

Mayor

Robert Houston

City Manager

Joseph Decker

Treasurer

RaeLene Johnson



KANAB
— UTAH —

City Council

Brent Chamberlain

Joe B. Wright

Jeff Yates

Michael East

Byard Kershaw

KANAB CITY COUNCIL

May 10th, 2016

76 NORTH MAIN, KANAB, UTAH

NOTICE is hereby given that the Kanab City Council will hold its regular council meeting on the 10th day of May, 2016, in the Commission Chambers at the Kane County Courthouse, 76 North Main, Kanab, Utah. The Council Meeting will convene at 6:30 p.m., and the agenda will be as follows:

6:30 P.M. Work Meeting

Business Meeting

1. Call to Order and Roll Call
2. Approval of Agenda
3. Approval of minutes of previous meeting
4. Approval of Accounts payable vouchers

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

6. Resolution 5-1-16 R “A Resolution recognizing May as National Mental Health Awareness Month and supporting the Kane Community Coalition sponsored Mental Health Awareness Day activity”

7. Public Hearing to consider not charging the Kanab City General Fund for water usage

8. Public Hearing to consider increasing Kanab City water and sewer rates

9. Public hearing to consider adopting operating budget for Fiscal Year 2016/2017

10. Consider the adoption of the FY 2016/2017 tentative budget

11. Ordinance 5-1-16 O “ An Ordinance amending all of Kanab City General Ordinance section 11”

12. Ordinance 5-2-16 O “ An Ordinance amending all of Kanab City General Ordinance section 14”

13. Closed Session:
 - Discuss the purchase, exchange, or lease of real property
 - Discuss the character, professional competence, or physical or mental health of an individual.
 - Discuss pending or reasonably imminent litigation.

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

KANAB CITY COUNCIL MEETING
APRIL 26, 2016
KANE COUNTY COMMISSION CHAMBERS

PRESENT: Mayor Robert D. Houston, Council Members Byard Kershaw, Michael East, Jeff Yates, Brent Chamberlain and Joe B. Wright, Recorder Joe Decker, Attorney Jeff Stott and City Treasurer RaeLene Johnson.

Mayor Houston introduced Garrett Glover as the new Kane County/Kanab City Recreation Director.

The cemetery regulations and fees were discussed. The Council was asked to review them for the next meeting and notify Mr. Decker with changes or suggestions before that time. The proposed water and sewer rates were discussed. The Council agreed there needed to be more storage for the water. They suggested this be the next capital project. The Council expressed the need to have those who use the most water to pay the most. Council Member Kershaw expressed a desire for sewer in the Ranchos. He has been contacted by some of the residents. The cost will have to be determined and a Special Improvement District formed. The Council reviewed the City's miscellaneous fee schedule for all the services.

The 2016/2017 Fiscal Year Budget was reviewed. There still are two more months of revenues and expenditures. Council Member Kershaw stated that the Beautification Committee requested more Christmas lights in their budget. They want to have all new ones in three years. The Recreation Fund was discussed including the new 10-K budget. Council was asked to review and get back to Mr. Decker before the first meeting in May.

Mayor Houston called the meeting to order and roll call was taken. Prayer was offered by Council Member Chamberlain and the Pledge was led by Council Member Kershaw. Mayor Houston introduced the scouts from Troop 575 who was working on their Communication Merit Badge and the Citizenship in the Community Merit Badge. They were as follows: Kaden Barber, Josh Church, Beau Johnson, Jarred Banks, and James Jacobs. Their Troop Leader was John Jacobs.

APPROVAL OF AGENDA: A motion was made by Council Member Wright and 2nd by Council Member Yates to approve the Agenda as presented. Motion passed unanimously.

APPROVAL OF MINUTES: A motion was made by Council Member Yates and 2nd by Council Member Wright to approve the minutes of April 12th. Motion passed unanimously.

APPROVAL OF ACCOUNTS PAYABLE VOUCHERS: A motion was made by Council Member Wright and 2nd by Council Member Chamberlain to approve the vouchers and check register in the amount of \$186,935.36. Motion passed unanimously.

