representative" means any authorized agent of the City. Representatives shall include any appointed person, other than an employee, serving on a special, regular, or full-time committee, commission, authority, agency, or board of the City, who is not paid a salary or an hourly wage by the City for his or her services thereon.
6. "Restricted conflict of interest" means any financial interest held by the employee or representative of the City, or by members of an employee's or representative's household, or those providing regular financial support to the employee or representative.
7. "Unrestricted conflict" or "unrestricted conflict of interest" means any and all other interests including political, family, fraternal, social, and other interests or associations which may reasonably create the appearance or the actuality of a conflict of interest between an employee's or representative's outside interest and his or her City responsibilities. "Unrestricted conflict" or "unrestricted conflict of interest" also means other conflicts as defined by state law, and any

campaign contribution made to the officer, employee, or representative, or to any member of his or her household, of more than five hundred dollars during the prior calendar year.

2.07.030 Ethics Statement

All employees, before commencing the duties of their respective offices, shall read and review the following ethics statement:

Kearns employees support, obey and defend the Constitution of the United States, The Constitution of the State of Utah, the laws of the State of Utah, and City ordinances, to the best of their abilities and will always strive to meet the highest ethical standards implicit in their employment and in the furtherance of the best public interest.

2.07.040 Ethics Training

All employees shall attend ethics training every two years regarding their ethical duties and responsibilities as established by state law and by this Chapter. This training shall be conducted based on a specific curriculum approved by the Council. Attendance at the ethics training is mandatory.

2.07.050 Government In The Sunshine

- A. Kearns is an open records and open meetings government and all employees are directed to observe, with exactness, all applicable provisions of state statute and City ordinance regarding open records and open meetings including GRAMA, the Open and Public Meetings Act, and City ordinances and policies regarding those state laws.
- B. In the interests of maintaining openness and transparency in City, all employees are directed to give strong consideration to the application of an impartial balancing test established by GRAMA when determining whether a record should be released. Officers and employees shall seek to achieve GRAMA's express goals of openness while also giving due consideration to individual privacy rights. Where justified, in accordance with GRAMA, and all other considerations being equal, access should be balanced in favor of openness and transparency.
 1. As technology presents new developments in the means of communication, including electronic messaging and social media, City elected officials, officers, and employees are directed to apply GRAMA standards of openness or confidentiality based on the content of a record, regardless of the medium used.

2. Because many modern forums of electronic media, including social media, reduce or eliminate the City's ability to retain, store, retrieve and copy such communications, City elected officials, officers, and employees are encouraged to seek appropriate and cost-effective solutions to make City records that are transmitted in electronic media and are classified as public more available for public review and distribution.
- C. All City meetings of any deliberative board, committee, or agency, including boards or committees conducting quasi-judicial administrative hearings, are directed to conduct all aspects of their decision making process in accordance with the Open and Public Meetings Act, including both the gathering of evidence and deliberations regarding a decision, in an open and public meeting, with appropriate notice and minutes, unless the nature of the hearing permits closure to the public under exceptions provided in state law.
 - D. Under rare circumstances, where a deliberative body has good cause to close only its deliberation sessions, and is within the provisions and intent of state law, the body may conduct only its deliberative process in private.
 - E. All other provisions of state law and the Open and Public Meetings Act shall be otherwise applicable to all City bodies and meetings as defined in the law and to those exceptions in statute which permit closed meetings, under the circumstances and in accordance with the provisions of the Open and Public Meetings Act.

2.07.060 Conflicts of Interest

- A. General prohibitions.
 1. Employees are governed by the Municipal Officers and Employees Disclosure Act regarding outside interests and conflicts that are prohibited or that require disclosure.
 2. Officers, employees, and representatives are prohibited from using non-public information in a manner that could provide themselves or another a gain or benefit.
 3. Officers, employees, and representatives shall not use or attempt to use their position in a manner that could secure special privileges or exemptions for themselves or others.
 4. Employees and representatives are prohibited from engaging in any outside activity, or financial investment which constitutes a restricted conflict of interest where such conflict could impair their judgment regarding the faithful performance of City responsibilities.

B. Restricted conflicts of interest.

1. City employees and representatives are required to fully and publicly disclose any restricted conflict of interest and shall recuse themselves from, and have no involvement in, any governmental action in which they have a restricted conflict of interest.
2. If an employee or representative is not aware of the financial interest, he or she must disclose the financial interest and recuse as soon as he or she learns of the financial interest.
3. Any action, vote, contract, or other governmental action which has been undertaken by an officer, employee, or representative who has a restricted conflict of interest shall be terminable by the body that took the action, or by the City officer with authority to void or terminate the action. That body or the applicable City officer may also ratify any prior governmental action that was taken in violation of this section.

C. Unrestricted conflicts of interest.

1. Employees must publicly disclose any and all unrestricted conflicts of interest at any meeting, hearing, or deliberation where the employee or representative is present and the unrestricted conflict of interest could impair the judgment of the employee or representative.
2. Employees who have unrestricted conflicts are not required to recuse themselves but may do so.

D. Disclosure.

1. Employees are required to comply with all legal requirements setting a responsibility to disclose restricted and unrestricted conflicts of interests between their public duties and private activities. In particular, employees are bound by the requirements of the Municipal Officer's and Employees Ethics.
2. Oral or written disclosures must be made in accordance with state law, other sources of the law, and this section.
3. Employees are required to file written disclosures in accordance with the provisions of state law and City ordinance. All written disclosures must be kept current and are filed both with the officer or employee's immediate chain of command and with the Council.

E. Contractual representatives.

1. Individuals and business entities who contract to represent the City's interests shall disclose to the City the names of other clients they represent and those clients' respective issues and interests that are relevant to the City's interests. Unless they receive written permission from the Mayor and Council, such individuals or business entities are prohibited from representing other clients about the same or substantially same issues and interests as covered by the City representation.
2. Individuals and business entities who contract to represent the City's interests by lobbying the State Legislature or any other municipal, state or federal office or agency are prohibited from engaging in any lobbying of City officers, employees, agencies or offices, as defined in this Chapter.

2.07.070 City Endorsements

Notwithstanding the provisions of this Chapter, the City or a City employee may encourage support from a public or private individual or institution, whether in financial contributions or by other means, on behalf of an organization or activity that benefits the community.

2.07.080 Gifts

City employees shall not knowingly accept or solicit any gift for themselves, family members or organizations of the officer or employee or others, except as permitted in Section 2.07.110.

2.07.090 Gifts And The Procurement Process

- A. Without exception, receipt or solicitation of any gift or a request for employment by a purchasing agent from any person including a vendor of goods, seller or buyer of real property, or service provider is illegal and punishable as provided by statute.
- B. It is unlawful and punishable as provided by statute for any payment, gift or offer of employment to be offered or made by any person to a public officer or employee or contractor of the City to obtain a specific procurement, disposal, contract or subcontract.
- C. Contracts entered into resulting from a violation of this section are voidable and any payments made on these contracts shall be recoverable to the City.

2.07.100 Honoraria

Officers and employees of the City shall not accept honoraria in regard to

activities related to their City duties or purpose except as provided in Section 2.07.207.

2.07.110 Exceptions

The following are exceptions to the gifts and honoraria requirements of this Chapter:

- A. The gift is a political contribution authorized by law and reported as part of the campaign disclosure requirements of the City or any other governmental entity;
- B. Token items of nominal value, including but not limited to, educational materials, t-shirts, coffee mugs, parking validations or other commemorative or similar souvenir items;
- C. Snacks, beverages or educational or informational materials provided at meetings or other functions;
- D. Transportation to and attendance at conventions, seminars, or events of a primarily educational nature, including meals and entertainment that are part of the required registration, and any associated educational or informational materials directly related to the official duties of the officer or employee;
- E. Gifts not related to the activities of the officer and employee with the City;
- F. Awards publicly made for public service;
- G. Food or a beverage given at a widely attended reception, meal, or meeting by an organization before whom the recipient appears to represent the City, make a speech, answer questions or participate in part of a program;
- H. Attendance at political events that are primarily sponsored by a political party or political candidate;
- I. Flowers, plants, balloons or similar tokens which are given to express condolences, congratulations, or sympathy for ill health, or to commemorate holiday or special occasions;
- J. City sponsored programs activities or work;
- K. Gifts for the City that become the property of the City;
- L. Gifts to City officers, employees or agencies from other City officers, employees or agencies;

- M. Death transfers including bequests and inheritances; and
- N. Gifts to blind trusts related to legal defense funds for imminent or pending litigation against officers or employees (related to their official duties).

2.07.120 Restrictions on Post-City Employment

- A. When an employee, excluding uncompensated volunteers, voluntarily leaves City service they are prohibited for a period of one year from directly communicating, for compensation, with the City for the purpose of attempting to influence any action on any matter pending before the City. This prohibition does not apply to routine government services which do not require the exercise of discretion or to the normal scope of a person's licensed professional capacity.
- B. Any private business entity or individual whose employee or contractor is found to be in violation of this section shall be prohibited from contracting or conducting any non-statutory transaction with the City for a period of one year from date of the violation.
- C. A former officer or employee is not prohibited from holding any City office, but must disclose in writing and resolve any conflicts of interest arising from their previous City employment which conflicts of interest would tend to interfere with the City's best interest.

2.07.130 Nepotism

The Council shall adopt and maintain in place a policy to comply with Utah Code Ann. § 52-2-3, or as it now exists or as it may hereinafter be amended.

2.07.140 Political Activities Of Employees

- A. Except as otherwise provided by law, City officers or employees may voluntarily participate in political activity subject to the following provisions:
 - 1. No person shall be denied the opportunity to become an applicant for a position under the merit system in any covered department by virtue of political opinion or affiliation.
 - 2. No person employed by the City under the merit system may be dismissed from service as a result of political opinion or affiliation.
 - 3. A City career service employee may voluntarily contribute funds to political groups and become a candidate for public office.

4. No City officer or employee, whether elected or appointed, may directly or indirectly coerce, command, or advise any officer or employee covered under the merit system to pay, lend, or contribute part of his or her salary or compensation or anything else of value to any party, committee, organization, agency, or person for political purposes. No City officer or employee, whether elected or appointed, may attempt to make any officer's or employee's personnel status dependent upon the officer's or employee's support or lack of support for any political party, committee, organization, agency, or person engaged in a political activity.
 5. No officer or employee may engage in any political activity during the hours of employment nor shall any person solicit political contributions from City employees during hours of employment for political purposes, but nothing in this section shall preclude voluntary contribution by a City employee to the party or candidate of the employee's choice.
 6. Nothing contained in this Chapter shall be construed to permit partisan political activity by any City officer or employee who is prevented or restricted from engaging in such political activity by the provisions of the federal Hatch Act.
- B. Officers and employees, including employees covered by a merit system, may become candidates for political office or for leadership positions in political parties. Officers and employees doing so shall refrain from engaging in any political activities or campaigning during City working hours. Officers and employees may take an unpaid leave of absence in order to run for political office. Such a leave is at the employee's discretion and may be for some or all of the time between filing a declaration of candidacy and the end of the political campaign. No adverse employment action may be taken against officers or employees who file for office or take a leave of absence.

2.07.150 Prohibitions On Political Use Of City Resources

No employee shall use any property or resources of the City, including but not limited to time, other City employees, equipment, material, the City seal, buildings or facilities in connection with any political activity, except in accordance with established City policy regarding the acceptable use of public resources.

CHAPTER 2.08 -- ADMINISTRATIVE ORGANIZATION

2.08.010 Ordinance Requirements

- A. The function of proposing, considering, reviewing, approving and enacting ordinances is a legislative process which lies solely within the power,

authority and discretion of the Council pursuant to law. The Council may, at its discretion, provide for the limited delegation of certain powers and activities to other committees, persons or entities to assist in the preparation of proposed City ordinances. The legislative committee is established to serve as an advisory body to assist the Council in the consideration of City ordinances.

- B. Upon review, approval and adoption by the Council, the proposed ordinance shall be legally effective upon the date indicated in the ordinance and being signed by the Mayor, attested by the Recorder, and posted or published as required by State law.
- C. Ordinances which in the opinion of the Council are necessary for the immediate preservation of the peace, health or safety of the City and the inhabitants thereof may, if so provided in the ordinance, take effect immediately upon publication or posting as required by state law.

2.08.020 Council Initiated Policies And Procedures

Whenever a majority of the Council suggest a policy or procedure, the Mayor shall refer the matter for adoption in accordance with Chapter 2.01.

2.08.030 Policies And Procedures--Adoption

All policies and procedures the Council adopts must bear the signatures of the Mayor and Recorder.

2.08.040 Policies And Procedures--Recordkeeping And Distribution

It shall be the responsibility of the Council to keep a current record of all Council-approved policies and procedures.

2.08.050 Conflict Between Policies And State laws

Whenever a City policy and procedure conflicts with a state law or an ordinance of the City, the statute supersedes the ordinance and the policy and procedure. An ordinance supersedes a City policy and procedure.

2.08.070 Discrimination Prohibited

Discrimination in City government services based on age, marital status, color, disability, national origin, sex, sexual orientation, gender identity, race or religion is prohibited. Individuals shall be assured of equal access, opportunity and protection in all areas of City government services. This section is not intended to expand the services of City government beyond those required by state or federal law.

CHAPTER 2.09 -- CITY LITIGATION

2.09.010 Litigation--Control And Direction

Any litigation involving or against the City is governed by the provisions of state law and applicable case law precedents.

2.09.020 Litigation Against the City

The legal authority of any employee, acting in an official capacity, to engage in litigation against or on behalf of the City or against any City official, officer or employee must be within that employee's express authority under state law or City ordinance. If the employee has no such legal authority, City funds shall not be used to pay attorney's fees or other legal costs, except in the following circumstances:

- A. The use of City funds is approved in advance by the Mayor, Council, and attorney; or
- B. The litigation against the City or its officials, officers or employees ultimately and substantially succeeds on the merits or payment is ordered by the court.

2.09.030 Limitations

- A. Nothing in this Chapter shall be construed to authorize any City employee to bring a lawsuit against the City.
- B. Nothing in this Chapter shall be construed to limit the authority of a court of competent jurisdiction from levying costs or attorneys' fees in accordance with applicable law.

CHAPTER 2.10 -- ESTABLISHING FEES

2.10.010 Fee Requirements And Limitations

The Council may impose fees for providing government services in accordance with the provisions of this Chapter and as may be required or permitted by law. Fees shall be calculated and imposed in an amount that will reimburse the City for its expenses in enforcing regulations or providing services or benefits and may not be imposed in an amount which significantly exceeds those costs.