PUBLIC COMMENT PERIOD: Mr. Don Sprecher addressed the Council. He said he was representing business owners, local citizens of Kanab and Kane County who support and signed the petition “Save the Wave Live Walk in Lottery”. They feel it would hurt the community by not allowing those who come to the walk in live lottery to stay and eat in Kanab while waiting for their lottery ticket. If it is done all on line, there would be no need for them to stay an extra day in Kanab. He would like the City to pass a proclamation supporting this effort.

APPROVAL OF PROXIMITY VARIANCE (LIQUOR LICENSE): A motion to approve the Proximity Variance for a liquor license for Francis Batista DBA Peekaboo Canyon Wood Fired Kitchen located at 233 West Center St. was given by Council Member Wright and 2nd by Council Member Chamberlain. Motion passed unanimously.

APPOINTMENT TO THE ARTS COUNCIL: A motion was made by Council Member Kershaw and 2nd by Council Member Wright to appoint Harrison Giddings to serve on the Arts Council with a term ending 06/01/2017 when he graduates from High School.

DISCUSS POTENTIAL REVISIONS TO CHAPTERS 11 AND 16 OF THE GENERAL ORDINANCES: Attorney Stott presented the proposed changes to Chapters 11 and 16. He suggested eliminating all of Chapter 16. It is listed in the International Fire Code which the City adopts. He suggested eliminating Section 11- 321 Traffic Code, and in Section 11- 363 eliminate A and include (cellar) in B.

A motion was made by Council Member Wright and 2nd by Council Member Yates to go into a Closed Session to discuss the purchase, exchange, or lease of real property. Motion passed unanimously.

Out of Closed Session

A motion to adjourn was made by Council Member Chamberlain and 2nd by Council Member Wright. Motion passed unanimously.

MAYOR

ROBERT D. HOUSTON

RECORDER JOE DECKER

KANAB CITY RESOLUTION NO. 5-1-16 R

A RESOLUTION RECOGNIZING MAY AS NATIONAL MENTAL HEALTH AWARENESS MONTH AND SUPPORTING THE KANE COMMUNITY COALITION SPONSORED MENTAL HEALTH AWARENESS DAY ACTIVITY

WHEREAS, Utah ranks 7th and 5th in the nation for adult and youth suicide deaths;

AND WHEREAS, suicide is the 8th leading cause of death for adults and the 2nd leading cause of death for children ages ten through seventeen in Utah;

AND WHEREAS, everyday in Utah two youth, two young adults, two adult men and four adult women are treated for suicide attempts and there is a suicide every sixteen hours;

AND WHEREAS, 1 in 4 people suffer from some form of mental illness ranging from severe psychotic disorders to many forms of depression, anxiety, and addiction;

AND WHEREAS, the communities in Kane County and Kanab City are similarly affected by mental health issues, suicide and suicide attempts;

AND WHEREAS, the negative social stigma associated with mental health and suicide continues to prevent those who are suffering from receiving the help that they need;

AND WHEREAS, the Kane Community Coalition on May 19th, 2016 is sponsoring a Mental Health Awareness Day with activities geared to remember those whom this community has lost to suicide in the last decade, to help remove the social stigma of mental health issues, and to help prevent future suicide and suicide attempts in our community;

AND WHEREAS, the event activities include a free barbeque, knockerball, bounce houses, prizes, a suicide prevention walk, and community speakers;

AND WHEREAS, the event will begin at 6:00 p.m. on May 19th, at the Kanab High School track and football field;

AND WHEREAS, The Kanab City Council desires to support the Kane Community Coalition in order to bring attention to these serious issues and to promote effective prevention of suicide in our communities.

NOW THEREFORE, BE IT RESOLVED BY THE COUNIL OF THE CITY OF KANAB, STATE OF UTAH, AS FOLLOWS:

1. We recognize May as National Mental Health Awareness Month.
2. We support and encourage the members of our community to participate in the Kane Community Coalition's Mental Health Awareness Day activities on May 19th, 2016 at 6:00 p.m. at the Kanab High School track and football field.
3. We call on all community members to become educated about the signs and symptoms of mental health issues and suicide and to receive basic training on how to help our friends, family and neighbors who may be suffering.

ADOPTED this ___ day of May, 2016.

ROBERT HOUSTON
Kanab City Mayor,

ATTEST:

JOSEPH DECKER
Kanab City Recorder

ORDINANCE NO. 5-1-16 O

AN ORDINANCE AMENDING KANAB CITY GENERAL ORDINANCE SECTION 11

WHEREAS, the City Council of Kanab desires to amend and clarify section 11 of the Kanab City General Ordinance.

WHEREAS, The Kanab City Council and staff have evaluated current ordinance requirements and has found the need for clarification.

NOW, THEREFORE, BE IT ORDAINED by the Kanab City Council that the Kanab City General Ordinance is hereby amended as reflected in the following 38 pages.

All former codes or parts thereof conflicting or inconsistent with the provisions of this Ordinance or of the Code hereby adopted are hereby repealed.

The provisions of the Code shall be severable, and, if any provision thereof or any application of such provision is held invalid, it shall not affect any other provisions of this code or the application in a different circumstance.

This ordinance shall be effective upon the required posting.

PASSED AND ORDERED POSTED this 10th day of, May 2016.

KANAB CITY

MAYOR

ATTEST:

RECORDER

Section 11: TRANSPORTATION, STREETS AND PUBLIC WAYS

Section 11-100	Airport
Section 11-111	Definitions
Section 11-112	Aircraft Owned by the Government, or Licensed by Foreign Governments
Section 11-113	Minimum Height Limits For Aircraft
Section 11-114	Operators of Aircraft to Be Licensed
Section 11-115	Operation of Aircraft to Be Subject To Air Traffic Rules of Federal Civil Aeronautics Administration
Section 11-116	Acrobatic flying Prohibited
Section 11-117	Landing At Other Than Established Airport Prohibited
Section 11-118	Lights or Night Operation of Aircraft
Section 11-119	Noise by Aircraft Operation
Section 11-120	Dropping Objects from Aircraft Prohibited
Section 11-121	Permits Required For Exhibition Flights, Carrying of Banners, Districution of Circular, Loud Speaking Devices, and Carrying of Explosives
Section 11-131	Airport Established
Section 11-132	Penalty
Section 11-140	Airport Zones
Section 11-141	Airport Zone Height Limitations
Section 11-142	Use Restrictions
Section 11-143	Nonconforming Uses
Section 11-144	Permits
Section 11-145	Enforcement
Section 11-147	Appeals
Section 11-149	Penalties
Section 11-150	Conflicting Regulations
Section 11-300	Streets and Public Ways
Section 11-310	Superintendent Of Streets
Section 11-312	Powers and Duties of Street Department
Section 11-313	Construction and Maintenance Zone Safety
Section 11-320	Street-Traffic Control
Section 11-322	Definitions Contained In Code
Section 11-323	Prima Facie Speed-Posted Streets
Section 11-324	Angle Parking

Section 11: TRANSPORTATION, STREETS AND PUBLIC WAYS

Section 11-325	Through Streets-Stop And Yield Intersections
Section 11-326	Designation of Streets and Intersection To Be Posted
Section 11-331	Driving Animals on Streets
Section 11-341	Parking or Blocking Streets Or Highways
Section 11-342	Signs
Section 11-343	No Parking
Section 11-344	Unlawful Parking
Section 11-345	Parking and Operating Regulations
Section 11-349	Dynamic Braking Device
Section 11-350	Construction and Repair of Streets and Sidewalks
Section 11-351	Construction by Persons
Section 11-352	Permit Required - Supervision
Section 11-353	Construction of Driveways or Changes of Construction
Section 11-354	Building Materials in Street-Permit
Section 11-355	Placing or Mixing Sand or Gravel on Paved Street or Sidewalk
Section 11-356	Overflowing Of Water on Public Property
Section 11-357	Irrigation Ditches Across Sidewalks
Section 11-358	Removal of Sod, Earth from Streets or Other Property
Section 11-360	Sidewalk Regulations
Section 11-361	Removal of Snow
Section 11-362	Placing Trash or Other Obstruction in Streets, Gutters, Sidewalks
Section 11-363	Operations in Street
Section 11-364	Doors Opening Into Streets
Section 11-365	Discharge of Water on Street
Section 11-366	Crossing At Intersections
Section 11-367	Business to Keep Sidewalk Clean
Section 11-368	Placing Goods on Sidewalks for Sale or Show
Section 11-369	Placing goods on Sidewalks for Receipt or Delivery
Section 11-370	Playing On Sidewalks
Section 11-371	Congregating On Sidewalks
Section 11-380	Excavations
Section 11-381	Permit Franchise Required
Section 11-382	Excluded Excavations