2.10.020 Fee Establishment Process

- A. The Council shall approve all City fees.

- B. In establishing the amount of a fee, the Council may consider costs and other elements it deems relevant in accordance with applicable law, including:
 - 1. City employee expenses, including full compensation costs of all employees normally required to provide the services;
 - 2. All direct costs:
 - a. For internal division costs, in accordance with accepted accounting standards; and
 - b. For City indirect costs, in amounts established by the auditor's office;
 - 3. Any expenditures the City is required to make to other government entities, private contractors or other third parties;
 - 4. Reserves for liability, asset replacement, and capital improvements; and
 - 5. Costs and materials of other direct operational expenses.
- C. Fees shall be posted and available to the public either electronically or by physical posting at the City offices or within a public place within the City.
- D. Fees may be amended at times other than during budget approval by submitting a letter requesting a fee amendment to the Council for its review and approval.

2.10.030 Council Powers--Fees

- A. The Council shall review and approve a schedule of all fees imposed by the City.
- B. The City Manager, or the Mayor in the absence of a City Manager, may waive or adjust fees, in accordance with the following standards and procedures:
 - 1. The City may only waive a fee specifically established by state law in accordance with state law.
 - 2. Any waiver of a fee shall be upon good cause shown and in the public interest and shall be in writing.
 - 3. Fees such as late fees or service charges may also be waived, based on the standards and processes established in this ordinance.

CHAPTER 2.11 -- COMMUNITY COUNCILS

2.11.010 Purpose

The purpose of recognizing community councils is to provide a mechanism by which residents of the City may identify community service needs and assist the City in facilitating those initiatives. Volunteer community councils are an effective way for the to maximize on benefits of volunteer service for providing needed events and programing to the residents of the City.

2.11.020 Private Nature of Community Councils

Community councils are created by private citizens as private corporations or otherwise and are not created by the City. Privately created community councils may be recognized by the City as provided in this Chapter, but are separate legal entities that are separate and distinct from the City.

2.11.030 Community Councils Recommendations

- A. The Council shall schedule at least one meeting annually with the community councils for the purpose of receiving recommendations on policy, budget, and other priorities. The Council may, in its discretion, request additional recommendations from community councils as it deems necessary.
- B. A community council shall provide any recommendations it may make to the Council in writing. If requested by the Council, community councils are encouraged to present their recommendations at public meetings held by the City.

2.11.040 Community Councils – Planning and Zoning Information Sent to Community Councils

When directed by the Council, the City’s planning and development staff shall:

- A. Submit to a community council copies of the City’s planning commission public meeting agendas, proposed land use regulations, applications for changes to the zoning ordinance, general plan amendments, or condition use applications pertaining to real property located within the City; and
- B. Notify a community council on planning and zoning matters, and the date and time of the planning commission meeting.

2.11.050 Funding for Community Councils

- A. The Council may budget monies annually for the community councils, which will be spent for administrative costs, including but not limited to, legal notices, elections, newsletters, computers and software, other office equipment, dues to the Association of Community Councils Together (ACCT), City-sponsored community events, and community council outreach activities or events, postage, stationary, and duplication costs. Funding will be

provided pursuant to budgeted amounts and upon direction of the Council, which may impose conditions upon a community council's receipt of City funding.

- B. Community councils receiving funds from the City shall establish a fiscal year in their bylaws and make written budget requests, if any funding is requested, to the Council by May 1st of each year unless otherwise agreed to by the Council. Within ninety days following the end of the community council's fiscal year, it shall file a detailed financial statement with an identified City designee. The statement shall set out community council revenues and expenditures for the prior year and shall be in a form approved by the Council.

2.11.160 Volunteer Status – Indemnification

When duly authorized by the Council to perform a City responsibility, community council members who are acting on behalf of the City shall be considered volunteers to the City and not employees, officials, or officers of the City pursuant to the provisions of the Utah Governmental Immunity Act, in any civil action that may arise within the course and scope of the performance of their duties under this Chapter.

CHAPTER 2.12 -- QUASI-JUDICIAL FUNCTIONS STANDARDS OF CONDUCT

2.12.010 Purpose

The Council recognizes the importance of guaranteeing both the reality and perception that all individuals appearing before quasi-judicial officials or bodies in the City are afforded a full, fair and impartial hearing on the merits. The Council finds it in the best interests of the citizens of the City to provide uniform standards of conduct for all members of quasi-judicial bodies. To that end, the Council hereby provides uniform standards of conduct for individuals performing quasi-judicial functions in the City.

2.12.020 Definitions

For the purposes of this Chapter, the following definitions are in addition to the definitions in Section 1.02.060 and shall control:

- A. A "conflict of interest" exists when a quasi-judicial official has a direct or indirect financial interest which will be or is reasonably likely to be affected by the outcome of the matter currently pending before the official; or resolution of the matter before the official will or is reasonably likely to create a material personal gain or provide a gain or advantage to relatives, friends, agents, business associates, or to groups and associations which hold some share of the official's loyalty. membership in a group or association alone shall not be considered a conflict of interest with respect to any matter affecting such group

or association unless a reasonable and informed person would conclude that such membership in itself would prevent an objective quasi-judicial consideration of the matter.

- B. "Ex-parte contact or communication" means contact by one side only of a matter before an individual, board or Council when said individual, board or Council is acting in a quasi-judicial capacity and the contact is outside of the hearing or official proceedings in the matter.
- C. "Interested party" in a quasi-judicial proceeding means any applicant, party, representative or agent of an applicant or party, any person or entity who may claim to be adversely affected by the resolution of a matter or any issue of fact or law related to a matter, and any person or entity who claims a substantial property interest which could be adversely affected by the resolution of a matter or an issue of fact or law related to a matter.
- D. "Legislative capacity" means activity by a board or Council when involved with the framing and enactment of ordinances and policies for the City included without limitation in such category is the adoption of or amendment to the Code of ordinances, policies and procedures or administrative rules of the City.
- E. "Quasi-judicial capacity" means the role of an individual, board, or Council acting to investigate facts and draw conclusions therefrom as a basis for its official actions and the exercise of discretion of a judicial nature is a matter which is currently before the individual, board or Council, or which would come under the individual's, board's or Council's jurisdiction pursuant to an appeal of an administrative determination including the Council. In determining whether the individual or entity is quasi-judicial in nature, the nature of the activity engaged in shall control over the Title of the individual or entity or the other duties assigned to or otherwise engaged in by the individual or entity.

2.12.030 Conflict of Interest

- A. Any official acting in a quasi-judicial capacity with or reasonably likely to have a conflict of interest with regard to an applicant or its agent who has a matter before the official, must declare his or her conflict of interest and the nature of the interest giving rise to the conflict publicly prior to discussion of the matter and enter the same upon the record of the proceeding. The official must abstain from deliberating or voting on the matter and may not discuss the matter either publicly or privately with any other official participating in the proceeding. The vote of an official experiencing a conflict of interest who fails to disqualify himself shall be disallowed.
- B. A conflict of interest may exist under this section although an official may

not believe that an actual conflict exists. Therefore, any official who has a question as to whether a conflict of interest exists under this section with respect to his or her participation or the participation of another official participating in the proceeding should raise the matter with the other officials participating in the proceeding at a public meeting and with the attorney's office in order that a determination may be made as to whether a conflict of interest exists.

2.12.040 Gifts And Favors

No quasi-judicial official, relative or agent of a quasi-judicial official shall accept any gift, favor or advantage from any party, individual, or from their agents or representatives if the party or individual has a matter currently before the quasi-judicial body or in circumstances when the quasi-judicial official has knowledge that said party or individual intends to or commonly brings matters before the quasi-judicial official for adjudication. Gifts, favors or advantages shall not include a meal with a value of less than twenty-five dollars provided in conjunction with a meeting at which the subject of a quasi-judicial proceeding is discussed. The meal and the communication shall be disclosed pursuant to Section 2.11.050(B). Campaign contributions shall be subject to all other provisions of applicable law but shall not be prohibited under this section.

2.12.050 Ex-Parte Communication

- A. No quasi-judicial official shall initiate contact or initiate discussion with any party or the representative or agent of any party or a person who may claim to be "adversely affected" by the resolution of the matter with respect to an issue of law or fact in issue on a matter which is either currently before the quasi-judicial official for adjudication or which is reasonably likely to come before the quasi-judicial official unless the official provides notice to all parties and an opportunity to participate. Any such discussion, after notice and with an opportunity for participation by the public or other affected parties, shall occur in a meeting duly convened and noticed pursuant to the Utah Open Meetings Act and shall be made a matter of the official record of the proceeding.
- B. Any quasi-judicial official who receives an ex-parte communication with respect to a matter which is either currently before the official or reasonably likely to come before the official shall, at the next public meeting following the communication, place into the official minutes or record the following:
1. The name of the party making the communication;
 2. If the communication was in writing, a copy of the communication;
 3. If the communication was oral, a summary of the communication;

4. The date of the communication.
- C. Following disclosure of the communication at the hearing on the matter, the public and opposing parties shall be given an opportunity to submit written responses to the communication prior to the quasi-judicial official or entity closing the evidentiary phase of the proceedings. All ex-parte communication, with the exception of discussions of procedural matters such as the dates and times of hearings, is prohibited after the conclusion of the evidentiary phase of the proceedings.
 - D. Engaging in prohibited ex-parte communications or the failure of a quasi-judicial official to disclose a communication and place the communication or a summary of it in the public record shall be grounds for voiding the official's vote on the matter.
 - E. An ex-parte contact or communication does not include:
 1. Discussions of procedural matters such as the dates and times of hearings which are unrelated to the merits of the appeal, proceeding or motion;
 2. Communications by the quasi-judicial official, whether in person or otherwise, with City employees or representatives.

2.12.060 Other Provisions Applicable

The standards of conduct provided for by this Chapter are in addition to other legal requirements imposed on quasi-judicial officials and bodies of the City including the Municipal Officers and Employees Ethics Act, the Governments Records Access and Management Act, the Open and Public Meetings Act and City ordinances and policies applicable specifically to the quasi-judicial body.

CHAPTER 2.13 -- SECURITY OF PERSONAL IDENTIFIERS

2.13.010 Definitions

For the purposes of this Chapter, the following definition is in addition to the definitions in Section 1.02.060 and shall control:

- A. "Personal identifiers" means and includes an individual's home address, home telephone number, personal cellular telephone number, signature, social security number, birth date, personal email address, driver's license number, passport number, and any financial identification numbers, including, but not limited to, bank account numbers, credit card numbers and information obtained to authenticate a cardholder or effectuate a payment card transaction.

2.13.020 Protecting Personal Identifiers

The City shall ensure that all personal identifiers in the City's control are kept confidential and secure and are not used for any purpose other than a bona fide government necessity.

- A. The City shall not collect or maintain personal identifiers except where provided by law or ordinance, or where necessary to the functioning of the City. The collection of credit card numbers is permitted for those agencies which accept payment, in the regular course of county business, by credit card.
- B. Any City agency which collects, maintains or transmits personal identifiers shall make a formal determination, in writing, which explains why personal identifiers are collected, maintained or transmitted and explains which specific personal identifiers are necessary. Agencies shall collect or use only those specific personal identifiers which are necessary to government business.
- C. Except for outside contractors that provide administrative services for the City, each City agency shall have in place a written regulation or policy which establishes procedures for the secure collection, maintenance, transmission, transfer, or disposal of personal identifiers.
- D. City agencies are bound by the provisions of state and federal law regarding the public or confidential nature of records containing personal identifiers, including but not limited to GRAMA and the federal Health Insurance Portability and Accountability Act (HIPAA) of 1996.

2.13.030 Private Contractors

If the City contracts with a private entity and the contract contemplates or provides for the transmission or use of any individual's personal identifiers, the contract shall include mandatory provisions requiring that the contractor exercise care to ensure the protection of personal identifiers and that the contractor shall be legally liable for any breach of that duty.

2.13.040 Penalty

Any City officer or employee who knowingly violates this Chapter may be guilty of a Class B misdemeanor and shall be subject to appropriate disciplinary action.

CHAPTER 2.14 -- RECORDS MANAGEMENT

2.14.010 Government Records Findings--Recognition Of Public Policy

The Council finds the following:

- A. It is in the best interests of the City and the citizens thereof, and essential for the administration of the City government, to maintain and preserve accurate governmental records; to provide ready access to records which are defined by law as open to the public; to maintain the security of records which are defined by law as nonpublic; and to ensure the preservation of vital and historically valuable records.
- B. As the records of the City are a resource containing information which (1) allows government programs to function; (2) provides officials with a basis for making decisions and ensuring continuity with past operations; and (3) permits citizens to research and document matters of personal and community importance; this resource must be systematically and efficiently managed.
- C. It is the policy of the City that all governmental records, which are defined by applicable Utah statutory and case law as public records, shall be made available to citizens as set forth in this Chapter.
- D. The City recognizes a public policy interest in allowing the government to restrict access to certain records, as specified in the Act and this Chapter, for the public good.

2.14.020 Purpose And Intent

In enacting this Chapter, it is the purpose and intent of the Council to provide, in accordance with GRAMA, GRAMA and providing for its application in the City.

2.14.030 Public Access

- A. members of the public shall have the right to see, review, examine and take copies, in any format maintained by the City and subject to applicable ordinance, of all City governmental records designated as "public" under the provisions of this Chapter, and of GRAMA and policies and procedures developed hereunder.
- B. The City has no obligation to create a record or record series in response to a request from a member of the public, if the record requested is not otherwise regularly maintained or kept.
- C. When a record is temporarily held by a custodial county agency, pursuant to that custodial agency's statutory and ordinance functions, such as records storage, investigation, litigation or audit, the record shall not be considered a

record of the custodial agency for the purpose of this Chapter. The record shall be considered a record of the agency or agencies which usually keeps or maintains that record and any requests for access to such records shall be directed to that agency or agencies, rather than the custodial agency, pursuant to procedures established by the county. Only when records have been formally filed for permanent archival retention shall county archives be responsible for responding to requests for another agency's records.

2.14.040 Appeals

- A. Persons aggrieved by the City's classification of a record, the fees charged for a record, or by a response to a record request may request and be granted an initial administrative appeal of that grievance, in accordance with countywide policies and procedures adopted by the Council. The initial administrative appeal is made to the Mayor.
- B. A written notice of appeal shall be filed with the Mayor within thirty calendar days after notice of the date of the action has been sent. The notice of appeal shall state the basis of the appeal and the relief requested.
- C. Unless otherwise stipulated by the City and the persons aggrieved, the Mayor shall have seven (7) calendar days after the Mayor's receipt of the notice of appeal (or fourteen calendar days after the City sends a notice of appeal to a person who submitted a claim of business confidentiality) to respond to the record request.
- D. The Mayor shall hear an appeal using a reasonable process chosen within the Mayor's discretion and issue decision in writing to appellant.
- E. If the Mayor affirms the access denial or fails to respond to the records request within the time limits listed above, the person aggrieved may then appeal the decision to affirm the access denial in accordance with state law.

2.14.050 Amendments And Corrections

Records held by the City may be amended or corrected as needed and as authorized by law. Requests for amendments, corrections or other changes shall be made in writing setting forth, with specificity, the amendment or correction requested and the reason for the change. When an amendment or correction of a government record is made, generally both the original record and the amended or corrected record shall be retained, unless the nature of the record indicates otherwise or as may be provided by policies and procedures adopted under the provisions of this Chapter.

2.14.060 Access Management And Archiving

- A. The Recorder shall serve as the City's records manager and shall oversee and coordinate records access and management and the City archives activities. The records manager shall make annual reports of records services activities to the Council.
- B. The records manager shall develop and provide records management, maintenance and access standards, policies and procedures, as approved by the Council to govern and implement the provisions of GRAMA and this Chapter. Approval and promulgation of records policies and procedures shall be in accordance with the provisions of this Code of ordinances and the Act. Copies of any rule or policy promulgated under this Chapter shall be forwarded by the City record manager to the Utah State Division of Archives within thirty (30) calendar days after its effective date.

2.14.070 Custody And Control

- A. Records maintenance procedures shall be developed to ensure that due care is taken to maintain and preserve City records safely and accurately over the long term. The records manager shall be responsible for monitoring the application and use of technical processes in the creation, duplication, and disposal of City records and shall monitor compliance with required standards of quality, permanence, and admissibility pertaining to the creation, use and maintenance of records. City policies and regulations regarding types and formats of papers, inks, electronic media, and other records and information storage media, materials, equipment, procedures and techniques shall be developed and promulgated, subject to the approval of the Council.
- B. All City records which constitute an intellectual property right shall remain the property of the City unless federal or state legal authority provides otherwise. All other records shall be the property of the state. Property rights to City records may not be permanently transferred from the City to any private individual or entity, including those legally disposable obsolete City records of City archives or other agencies. This prohibition does not include the provision of record copies for release or distribution under this Chapter. All records disposals shall be conducted in accordance with policies and procedures.
- C. Any City officer or employee having custody or control of any City records shall, at the expiration of their terms of office, appointment or employment, deliver custody and control of all records kept or received by them to their successors, supervisors, or to the City records manager.

2.14.080 Retention Scheduling

- A. All City records as defined by state law, whether hard copy, electronic or otherwise, shall be scheduled for retention and retained based on the standards and requirements set out in the Act and this ordinance.
- B. The responsibility for developing retention schedules shall reside with the Council, with the assistance and advice of the county records manager.
- C. In scheduling records for retention, the following considerations shall be taken into account:
 - 1. Any specific retention requirement established by law, statute or ordinance;
 - 2. Reasonable records standards and needs, based on best business practices, retention storage capabilities, and particular industry or professional requirements or standards;
 - 3. Legal needs, including pending or likely litigation;
 - 4. Applicable statutes of limitation;
 - 5. Any pending fiscal or performance audit process;
 - 6. Administrative and policy needs; and
 - 7. Historical value.
- D. Based on the considerations in subparagraph C, a record may have an extremely limited retention schedule, permitting the deletion of a record immediately or after administrative need ceases. Such records may be deleted immediately and without further processing.
- E. City officials and employees shall observe and adhere to all applicable retention schedules. Records which have reached the end of their retention schedules should be deleted, removed or destroyed in a timely manner.

CHAPTER 2.15 EMERGENCY RESPONSE AND RECOVERY

2.15.010 Intent--Liberal Construction

It is the intent of this Chapter to provide the organization, powers and authority necessary to enable the timely and effective use of all available City resources to prepare for, respond to and recover from emergencies and disasters likely to affect the health, security, safety, or property of the inhabitants of the City. It is intended to grant the broadest powers permitted. The provisions of this Chapter shall be liberally construed to allow for the greatest opportunity to preserve and

protect life and property.

2.15.020 Definitions

As used in this Chapter, As used in this Chapter, the following definitions are in addition to the definitions in Section 1.02.060 and shall control:

- A. "Attack" means a nuclear, conventional, biological, or chemical warfare action against the United States of America, the State of Utah, Salt Lake County, or the City.
- B. "Disaster" or "emergency" means a situation causing or threatening to cause widespread damage, injury or loss of life, or significant property damage resulting from an attack, internal disturbance, natural phenomena, public health emergency, or technological hazard.
- C. "FEMA" means the Federal Emergency Management Agency.
- D. "Internal disturbance" means a riot, prison break, disruptive terrorism, or a widespread strike, which strike causes significant social disruption or injury to persons or property.
- E. "Natural phenomena" means any earthquake, tornado, storm, flood landslide, avalanche, forest or range fire, drought or epidemic.
- F. "Public health emergency" means an occurrence or imminent credible threat of an illness or health condition caused by bioterrorism, epidemic or pandemic disease, or novel and highly infectious agent or biological toxin, that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability. Such illness or health condition includes an illness or health condition resulting from a natural disaster Utah Code § 26-23b-102(b).
- G. "State of emergency" means a condition in the City which requires City government emergency assistance to save lives and to protect property, public health and safety, and to reduce the threat and effects of a disaster.
- H. "Technological hazard" means any hazardous materials spill or accident, mining accident, train derailment, aircraft crash, radiation incident, pollution, structural fire or explosion.

2.15.30 Declaration Of An Emergency

- A. The Mayor is authorized to declare a state of emergency when the Mayor finds that the City or any part thereof is suffering from or is in imminent danger of suffering an emergency or disaster.

- B. Any declaration of an emergency or disaster by the Mayor Recorder, and the public shall be notified through general publicity of the declaration. The Mayor shall promptly notify the county Council of any declaration of an emergency or disaster.
- C. The declaration of an emergency or disaster shall be in effect as determined by the Mayor for a period of up to thirty (30) calendar days in accordance with the Utah Disaster Response and Recovery Act. This period may be continued or renewed only upon the approval of the Council. The Council may, by resolution, express its opinion regarding an emergency declaration by the Mayor.
- D. The declaration of an emergency provided in this Chapter shall become effective immediately upon issuance by the Mayor and the only required publication is the general dissemination to the public by appropriate news media.
- E. The declaration shall, to the extent possible, state the nature of the emergency, the area threatened, and any applicable duration, conditions, actions or needs pursuant to Section 2.15.050. The declaration may be amended and periodically brought up to date as needed.

2.15.040 Succession

- A. If the Mayor is unavailable to perform the duties set out herein, the Mayor Pro Tem shall have the same authority as granted to the Mayor. If both the Mayor and the Mayor Pro Tempore are unavailable, the authority to exercise the powers set out in this Chapter vests in the Chief of the Unified Fire Authority.
- B. Notwithstanding the order of succession set forth in subsection A, if the Mayor is unavailable to issue an evacuation order as set forth in Section 2.15.050, only the fire official assigned to the City by the Unified Fire Authority may issue an evacuation order, including any orders establishing evacuation routes, for a period not to exceed thirty-six hours, if the order is necessary for the preservation of life. The Mayor may ratify, modify, or revoke the fire official's order if he becomes available.

2.15.050 Powers Of The Mayor

- A. In a state of emergency, declared by either the Mayor or the governor, the Mayor is empowered to make all necessary efforts to respond to, prevent, or ameliorate the effects of an emergency or disaster, including, but not limited to, using all City resources, issuing evacuation orders, establishing evacuation routes, suspending the sale of alcoholic beverages, controlling

entry to and exit from any disaster area, clearing or removing debris or wreckage, invoking the provisions of any mutual aid agreement with another governmental entity, and such other powers and authority which are reasonably necessary for the preservation of life and property and as may be set out the Utah Disaster Response and Recovery Act.

- B. The Mayor shall have full power to secure the availability of supplies, clothing, vehicles, fuel, equipment, food and water as may be reasonably necessary to respond to the emergency.
- C. In a state of emergency, the Mayor may:
 - 1. Exercise emergency powers and functions in response to the exigencies of the disaster, including waiving compliance with any time consuming procedures and formalities, including notices, as may otherwise be required.
 - 2. Issue any and all such other orders or undertake such other functions and activities as the Mayor reasonably believes is required to protect the health, safety, or welfare of persons or property within the City or to otherwise preserve the public peace or to abate, clean up, or mitigate the effects of any emergency or disaster. Rules and regulations adopted by the Mayor in response to the state of emergency have the force and effect of law, upon filing with the county clerk. All rules and regulations adopted in response to a state of emergency shall expire once the state of emergency is no longer in effect.
- D. In a state of emergency, the Mayor is responsible to:
 - 1. Coordinate the activities and management of private volunteers, including maintaining records of volunteer work in accordance with FEMA needs;
 - 2. Ensure that all records and receipts for funds expended in emergency response are maintained in accordance with FEMA's needs;
 - 3. Coordinate and ensure prompt communication with the media about the emergency, providing to the extent possible, one consistent voice regarding county activities; and
 - 4. Maintain ongoing communication with the Council, the MSD, the Unified Fire Authority, and other government entities.
- E. In the event of a public health emergency, the Mayor may declare a state of emergency at the request of the director of the health department or the board

of health. To prevent or contain the outbreak and spread of a communicable or infectious disease, the Mayor, together with the director of the health department, may issue orders to:

1. Close theaters, schools and other public places and prohibit gatherings of people when necessary to protect the public health. (Utah Code § 26A-1-114(1)(e));
 2. Exercise physical control over property and over individuals as the Health Department finds necessary for the protection of public health. (Utah Code § 26A-1-114(1)(b));
 3. Exclude from school attendance any person, including teachers, who is suffering from any communicable or infectious disease, if the person is likely to convey the disease to those in attendance. (Utah Code § 26A-1-114(3)(b));
 4. The authority of the director of the health department extends to a public health emergency wholly located within a municipality.
- F. UPD's officers and such other law enforcement and peace officers as may be authorized by the Mayor are further authorized and directed to enforce the orders, rules and regulations made or issued pursuant to this Chapter.
1. During the period of a declared emergency or disaster, a person shall not:
 - a. Enter or remain upon the premises of any establishment not open for business to the general public, unless such person is the owner or authorized agent of the establishment;
 - b. Violate any orders duly issued by the Mayor or authorized personnel;
or
 - c. Willfully obstruct, hinder, or delay any duly authorized government officers, employees or volunteers in the enforcement or exercise of the provisions of this Chapter, or in the undertaking of any activity pursuant to this Chapter.

2.15.060 Powers Of The Council

- A. Nothing in this Chapter shall prevent the Council from acting as the legislative body of City government in a state of emergency, or from exercising those powers and authorities set out in state law. The Council's legislative authority shall include the power to legislate, budget, and appropriate and to perform any other duties as required by state law and by

the plan.

- B. The Council shall also fulfill those duties and responsibilities as required by any emergency response declaration or order to the extent it does not conflict with federal, state, or local law, or the provisions of this Chapter.

2.15.070 Relocation Of Offices

- A. Whenever an emergency or disaster makes it imprudent or impossible to conduct the affairs of the City at its regular locations, the Council may meet at any safe and convenient place, inside or outside Salt Lake County. Any temporary meeting location shall continue until a new location is established, the emergency or disaster is terminated, or City operations are able to return to their normal locations.
- B. Any official act or meeting required to be performed at any regular location of the Council is valid when performed at any temporary location under the terms of this section.

2.15.080 Mutual Aid

- A. The Mayor may, on behalf of the City, enter into such reciprocal aid, mutual aid, intergovernmental cooperation agreements or other contracts or plans with other governmental entities for the protection of life and property. Such agreements may include the furnishing or exchange of supplies, equipment, facilities, personnel and services and do not require fair and adequate consideration.
- B. The City may act as a participating political subdivision consistent with the Statewide Mutual Aid Act.

2.15.090 Contracts For Goods And Services During An Emergency

In accordance with the provisions of the City procurement ordinances or policies, the City may acquire goods and services in response to the exigencies of the emergency or disaster as are necessary and the Mayor may suspend or waive compliance with time consuming ordinances, policies, procedures and formalities prescribed by law pertaining thereto, City purchasing ordinances regarding the acquisition of goods and services.

2.15.100 Criminal Penalties

Any person who knowingly refuses to comply with an order to evacuate issued under this Chapter or who refuses to comply with any other order issued during a state of emergency, as provided in this Chapter and after notice of the order has been given to that person, is guilty of a Class B Misdemeanor.

CHAPTER 2.16 -- CITY BUDGET PROCESS

2.16.010 Provisions

This Chapter shall define the process of preparing and adopting the annual fiscal year City budget. The Chapter further defines the Council's responsibilities, and the City's relationship with the MSD in the budget process as defined by law.

2.16.020 Definitions

For the purposes of this Chapter, the following definitions are in addition to the definitions in Section 1.02.060 and shall control:

- A. "Final budget" means the budget finally adopted by the Council pursuant to its legislative authority.
- B. "Proposed budget" means the budget prepared in the format of the tentative budget by the Council and forwarded to the MSD Board of Trustees for review and approval.
- C. "Tentative budget" means the budget approved by the MSD after submittal of the proposed budget by the Council to the MSD.

2.16.030 Authority

This Chapter is based upon the requirements of state law regarding the administration and operation of City, the responsibilities of the county and the MSD in the City's, and the Uniform Fiscal Procedures Act for Cities.

2.16.040 Tentative Budget

- A. The Council shall prepare and submit to the MSD a proposed budget in sufficient detail, content and scope and in a manner and on forms provided by the MSD pursuant to the Uniform Fiscal Procedures Act for Cities. The Council shall submit the proposed budget to the MSD before the deadline established by the MSD Board of Trustees. The time of submittal of the proposed budget may be extended if requested by a majority of the MSD Board of Trustees.
- B. Prior to submission of the proposed budget to the MSD, the Council shall review the proposed budget for consistency with statute, ordinance and fiscal and budget policies including the Uniform Fiscal Procedures Act for Cities and recommend modifications where necessary after consultation with the MSD Board of Trustees, other cities, and affected county offices, agencies and departments.