Section 11: TRANSPORTATION, STREETS AND PUBLIC WAYS

Section 11-384	Preparation
Section 11-385	Backfill
Section 11-386	Restoration of Surfaces
Section 11-387	Restoring Bituminous
Section 11-388	Concrete Surfaces
Section 11-389	Concrete Base, Bituminous Wearing Surfaces
Section 11-390	Gravel Surfaces
Section 11-391	Protection of Public during Excavation Project
Section 11-392	Relocation and Protection of Utilities
Section 11-393	Jetting Pipe
Section 11-394	Inspection and Acceptance
Section 11-395	Application for Street Excavation Permit

Section 11-100 Airport

Section 11-111 Definitions

Acrobatic flying - any intentional airplane maneuver or stunt not necessary to air navigation, or operation of aircraft in such manner as to endanger human life or safety by the performance of unusual or dangerous maneuvers.

Aircraft - any aero plane, airplane, gas bag, flying machine, balloon, any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air, except a parachute or other contrivance used primarily as safety equipment.

Airport - Kanab Municipal Airport

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Airport Elevation - The highest point of an airport's usable landing area measured in feet from mean sea level. This elevation is 4,868 feet MSL as of the date of this ordinance.

Approach Surface - A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 16-120.4 of this Ordinance. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.

Approach, Transitional, Horizontal, and Conical Zones - These zones are set forth in Section 16-120.3 of this Ordinance.

Conical Surface - An imaginary surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 (horizontal) to 1 (vertical) for a horizontal distance of 4,000 feet.

Hazard to Air Navigation - An obstruction determined by the Federal Aviation Administration to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

Height - For the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

Horizontal Surface - An imaginary horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with arcs connecting the ends of the designated approach surface to Runway 1 and Runway 19.

Larger than Utility Runway - A runway that is constructed for and intended to be used by aircraft of greater than 12,500 pounds maximum gross weight.

Nonconforming Use - Any pre-existing structure, object of natural growth, or use of and which is inconsistent with the provisions of this Ordinance or an amendment thereto.

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Non-precision Instrument Runway - A runway having an existing instrument approach procedure utilizing air navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned by the Federal Aviation Administration. It also means a runway for which a non-precision instrument approach system is planned and is so indicated on an approved Kanab Airport Layout Plan (ALP) or any other planning document.

Obstruction - Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section IV of this Ordinance.

Person - An individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.

Precision Instrument Runway - A runway having an existing instrument approach procedure utilizing a precision Instrument Landing System (ILS) certified by the Federal Aviation Administration. It also means a runway for which a precision instrument approach landing system (ILS) is planned and is so indicated on an approved airport layout plan (ALP) or any other planning document.

Primary Surface - An imaginary surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. The width of the primary surface is 500'. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

Runway - A defined area on an airport prepared and designated for landing and takeoff of aircraft along its length.

Structure - An object, including mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.

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Transitional Surfaces - An imaginary surface that extends outward at 90 degree angles from the side edge of the primary and approach surfaces, at a slope of seven (7) feet horizontally for each one (1) foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.

Tree - Any object of natural growth.

Utility Runway - A runway that is constructed for and intended to be used by aircraft of 12,500 pounds maximum gross weight and less.

Visual Runway - A runway intended solely for the operation of aircraft using visual approach procedures and without any straight-in published instrument approach procedures.