- C. The proposed budget shall project revenues, projected expenditures, and budget requests for all funds, along with any additional items deemed necessary by the Council, with recommendations as the Council feels appropriate.
- D. In preparing the proposed budget, the Council may include a budget for capital improvements and maintenance in the capital improvements fund.
- E. After the Council submits the proposed budget to the MSD, the Council and MSD Board of Trustees may hold joint meetings for purposes of preparing the tentative budget, which the City's budget officer will do no later than the first regularly scheduled Council meeting in May.
- F. The Council may revise and update revenue projections and expenditure projections throughout the budget process and fiscal year and shall notify the MSD as soon as possible of any adjustments to the revenue projections in the proposed, tentative, and final budgets.
- G. The Council shall adopt the tentative budget in accordance with state law.

2.16.050 Council Budget--Final Budget

After the MSD approves a tentative budget for the City, the Council shall adopt a final budget for the City on or before June 30 of each year for the following fiscal year. The Council shall set the date for the time and place of a public hearing to adopt a final budget, and cause notice of the same to be published and posted in accordance with state law. The Council shall also make the tentative budget available to the public in accordance with state law. All interested parties shall have an opportunity to be heard at the public hearing pursuant to rules established by the Council. The Council may make adjustments to the budget after the public hearing on the final budget. The Recorder shall file with the state auditor a certified copy of the final budget within thirty (30) calendar days after adoption.

2.16.060 Budget Limitations

The Mayor and Council shall not propose or adopt any proposed, tentative or final budget or make any appropriation in the final budget of any fund that exceeds the estimated expendable revenue, including fund balances and reserves, of the fund for the fiscal year as required by state law.

2.16.070 Final Adopted Budget Amendments

The Council may amend a final fiscal year budget pursuant to law and any budget increase in any fund shall require five days' notice and a public hearing

except under emergency conditions declared by the Council. If the Council amends the budget, the MSD shall amend the budget to account for the same.

2.16.080 Budget And Financial Policies

The Council may adopt policies or issue orders not inconsistent with law or this Chapter in regard to the budget process.

CHAPTER 2.17 -- PURCHASING PROCEDURES

2.17.010 General Provisions

A. The underlying purposes of this Chapter are to:

1. Ensure the fair and equitable treatment of all persons who wish to or do conduct business within the City.
2. Provide for the greatest possible economy in City procurement activities.
3. Foster effective broad-based competition within the free enterprise system to ensure that the City shall receive the best possible service or product at the lowest possible price.

B. This Chapter shall not prevent the City from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with law.

C. When procurement involves the expenditure of federal assistance funds, the City shall comply with applicable federal law and regulations.

2.17.020 Definitions

A. "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.

B. "Change order" means a written order signed by the purchasing agent, directing the contractor to suspend work or make changes, which the appropriate clauses of the contract authorize the purchasing agent to order without the consent of the contractor or any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.

C. "Construction Purchase" means the acquisition of goods, services, and resources for a construction project.

- D. “Contract” means any City agreement for the procurement or disposal of supplies, services, or construction.
- E. “Invitation for bids” means all documents, whether attached or incorporated by reference, used for soliciting bids.
- F. “Procurement” means buying, purchasing, renting, leasing, leasing with and option to purchase, or otherwise acquiring any supplies, construction, or other services.
- G. “Procurement Item” means any supplies, construction, or other services that the City may acquire pursuant to this Chapter.
- H. “Purchasing agent” means the person duly authorized by the Kearns Council to enter into and administer contracts and make written determinations with respect thereto.
- I. “Purchase description” means the words used in a solicitation to describe the supplies, services or construction to be purchased, and includes specifications attached to or made a part of the solicitation.
- J. “Request for proposals” means all documents, whether attached or incorporated by reference, used for soliciting proposals.
- K. “Sole Source Procurement” means a procurement without competition pursuant to a determination by the purchasing agent under Section 2.17.040.A.5 that there is only one source for the procurement item.

2.17.030 purchasing agent

- A. The City Manager shall act as the City’s purchasing agent. If the Council has not appointed a City Manager, the Mayor shall act as the City’s purchasing agent. The Council may by resolution appoint someone other than the City Manager or the Mayor to act as the City’s purchasing agent.
- B. The purchasing agent shall solicit bids and proposals, enter into and administer contracts, and make written purchasing determinations for the City in accordance with this Chapter and in accordance with applicable law.

2.17.040 Source Selection and Contract Formation – General Provisions

- A. The following shall not require sealed bids:

1. Small Purchases: Small purchases costing \$50,000 or less in total shall not require bids of any type. (Purchases shall not be artificially divided to constitute a small purchase under this section.)
2. Non-Construction Purchases Requiring Telephone Bids: Purchases for non-construction projects costing between \$50,001 and \$100,000 in total, shall require three (3) telephone bids.
3. Construction Purchases Requiring Telephone Bids: Purchases for construction projects costing between \$50,001 and \$250,000 in total, shall require three (3) telephone bids.
4. State Contracts: Purchases made through the cooperative purchasing contracts administered by the State Division of Purchasing or other governmental entity which has applied its purchasing and procurement policies.
5. Sole Source Procurement: Purchases made from a sole-source provider if the purchasing agent determines in writing that a sole source procurement is needed for one or more of the following reasons. The purchasing agent shall also ensure that the terms of the contract, including price and delivery, are in the best interests of the City.
 - a. There is only one source for the procurement item;
 - b. The transitional costs are a significant consideration in selecting the procurement item and the results of a cost-benefit analysis demonstrate that transitional costs are unreasonable or cost-prohibitive, and that the award of a contract without engaging in a standard procurement process is in the best interest of the City; or
 - c. The award of a contract is under circumstances that make awarding the contract through a standard procurement process impractical and not in the best interest of the City.
6. Emergency Purchases. Purchases required during an emergency, i.e., an eminent threat to the public's health, welfare, or safety. However, as much competition as practical should be obtained; and, such purchases should be limited to amounts necessary to the resolution of the emergency. The purchasing agent shall also document in writing the nature of the emergency that required the emergency purchases and the actions taken to procure the procurement item. The purchasing agent shall notify the Council as soon as reasonably possible of the need for, amount of, and nature of any emergency purchase made pursuant to this subsection.
7. Publication. If the City does not use competitive sealed bidding for a procurement that exceeds the highest amounts in Section 2.17.040.A.2

(\$100,000) and Section 2.17.040.A.3 (\$250,000), it shall provide notice of procurements pursuant to Utah Code § 63G-6a-802, excepting small purchases.

2.17.050 Purchases Requiring Sealed Bids

- A. General. The City shall award all contracts for a procurement item with an estimated value in excess of the highest amounts Section 2.17.040.A.2 (\$100,000) and Section 2.17.040.A.3 (\$250,000) by competitive sealed bidding except as otherwise provided by this Chapter.
- B. Invitation. An invitation for bids shall be issued when a contract is to be awarded by competitive sealed bidding. The invitation shall include:
1. A description of the procurement item that the City seeks;
 2. Instructions for submitting a bid, including the deadline for submitting a bid;
 3. The objective criteria that the City will use to evaluate bids;
 4. Information about the time and manner of opening bids; and
 5. Terms and conditions that the City intends to include in a contract resulting from the bidding process.
- C. Publication. The Procurement Agent shall publish an invitation for bids in accordance with the requirements of Utah Code § 63G-6a-112, meaning that the Procurement Agent shall publish the bid at least seven (7) days prior to the date set forth therein for the opening of bids on the City's website or on a website owned, managed by, or provided by the State of Utah for the posting of public procurement notices. Procurement agent may, but is not required to, public the invitation for bids in a newspaper of general circulation within Kearns. The Procurement Agent may reduce the seven (7) day period described in this subsection in accordance with Utah Code § 63G-6a-112.
- D. Opening of Bids. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitations for bids. The amount of each bid and any other relevant information, together with the name of each bidder, shall be recorded. The record and each bid shall be open to public inspection.
- E. Acceptance of Bids. Bids shall be unconditionally accepted without alternation or correction, except as authorized in this policy. Bids shall be evaluated based on the requirements set forth in the invitation for bids.

- F. Corrections and Withdrawals of Bids. Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards or contracts based on such bid mistakes, shall be permitted. After bid opening no changes in bid prices or other provisions of bids prejudicial to the interest of the City of fair competition shall be permitted. All decisions to permit the correction or withdrawal of bids or to cancel awards or contracts based on bid mistakes shall be supported by a written determination made by the purchasing agent.
- G. Contract Negotiation and Awards. The contract shall be awarded with reasonable promptness, by written notice, to the lowest bidder whose bid meets the requirements and criteria set forth in the invitation for bids, subject to the purchasing agent concluding any negotiations that may be needed to finalize the contract.
- H. Construction Contracts. The City shall follow the procedures contained in Utah Code § 11-39-101 et seq. for the letting of contracts for the construction of building improvements or public works projects as defined therein and any provision of this policy that conflicts with the provisions of Utah Code § 11-39-101 et seq. shall not apply to the letting of contracts covered by this Chapter of state law.

2.17.060 Prior Council Authorization

The purchasing agent shall secure the Council's prior authorization before purchasing a procurement item that is not a small purchase under or an emergency purchase under this Chapter.

2.17.070 Cancellation and Rejection of Bids

An invitation for bids, a request for proposals, or other solicitations may be canceled, or any or all bids or proposals may be rejected, in whole or in part, as may be specified in the solicitation, when it is in the best interests of the City. The reasons shall be made part of the contract file.

2.17.080 Use of Competitive Sealed Proposals in lieu of Bids (Requests for Proposals).

- A. Competitive Sealed Proposals. When the purchasing agent determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the City, a contract may be entered into by competitive sealed proposals. Competitive sealed proposals are most appropriately used for professional service-type contract.
- B. Solicitation of Competitive Sealed Proposals. The request for proposals shall state the relative importance of price and other evaluating factors:

1. Proposals shall be solicited through a request for proposals; and
 2. Public notice of the request for proposals shall be given at least ten (10) days prior to the advertised date of the opening of the proposals.
- C. Opening of Competitive Sealed Proposals. Proposals shall be opened to avoid disclosure of contents to competing offerors during the process of negotiation. A register of proposals shall be prepared and shall be open for public inspection after contract award.
- D. Fair and Equal Treatment. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.
- E. Awards for Competitive Sealed Proposals. Awards shall be made to the person whose proposal is determined, in writing, to be the most advantageous to the City, taking into consideration price and the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award is made.

2.17.090 Architect-Engineer Services

Architect-engineer services are qualification-based procurements. Requests for such services should be publicly announced. Contracts should be negotiated by the Procurement Agent based on demonstrated competence at fair and reasonable prices.

2.17.110 Determination of Non-responsibility of Bidder

Determination of non-responsibility of a bidder or offeror shall be made in writing. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of non-responsibility with respect to the bidder or offeror. Information furnished by a bidder or offeror pursuant to this section shall not be disclosed outside of the purchasing division without prior written consent by the bidder or offeror.

2.17.120 Cost-Plus-A-Percentage-Of-Cost Contracts Prohibited

Subject to the limitations of this section, any type of contract which shall promote the best interests of the City may be used, provided that the use of a cost-plus-a-

percentage-of-cost contract is prohibited. A cost-reimbursement contract may be used only when a determination is made in writing that such contract is likely to be less costly to the City than any other type or that it is impracticable to obtain the supplies, services, or construction required except under such a contract.

2.17.130 Appeals

- A. **Filing of Appeals.** Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may appeal to the purchasing agent. An appeal shall be submitted in writing within five (5) business days after the aggrieved person knows or should have known of the facts.
- B. **Written Decision Required.** The purchasing agent shall promptly issue a written decision regarding any appeal, if it is not settled by a mutual agreement. The decision shall state the reasons for the action taken and inform the protestor, contractor, or prospective contractor of the right to appeal to the City Council.
- C. **Final Action.** A written decision issued by the purchasing agent shall constitute the City's final administrative action on an appeal.

2.17.130 Ethics in Public Contracting

- A. **Conflicts of Interest Prohibited.** No person involved in making procurement decisions may have personal investments in any business entity which shall create a substantial conflict between their private interests and their public duties. The purchasing agent and all applicable City officials, staff, and contractors shall comply with the City's ethics and nepotism ordinances, policies, and other applicable requirements when making procurement decisions or otherwise implementing this Chapter.
- B. **Penalties.** In accordance with applicable state law, any person involved in making procurement decisions is guilty of a felony if the person asks, receives, or offers to receive any emolument, gratuity, contribution, loan, or reward, or any promise thereof, either for the person's own use or the use or benefit of any other person or organization from any person or organization interested in selling to the City.

City of Kearns,

Please see your January 2026 financial report attached for the period from July 1, 2025 to January 31, 2026 (58.33% of Fiscal Year 2026).

P.S. We are behind on posting some payroll and credit card expenses due to implementing a new payroll system, Paylocity, at the start of the year and because our prior Accounts Payable Accountant, Chara Ellis, resigned last month. We have filled her position but the new person doesn't start until next week. We hope to get caught up by next month.

In addition, please see your fund balances.

Type	Amount	Use
Assigned Capital Fund (fund 50)	\$262,683.69	Can be used for any capital project. Road or non-road.
Restricted Corridor Preservation funds (fund 50)	\$750,000.00	Can only be used for right-of-way purchases to facilitate current and future projects.
Unrestricted fund balance as of June 30, 2025 (end of FY2025) (fund 50)	\$1,632,308.87	Can be used for any city expense. Made up primarily of accumulated unspent Admin budget.
Unrestricted fund balance (fund 55)	\$ 1,036,789.79	Can be used for any city expense. Made up primarily of unspent MET funds which are a recurring revenue source.
ARPA (fund 10)	\$2,569,154.85	Can be used as per ILA with the MSD. Spending deadline is Dec 31, 2026 or funds are returned.
CARES (fund 55)	\$ 206,083.46	Can be used for any city expense. No spending deadline.
	\$ 6,457,020.66	

Greater Salt Lake Municipal Services District

Standard Financial Report

50 City of Kearns - 07/01/2025 to 01/31/2026

58.33% of the fiscal year has expired

	<u>2025</u> <u>Year-End</u> <u>Actual</u>	<u>2026</u> <u>YTD</u> <u>Actual</u>
Net Position		
Assets:		
Current Assets		
Cash and cash equivalents		
10200 Cash - PTIF	2,528,399.87	1,936,628.79
10401 Zions Credit Card	0.00	(96.89)
10750 Undeposited Receipts	(0.09)	(0.18)
Total Cash and cash equivalents	<u>2,528,399.78</u>	<u>1,936,531.72</u>
Receivables		
11530 Accounts Rec. -	17,878.51	352.71
12500 Due from Other Gov.	1,655,624.41	1,593,411.17
12550 Due from Other Funds	510.00	3,962.00
Total Receivables	<u>1,674,012.92</u>	<u>1,597,725.88</u>
Total Current Assets	<u>4,202,412.70</u>	<u>3,534,257.60</u>
Non-Current Assets		
Restricted assets		
10102 Cash - Zions Bond Escrow	95,324.92	43,388.77
Total Restricted assets	<u>95,324.92</u>	<u>43,388.77</u>
Total Non-Current Assets	<u>95,324.92</u>	<u>43,388.77</u>
Total Assets:	<u>4,297,737.62</u>	<u>3,577,646.37</u>
Liabilites and Fund Equity:		
Liabilities:		
Current liabilities		
21000 Accounts Payable	13,758.54	10,706.00
21100 Accrued Expenses	17,547.09	17,547.09
23450 Performance Bonds Payable	95,324.92	43,388.77
24000 Due to Other Funds	1,674,114.51	0.00
Total Current liabilities	<u>1,800,745.06</u>	<u>71,641.86</u>
Total Liabilities:	<u>1,800,745.06</u>	<u>71,641.86</u>
Equity - Fund Balance		
29000 Unassigned Net Position (Fund Bal)	1,632,308.87	2,493,320.82
29010 Assigned Capital Fund	262,683.69	262,683.69
29561 Restricted Corridor Preservation Fund	602,000.00	750,000.00
Total Equity - Fund Balance	<u>2,496,992.56</u>	<u>3,506,004.51</u>
Total Liabilites and Fund Equity:	<u>4,297,737.62</u>	<u>3,577,646.37</u>
Total Net Position	<u>0.00</u>	<u>0.00</u>

Greater Salt Lake Municipal Services District

Standard Financial Report

50 City of Kearns - 07/01/2025 to 01/31/2026

58.33% of the fiscal year has expired

	2025 Year-End Actual	2026 YTD Actual	2026 Budget	Unearned/ Unused Budget	% Earned/ Used
Change In Net Position					
Revenue:					
Taxes					
Sales Taxes					
3100.300 Sales Tax	6,900,633.70	3,879,361.59	6,500,000.00	2,620,638.41	59.68%
Total Sales Taxes	<u>6,900,633.70</u>	<u>3,879,361.59</u>	<u>6,500,000.00</u>	<u>2,620,638.41</u>	<u>59.68%</u>
SB 136 Sales Tax					
3100.350 SB 136 Sales Tax	618,184.70	358,784.81	650,000.00	291,215.19	55.20%
Total SB 136 Sales Tax	<u>618,184.70</u>	<u>358,784.81</u>	<u>650,000.00</u>	<u>291,215.19</u>	<u>55.20%</u>
Total Taxes	<u>7,518,818.40</u>	<u>4,238,146.40</u>	<u>7,150,000.00</u>	<u>2,911,853.60</u>	<u>59.27%</u>
Intergovernmental revenue					
Road Funds					
3100.560 B&C Road Fund Allotment	1,721,486.51	850,958.61	1,600,000.00	749,041.39	53.18%
3100.561 HB244 Corridor Preservation Funds	302,000.00	148,000.00	0.00	(148,000.00)	0.00%
3100.562 County Public Transit Tax	6,283.41	184,146.59	0.00	(184,146.59)	0.00%
Total Road Funds	<u>2,029,769.92</u>	<u>1,183,105.20</u>	<u>1,600,000.00</u>	<u>416,894.80</u>	<u>73.94%</u>
CARES Act					
3100.322 ARPA Funds	0.00	0.00	2,631,285.00	2,631,285.00	0.00%
Total CARES Act	<u>0.00</u>	<u>0.00</u>	<u>2,631,285.00</u>	<u>2,631,285.00</u>	<u>0.00%</u>
Total Intergovernmental revenue	<u>2,029,769.92</u>	<u>1,183,105.20</u>	<u>4,231,285.00</u>	<u>3,048,179.80</u>	<u>27.96%</u>
Licenses and permits					
Business licenses					
3100.130 Business Licenses	54,126.00	30,944.25	50,000.00	19,055.75	61.89%
Total Business licenses	<u>54,126.00</u>	<u>30,944.25</u>	<u>50,000.00</u>	<u>19,055.75</u>	<u>61.89%</u>
Building permits					
3100.260 Building Permit	190,854.69	112,182.68	200,000.00	87,817.32	56.09%
Total Building permits	<u>190,854.69</u>	<u>112,182.68</u>	<u>200,000.00</u>	<u>87,817.32</u>	<u>56.09%</u>
Total Licenses and permits	<u>244,980.69</u>	<u>143,126.93</u>	<u>250,000.00</u>	<u>106,873.07</u>	<u>57.25%</u>
Charges for services					
Charges other					
3100.420 Engineering Services	23,374.00	17,081.75	50,000.00	32,918.25	34.16%
3100.450 Planning Services	5,742.06	3,376.50	15,000.00	11,623.50	22.51%
Total Charges other	<u>29,116.06</u>	<u>20,458.25</u>	<u>65,000.00</u>	<u>44,541.75</u>	<u>31.47%</u>
Total Charges for services	<u>29,116.06</u>	<u>20,458.25</u>	<u>65,000.00</u>	<u>44,541.75</u>	<u>31.47%</u>
Fines and forfeitures					
Code enforcement fines and fees					
3100.240 Code Enforcement Fines and Fees	20,259.64	0.00	5,000.00	5,000.00	0.00%
Total Code enforcement fines and fees	<u>20,259.64</u>	<u>0.00</u>	<u>5,000.00</u>	<u>5,000.00</u>	<u>0.00%</u>
Justice court fines/forfeitures					
3100.500 Justice Court Fines/Forfeitures	266,267.95	75,049.31	250,000.00	174,950.69	30.02%
Total Justice court fines/forfeitures	<u>266,267.95</u>	<u>75,049.31</u>	<u>250,000.00</u>	<u>174,950.69</u>	<u>30.02%</u>
Total Fines and forfeitures	<u>286,527.59</u>	<u>75,049.31</u>	<u>255,000.00</u>	<u>179,950.69</u>	<u>29.43%</u>
Miscellaneous revenue					
Interest					
3600.100 Interest Earnings	54,641.13	53,282.09	125,000.00	71,717.91	42.63%
Total Interest	<u>54,641.13</u>	<u>53,282.09</u>	<u>125,000.00</u>	<u>71,717.91</u>	<u>42.63%</u>
Miscellaneous other					
3600.900 Other Revenue	18,670.20	29.90	0.00	(29.90)	0.00%
3600.902 Other Revenue - Declaration of Candidate	400.00	0.00	0.00	0.00	0.00%
Total Miscellaneous other	<u>19,070.20</u>	<u>29.90</u>	<u>0.00</u>	<u>(29.90)</u>	<u>0.00%</u>
Total Miscellaneous revenue	<u>73,711.33</u>	<u>53,311.99</u>	<u>125,000.00</u>	<u>71,688.01</u>	<u>42.65%</u>
Contributions and transfers					
3100.001 Operating transfers in	722,144.69	303.00	0.00	(303.00)	0.00%
3800.100 Contribution from GF	1,083,361.00	1,221,141.00	1,221,141.00	0.00	100.00%
Total Contributions and transfers	<u>1,805,505.69</u>	<u>1,221,444.00</u>	<u>1,221,141.00</u>	<u>(303.00)</u>	<u>100.02%</u>
Total Revenue:	<u>11,988,429.68</u>	<u>6,934,642.08</u>	<u>13,297,426.00</u>	<u>6,362,783.92</u>	<u>52.15%</u>
Expenditures:					

Greater Salt Lake Municipal Services District

Standard Financial Report

50 City of Kearns - 07/01/2025 to 01/31/2026

58.33% of the fiscal year has expired

	2025 Year-End Actual	2026 YTD Actual	2026 Budget	Unearned/ Unused Budget	% Earned/ Used
Administration					
4100.100 Wages	103,565.34	50,816.65	225,000.00	174,183.35	22.59%
4100.130 Employee Benefits	75.60	37.80	19,800.00	19,762.20	0.19%
4100.150 Social Security Tax	6,339.21	3,113.44	14,000.00	10,886.56	22.24%
4100.160 Medicare	1,482.56	728.14	3,500.00	2,771.86	20.80%
4100.180 Medical Insurance	60,428.28	31,902.26	132,500.00	100,597.74	24.08%
4100.200 Awards, Promotional & Meals	1,092.42	1,878.29	1,500.00	(378.29)	125.22%
4100.210 Subscriptions/Memberships	23,630.20	19,952.08	30,000.00	10,047.92	66.51%
4100.220 Printing/Publications/Advertising	4,576.52	8,182.74	5,500.00	(2,682.74)	148.78%
4100.230 Travel/Mileage	11,446.73	910.54	1,500.00	589.46	60.70%
4100.240 Office Expense and Supplies	3,421.59	14,617.68	5,000.00	(9,617.68)	292.35%
4100.255 Computer Equip/Software	0.00	0.00	30,000.00	30,000.00	0.00%
4100.280 Cell phone and Telephone	0.00	48.97	0.00	(48.97)	0.00%
4100.310 Attorney-Civil	102,804.50	58,587.50	130,000.00	71,412.50	45.07%
4100.312 Lobbyist Services	12,000.00	6,000.00	12,000.00	6,000.00	50.00%
4100.320 Attorney - Land Use	1,971.00	12,866.50	40,000.00	27,133.50	32.17%
4100.330 Training and Seminars	750.00	60.00	0.00	(60.00)	0.00%
4100.360 Web Page Development/Maintenance	6,323.92	1,399.93	15,000.00	13,600.07	9.33%
4100.370 Software/Streaming	18,745.98	21,710.07	17,000.00	(4,710.07)	127.71%
4100.380 Internet Connections	5,990.94	2,572.49	5,500.00	2,927.51	46.77%
4100.390 Payroll Processing Fees	504.00	355.50	0.00	(355.50)	0.00%
4100.420 Contributions/Special Events	78,500.00	9,740.00	90,000.00	80,260.00	10.82%
4100.430 City Elections and Voting	0.00	43,358.23	0.00	(43,358.23)	0.00%
4100.510 Insurance	25,960.79	24,697.28	40,000.00	15,302.72	61.74%
4100.520 Workers Comp Insurance	0.00	2,086.21	8,500.00	6,413.79	24.54%
4100.590 Postage	7,693.10	7,608.03	5,000.00	(2,608.03)	152.16%
4100.600 Professional and Technical	1,980.00	2,610.00	7,500.00	4,890.00	34.80%
4100.621 Victim Critical Needs	0.00	2,166.00	25,000.00	22,834.00	8.66%
4100.635 Election Support Services	0.00	3,000.00	84,341.00	81,341.00	3.56%
4100.640 Grant Related	20,547.09	0.00	0.00	0.00	0.00%
4100.650 SL (Client) County Support Services	87.07	0.00	50,000.00	50,000.00	0.00%
4100.750 Non-Cap Improvements	1,012.50	22,712.00	25,000.00	2,288.00	90.85%
4100.760 Christmas on 54th Decorations & Lights	64.34	3,240.00	8,000.00	4,760.00	40.50%
4100.860 Code Enforcement Abatements	7,469.86	(2,227.21)	50,000.00	52,227.21	-4.45%
4100.870 Rent	6,817.92	3,977.12	135,000.00	131,022.88	2.95%
4100.880 Non-Classified Expenses	0.00	1,420.81	5,000.00	3,579.19	28.42%
Total Administration	515,281.46	360,129.05	1,221,141.00	861,011.95	29.49%
COVID Related Expenses					
4100.243 ARPA Act Expense and Supplies	0.00	0.00	2,631,285.00	2,631,285.00	0.00%
Total COVID Related Expenses	0.00	0.00	2,631,285.00	2,631,285.00	0.00%
Transfers					
4100.928 Contribution to General Fund	9,878,196.49	5,565,501.08	9,445,000.00	3,879,498.92	58.93%
4100.932 Contribution to Restricted Capital Fund	0.00	148,000.00	0.00	(148,000.00)	0.00%
48450.001 Operational Transfers out	162,289.09	0.00	0.00	0.00	0.00%
Total Transfers	10,040,485.58	5,713,501.08	9,445,000.00	3,731,498.92	60.49%
Total Expenditures:	10,555,767.04	6,073,630.13	13,297,426.00	7,223,795.87	45.68%
Total Change In Net Position	1,432,662.64	861,011.95	0.00	(861,011.95)	0.00%

Greater Salt Lake Municipal Services District
Standard Financial Report
52 Kearns Beer Tax Special Fund - 07/01/2025 to 01/31/2026
58.33% of the fiscal year has expired

	2025 Year-End Actual	2026 YTD Actual	2026 Budget	Unearned/ Unused Budget	% Earned/ Used
Change In Net Position					
Revenue:					
Intergovernmental revenue					
State liquor fund					
3100.580 State Liquor Fund Allotment	61,156.89	0.00	30,000.00	30,000.00	0.00%
Total State liquor fund	61,156.89	0.00	30,000.00	30,000.00	0.00%
Total Intergovernmental revenue	61,156.89	0.00	30,000.00	30,000.00	0.00%
Total Revenue:	61,156.89	0.00	30,000.00	30,000.00	0.00%
Expenditures:					
Administration					
4100.850 Beer Funds	61,156.89	0.00	30,000.00	30,000.00	0.00%
Total Administration	61,156.89	0.00	30,000.00	30,000.00	0.00%
Total Expenditures:	61,156.89	0.00	30,000.00	30,000.00	0.00%
Total Change In Net Position	0.00	0.00	0.00	0.00	0.00%

Greater Salt Lake Municipal Services District
Standard Financial Report
54 City of Kearns Community Reinvestment Agency - 07/01/2025 to 01/31/2026
58.33% of the fiscal year has expired