Section 11-112 Aircraft Owned by the Government, or Licensed by Foreign Governments

The provisions of this chapter shall not apply to public aircraft of the Federal Government, or of a state, or territory, or of a political subdivision of a state or territory, or to aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering operation of such aircraft.

Section 11-113 Minimum Height Limits For Aircraft

Except while taking off or landing at an established landing field or airport, no person shall fly or permit any aircraft to be flown within this municipality, except at a height sufficient to permit of a reasonably safe emergency landing, which in no case shall be less than 1,000 feet, provided that the provisions of this section may be deviated from when special circumstances render a departure necessary to avoid immediate

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danger or when such departure is required because of stress of weather conditions or other unavoidable cause.

Section 11-114 Operators of Aircraft to Be Licensed

No person shall operate any aircraft within or over this municipality unless such person has first been issued an airman certificate by the Civil Aeronautics Administration and unless such aircraft shall have first received a certificate of airworthiness from the Civil Aeronautics Administration.

Section 11-115 Operation of Aircraft to Be Subject To Air Traffic Rules of Federal Civil Aeronautics Administration

No person shall operate any aircraft over or within this municipality in violation of any valid air traffic or other rule or regulation established by the Civil Aeronautics Administration.

Section 11-116 Acrobatic flying Prohibited

Acrobatic flying by any person flying over any portion of this municipality is hereby prohibited.

Section 11-117 Landing At Other Than Established Airport Prohibited

Except in case of emergency, no person shall land any aircraft within this municipality except upon a regularly established airport field, or landing place.

Section 11-118 Lights or Night Operation of Aircraft

All aircraft when flying within or over the corporate limits at night shall have lights and other equipment required for such flying by the rules, regulations or orders of the Civil Aeronautics Administration.

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Section 11-119 Noise by Aircraft Operation

Unnecessary noise by operators of aircraft within or over this municipality is hereby prohibited.

Section 11-120 Dropping Objects from Aircraft Prohibited

No person in any aircraft shall cause or permit to be thrown out, discharged or dropped within the corporate limits, any object or thing, except loose water or loose sand ballast when absolutely essential to the safety of the occupants of the aircraft and except as provided in section 11-121 of this chapter.

Section 11-121 Permits Required For Exhibition Flights, Carrying of Banners, Distribution of Circular, Loud Speaking Devices, and Carrying of Explosives

No person shall make exhibition flights by carrying banners on, distribute circulars from, or operate a loud speaking device from any aircraft flying within or over the corporate limits without first obtaining a permit to do so from the mayor, and payment of a permit fee of five dollars for each flight. The mayor shall issue such permit if the person who will operate the aircraft, in carrying out any of the objects named in this section, is duly licensed by the Civil Aeronautics Administration, the aircraft to be used is licensed by the Civil Aeronautics Administration, and the safety or lives of the inhabitants of the municipality will not be endangered by the proposed flight. Provided that the permits provided for in this section may be issued by the mayor up to six months, rather than for individual flights, if the safety or lives of the inhabitants of the municipality will not be endangered by such permit and a permit fee of \$25.00 is paid. The six months' permit shall be revoked upon violation of any provision of this chapter.

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Section 11-131 Airport Established

There is hereby established a department known as the Kanab City Airport. The airport shall be operated by an airport manager pursuant to rules and regulations promulgated by the council. Until such time as other or additional rules and regulations are promulgated, the previous rules and regulations adopted by the council either as rules and regulations or by ordinance, are hereby adopted as the rules and regulations for the airport. The airport manager, or his authorized agents, shall have responsibility to enforce the rules promulgated by the council and shall, at their discretion, provide for an orderly use of the airport and its facilities.

Section 11-132 Penalty

It shall be a class B misdemeanor for any person to violate any rule or regulation in this section, or promulgated by the council regarding the orderly use of the airport and its facilities.