	2025 Year-End Actual	2026 YTD Actual
Net Position		
Assets:		
Current Assets		
Cash and cash equivalents		
10100 Cash - Zions Checking	510.00	0.00
Total Cash and cash equivalents	510.00	0.00
Total Current Assets	510.00	0.00
Total Assets:	510.00	0.00
Liabilites and Fund Equity:		
Liabilities:		
Current liabilities		
21000 Accounts Payable	510.00	0.00
24000 Due to Other Funds	510.00	3,962.00
Total Current liabilities	1,020.00	3,962.00
Total Liabilities:	1,020.00	3,962.00
Equity - Fund Balance		
29000 Unassigned Net Position (Fund Bal)	(510.00)	(3,962.00)
Total Equity - Fund Balance	(510.00)	(3,962.00)
Total Liabilites and Fund Equity:	510.00	0.00
Total Net Position	0.00	0.00

Greater Salt Lake Municipal Services District
Standard Financial Report
54 City of Kearns Community Reinvestment Agency - 07/01/2025 to 01/31/2026
58.33% of the fiscal year has expired

	<u>2025 Year-End Actual</u>	<u>2026 YTD Actual</u>	<u>2026 Budget</u>	<u>Unearned/ Unused Budget</u>	<u>% Earned/ Used</u>
Change In Net Position					
Expenditures:					
Administration					
4100.310.000 General - Attorney-Civil	510.00	3,452.00	0.00	(3,452.00)	0.00%
Total Administration	<u>510.00</u>	<u>3,452.00</u>	<u>0.00</u>	<u>(3,452.00)</u>	<u>0.00%</u>
Total Expenditures:	<u>510.00</u>	<u>3,452.00</u>	<u>0.00</u>	<u>(3,452.00)</u>	<u>0.00%</u>
Total Change In Net Position	<u>(510.00)</u>	<u>(3,452.00)</u>	<u>0.00</u>	<u>3,452.00</u>	<u>0.00%</u>

Greater Salt Lake Municipal Services District
Standard Financial Report
55 Kearns Council Designated Fund - 07/01/2025 to 01/31/2026
58.33% of the fiscal year has expired

	2025	2026
	Year-End	YTD
	Actual	Actual
Net Position		
Assets:		
Current Assets		
Cash and cash equivalents		
10100 Cash - Zions Checking	0.00	243,276.32
10101 Cash - Zions CARES	2,828.09	2,828.09
10200 Cash - PTIF	238,422.63	532,262.16
10202 Cash - PTIF 9074 CARES	746,187.08	344,505.44
10750 Undeposited Receipts	(0.01)	(0.01)
Total Cash and cash equivalents	987,437.79	1,122,872.00
Receivables		
12500 Due From Other Gov.	157,924.59	439,803.96
Total Receivables	157,924.59	439,803.96
Total Current Assets	1,145,362.38	1,562,675.96
Total Assets:	1,145,362.38	1,562,675.96
Liabilities and Fund Equity:		
Liabilities:		
Current liabilities		
21000 Accounts Payable	494,288.00	0.00
Total Current liabilities	494,288.00	0.00
Deferred revenue		
23455 CARES2 Deferred Revenue	258,120.71	206,083.46
Total Deferred revenue	258,120.71	206,083.46
Total Liabilities:	752,408.71	206,083.46
Equity - Fund Balance		
29000 Unassigned Net Position (Fund Bal)	392,953.67	1,356,592.50
Total Equity - Fund Balance	392,953.67	1,356,592.50
Total Liabilities and Fund Equity:	1,145,362.38	1,562,675.96
Total Net Position	0.00	0.00

Greater Salt Lake Municipal Services District
Standard Financial Report
55 Kearns Council Designated Fund - 07/01/2025 to 01/31/2026
58.33% of the fiscal year has expired

	2025 Year-End Actual	2026 YTD Actual	2026 Budget	Unearned/ Unused Budget	% Earned/ Used
Change In Net Position					
Revenue:					
Taxes					
MET Taxes					
3100.111 MET-Municipal Energy	3,072.68	116.06	0.00	(116.06)	0.00%
3100.112 MET-Municipal Telecom	55,240.50	45,312.75	60,000.00	14,687.25	75.52%
3100.113 MET-Pacificorp/Rocky Mtn Power	271,348.65	611,231.68	600,000.00	(11,231.68)	101.87%
3100.114 MET-Questar Gas/Dominion Energy	391,618.88	258,774.53	720,000.00	461,225.47	35.94%
Total MET Taxes	721,280.71	915,435.02	1,380,000.00	464,564.98	66.34%
Franchise Taxes					
3100.401 Google Franchise Fee	80,796.00	31,614.00	30,000.00	(1,614.00)	105.38%
Total Franchise Taxes	80,796.00	31,614.00	30,000.00	(1,614.00)	105.38%
Total Taxes	802,076.71	947,049.02	1,410,000.00	462,950.98	67.17%
Intergovernmental revenue					
Road Funds					
3100.561 HB244 Corridor Preservation Funds	0.00	0.00	300,000.00	300,000.00	0.00%
Total Road Funds	0.00	0.00	300,000.00	300,000.00	0.00%
CARES Act					
3100.322 ARPA	82,130.00	0.00	0.00	0.00	0.00%
3100.323 CARES2	623,691.70	52,037.25	0.00	(52,037.25)	0.00%
Total CARES Act	705,821.70	52,037.25	0.00	(52,037.25)	0.00%
Total Intergovernmental revenue	705,821.70	52,037.25	300,000.00	247,962.75	17.35%
Miscellaneous revenue					
Interest					
3600.100 Interest Earnings	81,946.53	19,589.81	42,000.00	22,410.19	46.64%
Total Interest	81,946.53	19,589.81	42,000.00	22,410.19	46.64%
Total Miscellaneous revenue	81,946.53	19,589.81	42,000.00	22,410.19	46.64%
Contributions and transfers					
3100.001 Operating Transfers in	2,828.09	0.00	0.00	0.00	0.00%
Total Contributions and transfers	2,828.09	0.00	0.00	0.00	0.00%
Total Revenue:	1,592,673.03	1,018,676.08	1,752,000.00	733,323.92	58.14%
Expenditures:					
Administration					
4100.420 Contributions/Special Events	0.00	3,000.00	0.00	(3,000.00)	0.00%
Total Administration	0.00	3,000.00	0.00	(3,000.00)	0.00%
Professional services					
4100.623 Public Safety	493,897.66	0.00	25,000.00	25,000.00	0.00%
Total Professional services	493,897.66	0.00	25,000.00	25,000.00	0.00%
COVID Related Expenses					
4100.242 CARES 2 Expense and Supplies	623,691.70	52,037.25	0.00	(52,037.25)	0.00%
4100.243 ARPA Act Expense and Supplies	82,130.00	0.00	0.00	0.00	0.00%
Total COVID Related Expenses	705,821.70	52,037.25	0.00	(52,037.25)	0.00%
Total Expenditures:	1,199,719.36	55,037.25	25,000.00	(30,037.25)	220.15%
Total Change In Net Position	392,953.67	963,638.83	1,727,000.00	763,361.17	55.80%

Kearns Digital Communications

- Kearns website update - CivicPlus
- Kearns communications - TextMyGov





KEARNS

Utah

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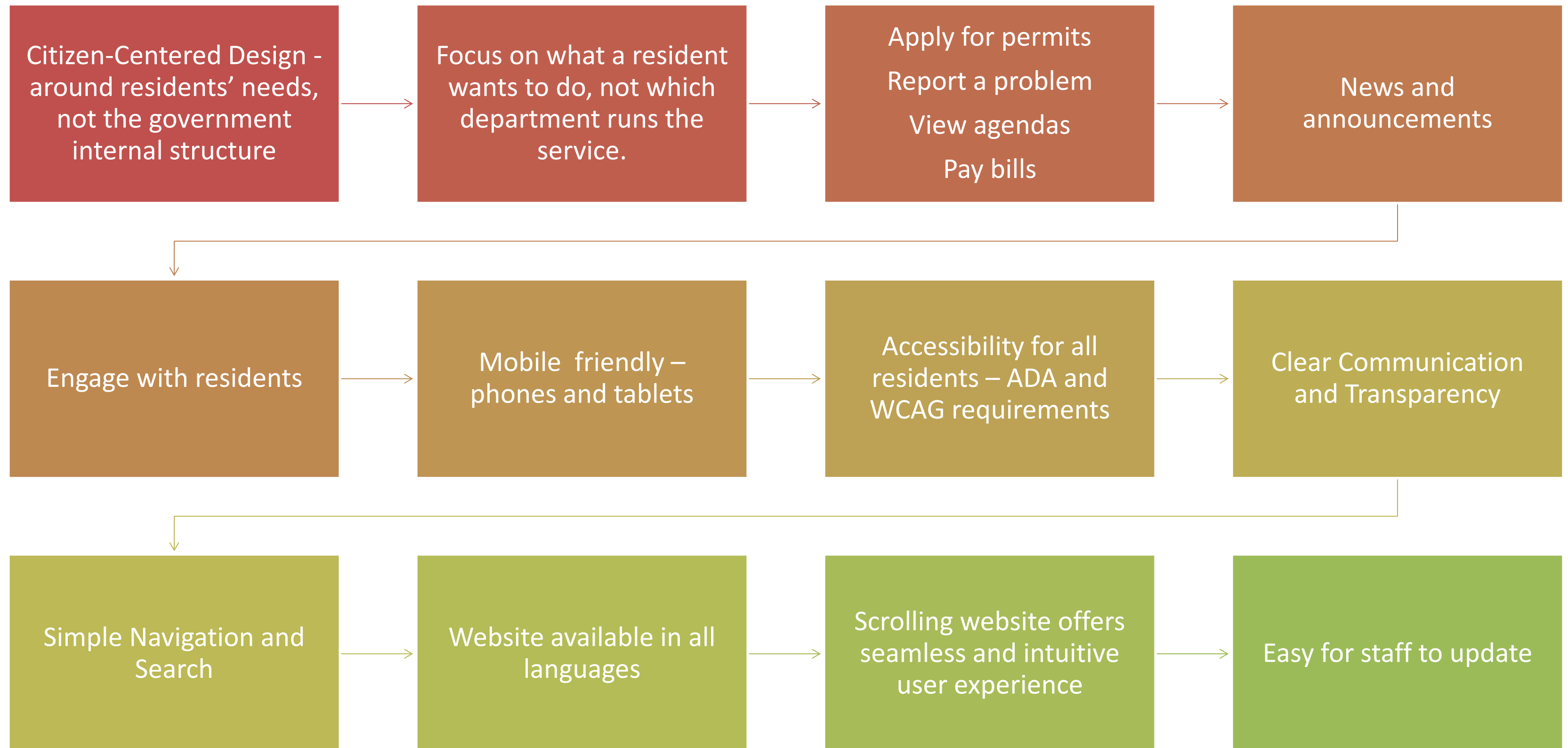


[Projects](#)

[Constituent Services Form](#)



What Makes a Great City website?



Why does Kearns need to transition to a new website?

- Kearns is currently a Munidoc website.
- CivicPlus bought Munidoc - they are phasing out this product in a couple of months
- They stopped selling this product Oct 2024
- The website hasn't changed in more than seven years
- Current site does not scroll
- Organization is difficult
- Cannot line up a photo with text
- Doesn't allow residents to sign up to receive notifications
- Lack of server control – “Open Source Network” – security risks, lack of standardization, performance bottlenecks





- Category leader in **local government** technology
- Proven, stable, long-term solution already chosen by over **7,500 municipalities with a 95% product satisfaction rate**. 98.9% retention rate
- **25-year** heritage of success fueled by the expertise of product innovators—many of whom served in local government.
- A website solution that truly meets the residents' needs
- Expanded design drag and drop capabilities.
- Ease of use.
- Comes with 12 pre-loaded modules
- Access to customer [Help Center](#) with FREE tutorials and an award-winning support team.
- Winner of multiple Stevie® Awards and by *Government Technology* magazine as a top 100 U.S. company for making a difference in the public sector.
- <https://www.civicplus.com/>



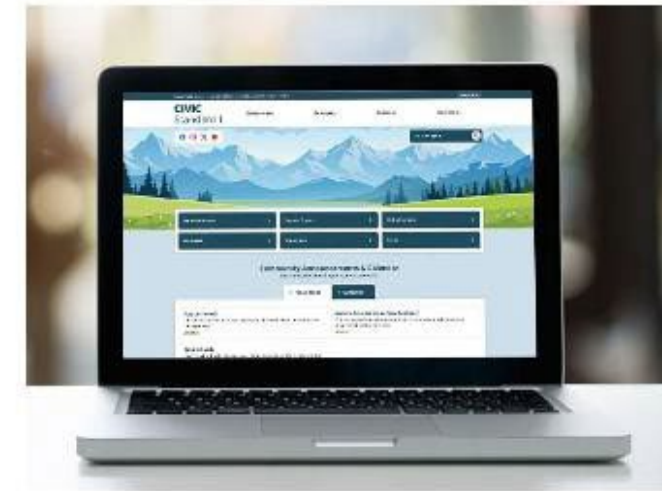
Starter Standard

- Most popular
- Pick one Design
- 12 Default Modules
- Training in groups of 3
- 14-16 Weeks to Launch
- Website Reveal Meeting
- All site content migrated verbatim, except calendar and new sections
- Does not include unpublished pages
- Specialty Subsites – Standard Department header
- Private sites – 30 pages
- Free Implementation
- Current website stored for 2 months after launch, extend if needed

- **\$5,000 per year**

Browse Standard Template Options

Choose one of five government website design options with the idea that design can be customized with brand colors, logos and images unique to your community.



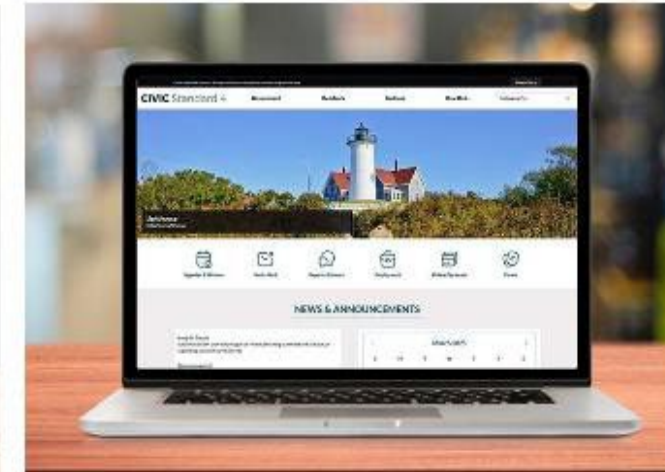
Central Standard One



Central Standard Two



Central Standard Three



Central Standard Four



Central Standard Five

[Standard Website Examples | CivicPlus Design](#)





Starter Premium

- Customized Design
- 12 Default Modules
- 1 Advanced Design Component
- Training in groups of 3
- 16-28 Weeks to Launch
- Content Meeting
- Design Meeting
- Website Reveal Meeting
- All site content migrated verbatim, except calendar and new sections
- Specialty Subsites – Premium Department header
- Current website stored for two months after launch, extend if needed

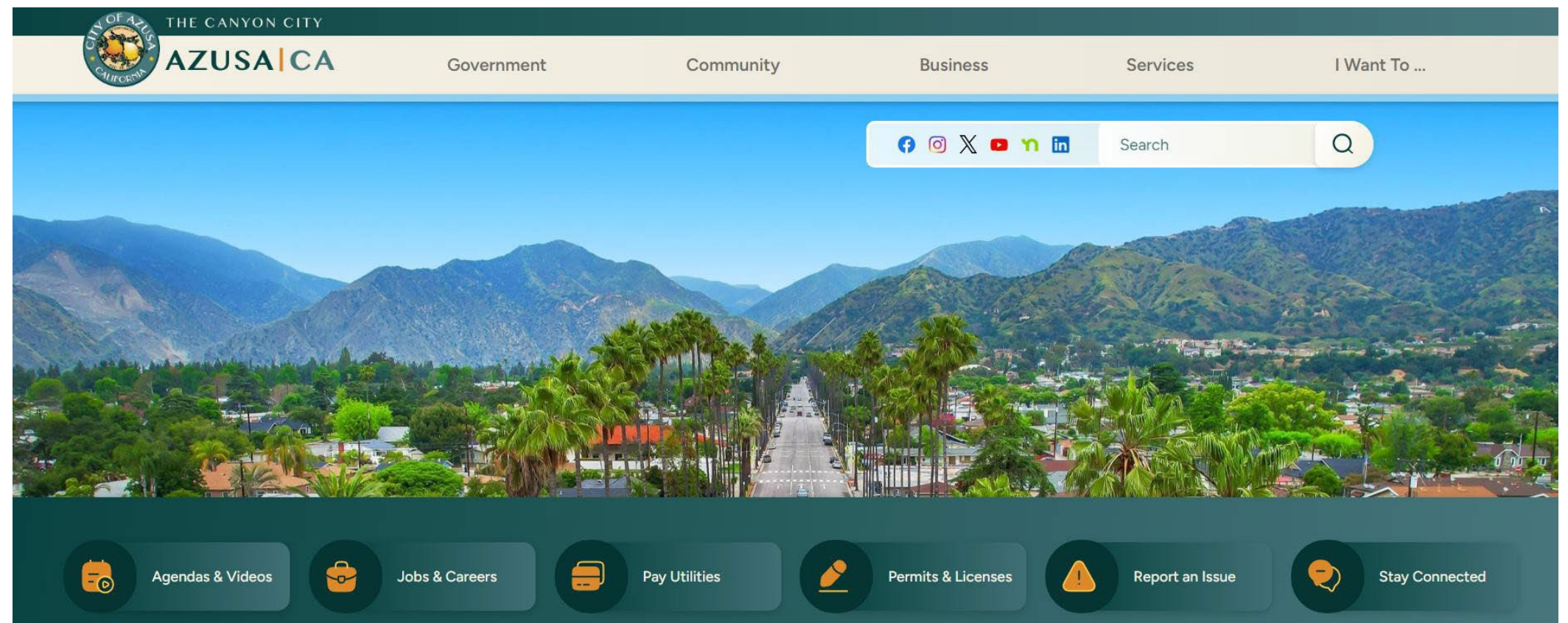
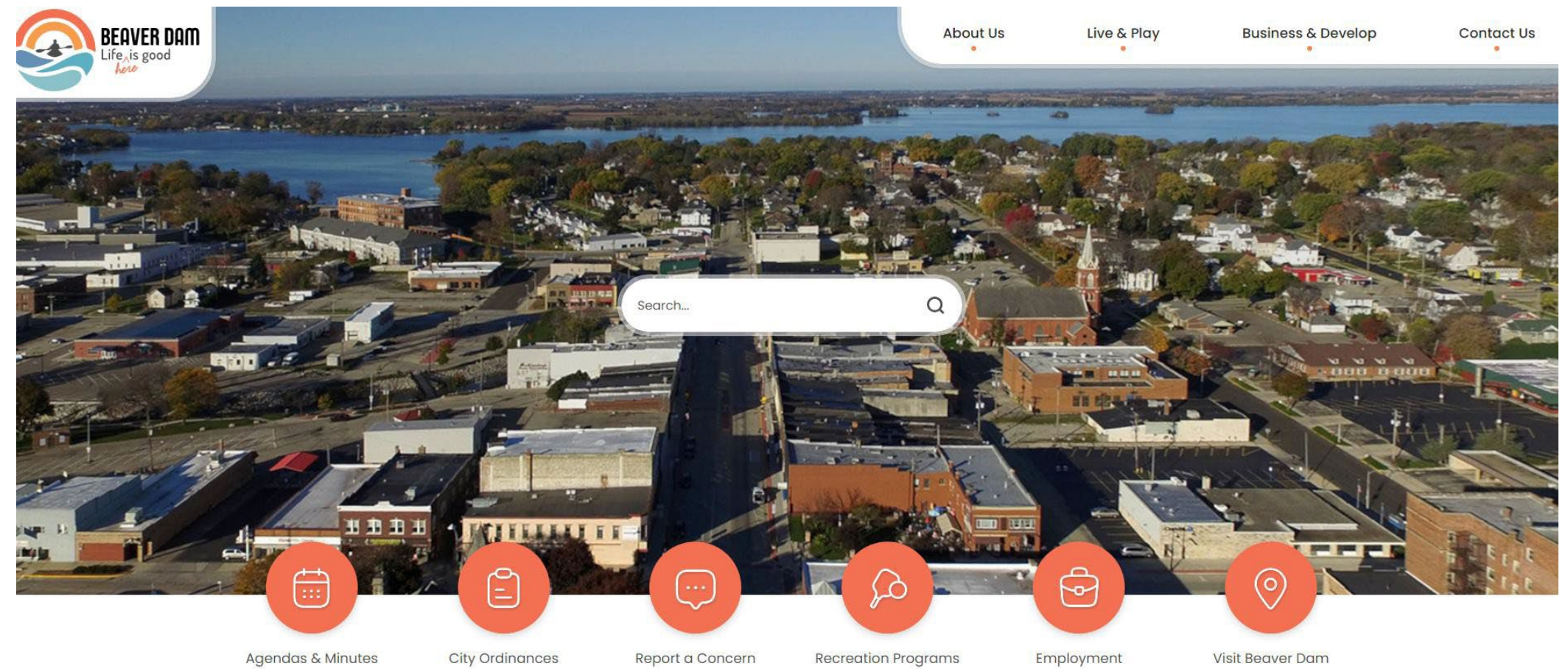
\$5,000 billed annually

+

\$5,000 one-time fee for premium website design

\$10,000 first year

Divide 11,475 homes = 87 cents/home



[Premium Website Examples | CivicPlus Design](#)





**All packages Starting with 12 default modules, with the option of
"Full Central "As an add-on:**

Starter Package (12 default Modules)
Agenda Center
Alert Center
Calendar
Document Center
FAQ
Form Center
Graphic Links
Info Advanced
News Flash
NotifyMe
Quick Links
Staff Directory

Full Central (23 Modules) \$3,500 increase on your next renewal	
Agenda Center	Job Posting
Alert Center	Bids
Calendar	Facilities & Reservations
Document Center	Activities
FAQ	Resource Directory
Form Center	Real Estate Locator
Graphic Links	Archive Center
Info Advanced	Photo Gallery
News Flash	Opinion Poll
NotifyMe	Get Community Input
Quick Links	Blog
Staff Directory	

TextMyGov

KEARNS, UT



WHY TEXTMYGOV

The most efficient way to communicate with your citizens is via text. No app, no email, no sign up required.

Our two-way smart response allows citizens to ask questions, and report issues all from their cell phone.

Customize your notifications/alerts based on groups, departments, or physical location.



- Send Alerts
- Answers Questions
- Automates Reports/Issues
- Conduct Surveys

TEXTMYGOV FOR KEARNS, UT

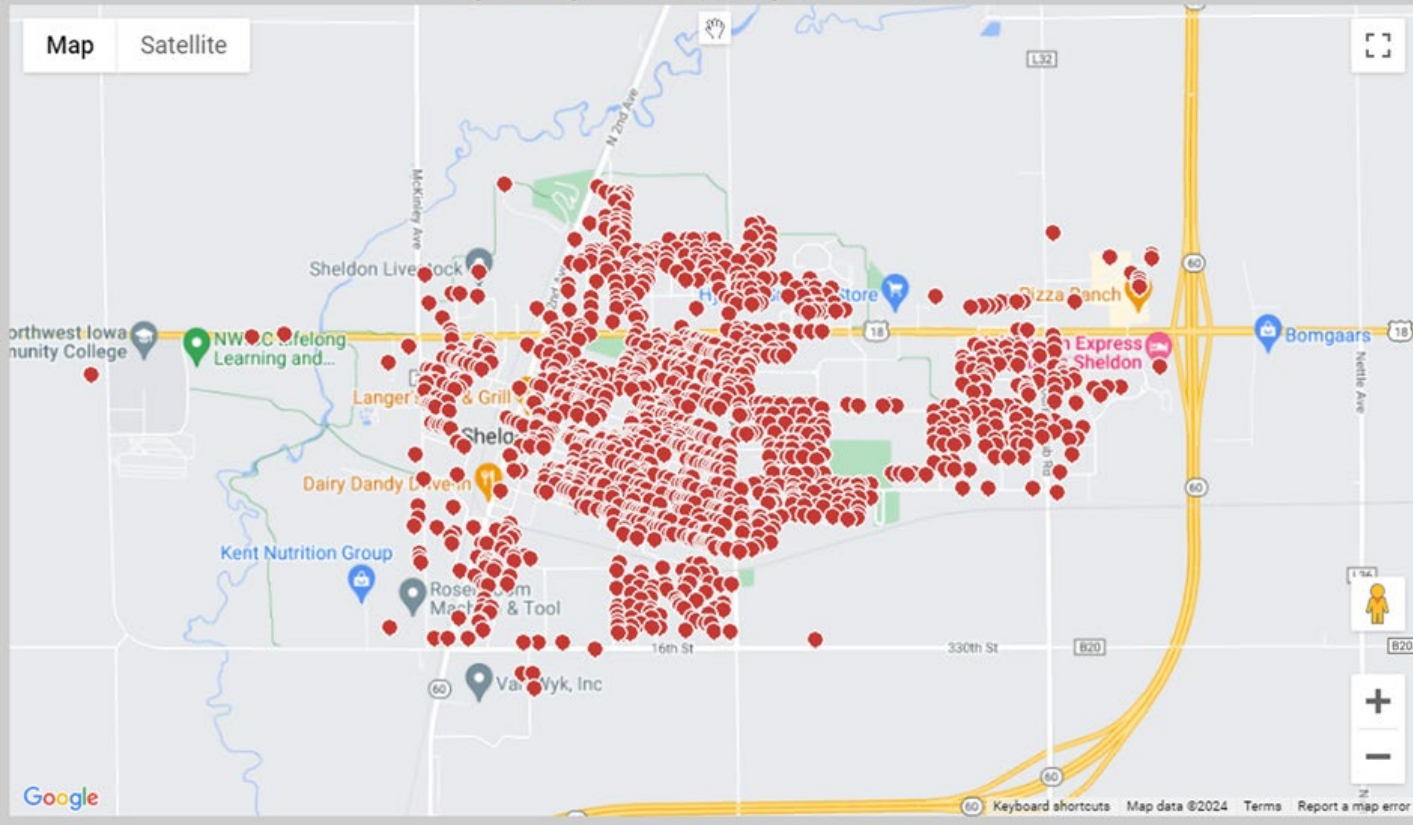
Every agency uses TextMyGov a little bit differently. Here are some **KEY** features that would best help.

Based on our conversations here is how we can help:

- Immediate communication reach with 9,480 households (Pre Scrub) imported on day one.
- Essential alerts delivered instantly (closures, outages, emergencies, IPAWS + NWS weather automation).
- Two-way texting to reduce call volume and support citizens with 24/7 answers to FAQs.
- Structured issue reporting that routes potholes, code enforcement, and other concerns to the correct staff automatically.
- Fast survey distribution for the city's rebranding, generating far higher participation in days —not months.
- Support before and after the new CivicPlus website launch, ensuring citizens can still find what they need.

Notifications By Selection

Begin creating a selection by placing a point on the map



WHY TEXTMYGOV?



No Download Needed

- Citizens don't need to download an app, or subscribe to an email service. If they have a cell phone they have access to alerts/notifications.



Dedicated Account Management

- Every account has a Dedicated Account Manager who will help set up your entire account. We specifically work with local governments so they will be able to provide suggestions on best practices and ideas on how you can maximize the service.



Unlimited Training

- Your account manager will provide unlimited training for staff. We know that departments can turn over, so we are here to help train new staff, new departments, or even just a refresher.



Based in Utah

- When Utah Cities buy from Utah companies it keeps tax dollars local, strengthens the state's economy and improves and allows cities to get quicker service from local providers.

WHY TEXTMYGOV

Let's Look at
the Back End of
the Content
Management
System



- Copperton
<https://textmygov.com/>
- One Response Words
- Existing groups– City Council & Planning Commission Members, Emergency responders, community groups, etc.
- IPAWS Compatible Integrated Public Alert and Warning System – Enabling authorized local, state
- Schedule Alerts



Thank you. Do you
have any
questions?

Maridene Alexander

Communications Manager

maalexander@msd.Utah.gov

(801) 834-0254



STAFF REPORT

To: Mayors and Councils

From: Mark Schneider, Director of Information Technology

Date: January 23, 2026

Subject: Safe and Secure E-mail and the Storage of Documents and Records

Action Requested: Provide directions on preferred option and authorize MSD staff to proceed with planning and implementation.

Executive Summary

This staff report presents two safe, secure options for e-mail and storing the City's working documents and official records. Both options improve security over the current configuration and reduce risk related to public records requests, privacy, ransomware, accidental deletion, and long-term retention obligations. The MSD IT Staff recommends Option 2 (MSD Microsoft tenant) using a phased approach that begins with Microsoft 365 and SharePoint, along with MSD's existing backup and security tooling, and later adds Laserfiche for records management where needed.