Section 11-140 Airport Zones

In order to carry out the provisions of this Ordinance, there are hereby created and established certain zones which include all of the land lying beneath the Approach Surfaces, Transitional Surfaces, Horizontal Surfaces, and Conical Surfaces as they apply to the Kanab Municipal Airport. Such zones are shown on the Kanab Airport Airspace Drawing which is attached to this Ordinance and made a part hereof. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

- A. Approach Zone - The Approach Zone extends fully beneath the imaginary surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. The inner edge of the approach zone is the same width as the primary zone. The Approach Zone to Runway 1 extends outward uniformly for a distance of 10,000 feet, to an outer width of 3,500 feet, at a slope of 34 (horizontal) to 1 (vertical). The Approach

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Zone to Runway 19 extends outward uniformly for a distance of 5,000 feet, to an outer width of 1,500 feet, at a slope of 20 (horizontal) to 1 (vertical).

- B. Primary Zone - The primary zone coincides with the imaginary surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. The width of the primary surface is 500'.
- C. Transitional Zones - The transitional zones are the areas beneath the transitional surfaces.
- D. Horizontal Zone - The horizontal zone is established by swinging arcs of 10,000 feet radii from the center of the primary surface of Runway 1, and an arc of 5,000' radii from center of the primary surface to Runway 19, runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
- E. Conical Zone - The conical zone is established as the area that commences at the periphery of the horizontal zone and extend outward therefrom a horizontal distance of 4,000 feet.

Section 11-141 Airport Zone Height Limitations

- A. Except as otherwise provided in this Ordinance, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Ordinance to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in the question as follows:
- B. Runway Precision Instrument Approach Zone - Slopes fifty (50) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet and continues on for a distance of 40,000 feet

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at a slope of forty (40) feet outward for each foot upward along the extended runway centerline.

1. Runway Non-precision Instrument Approach Zone (Large Aircraft) - Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
 2. Runway Non-precision Instrument Approach Zone (Small Aircraft) - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
- C. Visual Runway Approach Zone - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline. This is the existing condition as of the date of this ordinance.
- D. Transitional Zones - Slopes seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline.
- E. Horizontal Zone - Established at 150 feet above the airport elevation or at a height of 5,018 feet (existing conditions) above mean sea level (MSL).

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- F. Conical Zone - Slopes twenty (20) feet outward for each one (1) foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation (4,868 ft. MSL) and extending to a height of 350 (5,218 ft. MSL) feet above the airport elevation.

Section 11-142 Use Restrictions

Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this Ordinance in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

Section 11-143 Nonconforming Uses

- A. Regulations Not Retroactive - The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Ordinance, and is diligently prosecuted.
- B. Marking and Lighting - Notwithstanding the preceding provision of this Section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers, markings, and lights as shall be deemed necessary by the City of Kanab and/or the Federal Aviation Administration to indicate to the operators of aircraft in the

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vicinity of the airport the presence of such airport obstruction. Such markers, markings, and lights shall be installed, operated, and maintained at the expense of the Kanab Municipal Airport.

Section 11-144 Permits

- A. Future Uses - Except as specifically provided in a, b, and c hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the regulating use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this Ordinance shall be granted unless a variance has been approved in accordance with Section VII, 4.
- B. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than seventy-five feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.
- C. In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of not less than 10,000 feet from the end of Runway 1 primary surface, and at a horizontal distance of not less than 5,000 feet from the end of Runway 19 primary surface, no permit shall be required for any tree or structure less than seventy-five feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.

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- D. A permit shall be required prior to erecting or allowing the erection of a structure, an object, or tree with a height that is 200 feet above ground level (AGL) at that location, or above the established airport elevation (4,868'), whichever is higher, within 3 nautical miles of the established reference point of the Airport. That height increases in the proportion of 100 feet for each additional nautical mile from the Airport up to a maximum of 499 feet.
- E. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than seventy-five feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.
1. Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this Ordinance.
 2. Existing Uses - No permit shall be granted that would allow the establishment or creation of any obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this Ordinance or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.
 3. Nonconforming Uses Abandoned or Destroyed - Whenever the City of Kanab determines that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.
 4. Variances - Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this

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Ordinance, may apply to the Kanab City Planning Commission for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as the effect of a proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Ordinance.