Background and Problem Statement

The Cities currently use a basic Google Workspace subscription for email and productivity tools. While this approach is low cost, it does not provide the same level of security controls, auditing, retention management, and government-oriented compliance features available in higher security environments. As the volume of digital documents grows, so does the need for consistent protections, clear ownership of data, dependable backups, and a defensible process for keeping and disposing of records in accordance with Utah retention schedules.

What "Secure Storage" Means in Plain Language

- Confidentiality: Only authorized staff and officials can access sensitive information.
- Integrity: Files are protected from unauthorized changes; access and changes are logged.
- Availability: Documents remain accessible when needed, even after hardware loss, cyber incidents, or accidental deletion.

- Retention: Official records are kept for the required time and destroyed appropriately when eligible, with audit trails.
- Public Records Readiness: The City can efficiently locate, preserve, and produce records for GRAMA requests and litigation holds.

Decision Criteria

- Security and compliance with federal and Utah expectations for government data
- Ability to safely collaborate and share documents (including shared drives)
- Backup and recovery capabilities
- Records retention and defensible disposition
- User experience and training impact
- Total cost and scalability

Option 1: Upgrade to Google Workspace for Government

Under this option, the City would upgrade from a basic Google Workspace subscription to a government-focused version designed to meet heightened security and compliance requirements required by the Federal and State governments. Google Drive can then be used as the primary file storage solution, including the use of Shared Drives for departments and projects.

What Would Change

- Email and Google productivity tools remain familiar to users.
- Google Drive becomes the approved primary storage location for City files.
- Shared Drives can be created to reduce reliance on individual “personal” drives and improve continuity when staff change.

Benefits

- Improved security and compliance features compared to the current subscription level.
- Centralized shared drives improve continuity and reduce “single person” ownership of important files.
- Minimal change management for users already working in Google apps.

Limitations and Risks

- Records management (retention schedules, holds, and automated disposition) may still require a dedicated records system for official records.
- If the City later adopts MSD-standard tools (Microsoft, Laserfiche), additional migration effort could occur.
- Costs increase meaningfully compared to the current subscription.
- MSD IT Staff would NOT be available to support this option. Support would be at the local level.

Option 2: Move to the MSD Microsoft Tenant and Use MSD's Secure Storage Ecosystem

Under this option, the City would join the MSD-managed Microsoft 365 tenant and use Microsoft SharePoint for file storage. This provides a consistent, government-grade security baseline and aligns with the tools MSD already uses and supports. As needed, specialized tools can be added: Egnyte for engineering-style mapped drives and Laserfiche for records management and retention automation.

Phase 1 (Recommended Starting Point): Microsoft 365 + SharePoint + MSD Security and Backups

- Microsoft 365 (email, Office apps, and SharePoint file storage).
- Barracuda backup services for additional recovery assurance.
- Strong endpoint and account protections available through MSD at no additional cost: SentinelOne, Action1, and Microsoft Intune.

Phase 1 provides secure email, familiar Office applications, and a modern file storage platform (SharePoint) with granular permissions, version history, auditing, and controlled sharing.

Phase 2 (Optional / As Needed): Add Records Management and Specialized Storage

- Laserfiche for official records retention, workflows, audit trails, and defensible disposition aligned to Utah retention schedules.
- Egnyte for engineering teams that benefit from file-server-like mapped drives in Windows File Explorer.
- Egnyte secure backup (if selected) to provide an additional built-in recovery layer.

Benefits

- Aligns with MSD's existing, supported platform and security standards.
- SharePoint provides strong collaboration features, permissions, versioning, and audit logs.
- Includes layered security protections at no additional cost (SentinelOne, Action1, Intune) under MSD's management.
- Provides a clear path to compliant records management through Laserfiche when needed.

Limitations and Risks

- Users will transition from Google to Microsoft tools (training and change management may be required).
- File migration requires planning to preserve shared permissions and organize content effectively.
- Laserfiche adds cost but is purpose-built for records retention and lifecycle automation.

Cost Comparison (Approximate Monthly Costs)

Cost Component	Option 1 Google Workspace (Gov)	Option 2 (Phase 1) MSD Microsoft + core security	Option 2 (Full Suite) Add Egnyte + Laserfiche
Email + productivity suite	\$30.00 per user (Google for Government) (Current: ~ \$6.00 per user)	\$26.00 per user (Microsoft 365) This may already be being incurred	\$26.00 per user (Microsoft 365) This may already be being incurred
Primary file storage	Included (Google Drive + Shared Drives)	Included (SharePoint / Teams sites)	Included (SharePoint / Teams); plus Egnyte if needed
Engineering “mapped drive” experience	Not a direct equivalent	Not included	Egnyte: \$22.77 per month (as needed)
Backup / recovery	Included tools vary by plan; additional backup may be desired	Barracuda: \$57.42 per month	Barracuda: \$57.42 per month; Egnyte backup: \$20.00 per month (if selected)
Records retention and lifecycle management	Will require separate records system for official records	Basic retention capabilities; dedicated RMS recommended for official records	Laserfiche records management: \$92.00 per month
Security tooling (endpoint & device management)	Not included	Included at \$0 additional cost: SentinelOne, Action1, Intune	Included at \$0 additional cost: SentinelOne, Action1, Intune
Estimated monthly total (illustrative)	~ \$30.00 per user (+ \$24.00 per user over current)	~ \$83.00 per month (M365 + Barracuda)	~ \$218.19 per month (M365 + Barracuda + Egnyte + Egnyte backup + Laserfiche)

Cost notes: All figures are approximate.

Recommendation

The MSD IT Staff recommends Option 2 using a phased approach. Begin with Microsoft 365 (email and Office), SharePoint for file storage, Barracuda backups, and MSD’s included security protections (SentinelOne, Action1, and Intune) for an estimated total of approximately \$83 per month per user. This approach quickly establishes a strong security baseline, reduces operational risk, and aligns the City with MSD’s supported environment.

Once the City’s files are organized and staff are comfortable in the new system, Laserfiche can be evaluated and added for the subset of documents that require formal records management features such as retention automation, audit trails, holds, workflows, and defensible destruction.

Implementation Considerations

1. Inventory and classify files: Identify what is working material vs. official records.
2. Design shared sites and permissions: Create SharePoint/Teams sites by department and project with least-privilege access.
3. Migrate content: Move files in a structured way, maintaining key folders and shared access.
4. Training and adoption: Short, role-based training for staff and elected officials (email, document sharing, searching).
5. Backup validation: Confirm backup coverage and conduct a test restore.
6. Records management roadmap: Define when and how Laserfiche will be used for official records and retention schedules.

Fiscal Impact

Option 1 increases monthly subscription costs from approximately \$6 per user to approximately \$30 per user. There would be a cost to secure third party support. Option 2 (recommended, Phase 1) is approximately \$83 per month for the combined Microsoft 365 and backup/security approach described above, with Microsoft 365 licensing. Costs may change based on the number of users and selected services. This would allow for either a third-party solution provider or MSD support. Depending upon the number of members selecting this option an MSD IT support position may need to be added.

TextMyGov

TextMyGov

P.O. Box 3784

Logan, Utah 84323

435-787-7222

Partnership Agreement

Introducing TextMyGov

TextMyGov was developed to open lines of communication with local government agencies and citizens. The system works 24 hours a day and easily connects with your website and other communication methods.

Using the regular messaging app on any smartphone, the smart texting technology allows the citizen to ask questions and get immediate responses, find links to information on the agency's website, address problems, report any issues and upload photos.

According to the Pew Research Center, *97% of smartphone owners text regularly.*

The technology analysts at Compuware reported *that 80 to 90% of all downloaded apps are only used once and then eventually deleted* by users.

TextMyGov Solutions

Communicate, Engage, Boost Website Traffic, Track and Work.



Communicate

TextMyGov uses smart texting technology to communicate with citizens. Local government agencies can answer questions, send links to their website, and provide details on garbage pickup, utility payments, city news, events, office hours, just to name a few.



Engage

TextMyGov uses smart texting technology to engage with citizens. Citizens can easily report issues to any department, such as potholes, drainage problems, tall grass, junk cars. The issue reporting function can be customized for each department and their most commonly reported items. Agencies can engage citizens and ask specific guided questions regarding location, address, street name, and more. If your goal is to engage with citizens and get smart valuable data- You need TextMyGov.



Boost Website Traffic

TextMyGov uses smart texting technology to maximize a city's website. Citizens can text in keywords like festival, parking, ticketing, meeting, sporting event, etc. The smart texting technology can answer the question or send a link from the city's website with additional information. Local government agencies spend thousands of dollars each year on their website. TextMyGov is the best way to benefit from that investment. If your goal is to benefit from your website investment- You need TextMyGov.



Track

TextMyGov uses smart texting technology to track and record all the information that is sent in. Agencies can track the cell phone number, date, and time of every request. If your agency wants to be compliant with FOIA- You need TextMyGov.



Work

Smart texting uses detailed information to track a citizen's request or create a work order. Work orders and requests can be generated and completed. Smart texting allows you to easily collect information like name, location, street address, and allows the user to upload a photo. If your agency wants to track real requests and real work orders submitted by a real cell phone number- You need TextMyGov.

Implementation

Getting Started

- After the execution of the Agreement Confirmation Page, a project manager will be assigned to assist the client through implementation. A local phone number will be obtained for use with TextMyGov.

Configuration

- The project manager will work with the client to customize interactive responses, create automation flows, and keyword lists. Training will be provided on how to quickly create and edit data.

Media Kit

- Advertising materials will be provided to the client, including an infographic for the website and downloadable flyer for social media and other communication methods used by the agency.

Unlimited Training and Support

- After initial implementation and training, unlimited on-going support is included. Our experts are available M-F 6am-5pm MST.

This quote represents a subscription to TextMyGov with an annual recurring charge for an initial period of Three-Years (the "Initial Term"). The agreement is set to automatically renew on the anniversary date of this agreement, after the Initial Term. Support and service fees may increase following the Initial Term but will increase no more than 5% per year. See below for package price and other details.

Terms and conditions can be printed and attached as Exhibit A or viewed at www.TextMyGov.com/terms

Prepared for:
Kearns
5658 Cougar Lane, Kearns, UT 84118, USA
Jesse Valdez jvaldez@kearns.utah.gov

Prepared by:
Lincoln Jeffery
Account Executive
P.O. Box 3784
Logan, UT 84323

Package	Package Price	Billing
TextMyGov- Premium Premium Package includes:	\$12,500.00 \$10,000.00	Annual
<ul style="list-style-type: none"> • TextMyGov Web-Based Software • Local Phone Number • Short Code Number (for outgoing messages) • TextMyGov Provided Database • Facebook Integration • Spanish Translation • IPAWS Integration • NOAA/Weather Alerts • Enhanced Media Care Package • Citizen Surveys • Voice Calls • Mass Emailing • Unlimited Users • Unlimited Departments • Unlimited Support for Every User • 10 GB Managed online data storage • 100000 Text Messages per year 		
Implementation/Setup Fee	\$6,000.00 \$2,000.00	One Time
Total (First Year):	\$18,500.00 \$12,000.00	First Year
Total (Ongoing):	\$10,000.00	Annual

Notes:

1. *This is a Three-Year Agreement.* Either party may terminate this agreement at the end of the Initial Term by providing the other part with written notice of termination at least sixty (60) days prior to the expiration of the Initial Term. If Customer terminates the agreement the remaining balance for the Initial Term, if any, will become immediately due and payable. After the Initial Term, this agreement will automatically renew for successive one (1) year terms ("Renewal Term") unless either party provides written notice of non-renewal at least sixty (60) days before the expiration of the then-current term. Should Customer terminate the agreement within the sixty-day period before the expiration of the Initial Term or any Renewal Term, Customer will be obligated to pay the total balance due for the subsequent Renewal Term.
2. *Customer will be invoiced on an annual basis. Invoices will be sent by mail and email to the addresses listed on the Agreement Confirmation page below. Annual invoice will be dated and sent 30 days prior to the period start date each year. Payment is due within 30 days from the date of the invoice.*
3. *Customer is required to put Text My Gov widget on the Agency's Web Home page.*
4. *This agreement must be signed and returned by 4/30/2026.*
5. *Customer is authorized to enter into this agreement and by signing the Agreement Confirmation, agrees to all terms herein and all Terms and conditions listed above.*
6. *Customer is required to provide copy of W-9*

Additional Services

TextMyGov provides additional applications and services that can be purchased as part of the TextMyGov solution. These can be added to the customer's annual* cost, upon request.

Citizen Requests	Price based on Population	Annual
Monthly Uploads	Price based on Population	Annual
Additional Storage – Each unit of storage contains an additional 100 GB.	\$250	Annual
Additional text messages – Additional text messages can be purchased at any time. (\$750 for 100,000), (\$550 for 50,000), (\$300 for 25,000) Unlimited texts are available as well. See your Account Executive for details	Price based on amount of text messages	Annual
Unlimited Text Messages	Price based on Population	Annual

Agreement Confirmation

Implementation Team Information

Name:

Title:

Email:

Office Phone:

Cell Phone (Required):

Implementation Team Information

Name:

Title:

Email:

Office Phone:

Cell Phone (Required):

Billing Information

(Invoices for the amount will be sent two weeks after signature with net 30 days.

Invoices will be sent from an iWorQ email address)

Billing Contact Name:

Title:

Email:

Office Phone:

Address:

(Please attach copy of W-9)

Agreement Signature

Name:

Title:

Date:

Signature:

Widget Contact

Name:

Title:

Email:

Phone:

*This person is responsible for placing the TextMyGov widget (see options- [TextMyGov/Widget Link](#)) on the agency's website within 60 days of the agreement signature. The TextMyGov widget will remain on the agency's website for the duration of the agreement. If the widget is not placed on the City/County website within 60 days, the Agency agrees to pay an additional \$1,000 towards setup costs (this is to cover TextMyGov's time.)

Twilio Contact Authorization

Twilio Authorized Contacts

Employee Name (1):

Email:

Phone Number:

Job Position:

Business Title:

Employee Name (2):

Email:

Phone Number:

Job Position:

Business Title:

I confirm that my nominated authorized representatives agree to be contacted by Twilio.

***Twilio contact can be the same as the implementation contact. Twilio requires us to have two authorized contacts. They rarely reach out, but if there are any support questions, they require these contacts. ***