5. Additionally, no application for variance to the requirements of this Ordinance may be considered unless a copy of the application has been furnished to the City of Kanab for advice as to the aeronautical effects of the variance. If the City does not respond to the application within fifteen (15) days after receipt, the Planning Commission may act on its own to grant or deny said application.
6. Obstruction Marking and Lighting - Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as condition may be modified to require the owner to permit the City of Kanab at its own expense, to install, operate, and maintain the necessary markings and lights.

Section 11-145 Enforcement

It shall be the duty of the City of Kanab to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the City upon a form published for that purpose. Applications required by this Ordinance to be submitted to the City shall be promptly

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considered and granted or denied. Application for action by the Board of Adjustment shall be forthwith transmitted by the City of Kanab.

Section 11-147 Appeals

- A. Any person aggrieved, or any taxpayer affected, by a decision of the administrative official made in the administration of the Ordinance, may appeal according to the procedures outlined in Chapter 3 of the Land Use Ordinance.

Section 11-149 Penalties

Each violation of this Ordinance or of any regulations, order, or ruling promulgated hereunder shall constitute a misdemeanor and shall be punishable by a fine of not more than (750.00) dollars or imprisonment for not more than (90) days or both; and each day a violation continues to exist shall constitute a separate offense.

Section 11-150 Conflicting Regulations

Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitation or requirements shall govern and prevail.

Section 11-310 Superintendent Of Streets

- A. There is hereby created a department of streets which shall have general supervision of streets, sidewalks, bridges, and other public ways.
- B. The department shall be under the direction and control of the superintendent of streets.

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Section 11-312 Powers and Duties of Street Department

The department shall:

- A. Have charge of the construction, maintenance and repair of streets, sidewalks, bridges, curbs, gutters, culverts, drains, waterways and other public ways. It shall have control of all waters flowing on the streets, sidewalks and public ways whether originating from storm, flood, drainage or irrigation waters.
- B. Keep a record and promptly investigate all complaints of defective streets, culverts, drains, ditches, sidewalks, and other public ways and, when proper, repair, replace or take such action as deemed best, and shall record the action taken on each complaint.
- C. Enforce the provisions of this chapter 11-300 and all other ordinances relating to the maintenance and use of streets, culverts, drains, ditches, waterways, curbs, gutters, sidewalks and other public ways.
- D. Repair, or cause to be repaired, all defects coming to the department's attention and take reasonable precautions to protect the public from injuries due to such defects pending their repair.

Section 11-313 Construction and Maintenance Zone Safety

PURPOSE

This policy is designed to insure Public Works Department employees are protecting themselves and the public against injury, loss of life and property.

PROCEDURES

All Public Works employees engaged in activities in the public rights-of-way must follow guidelines set forth by the Manual Uniform Traffic Control Devices (MUTCD) when flagging, placing signs, barricades, cones, or any traffic control device. This includes employees who are responsible for supervising and inspecting, contracted work done in the rights-of-way of Kanab City.

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Any employee flagging, placing signs, barricades, cones or any type of traffic control device must first obtain training in work zone safety and have a flagger certification or other pertinent training or certificates.

Section 11-320 Street-Traffic Control

Section 11-322 Definitions Contained In Code

Unless the context otherwise requires, all references in the traffic code, as adopted by Section 13-310, to:

- A. The State Road Commission or State Department of Transportation shall mean this municipality and its officers, departments, agencies, and agents.
- B. Local Authorities shall mean the governing body of this municipality.
- C. The Department of Public Safety of the State of Utah shall mean the chief of police of this municipality or his agent.
- D. Magistrate shall mean the justice of the peace or judge of this municipality.

Section 11-323 Prima Facie Speed-Posted Streets

- A. When appropriate traffic control or regulatory signs giving notice of speeds are posted, the prima facie maximum speed limits designated upon said signs shall apply to the appropriate streets or portions of streets so posted.
- B. In the absence of any speed limit sign designating a speed limit applicable thereto the prima facie speed limit shall be 25 miles per hour.

Section 11-324 Angle Parking

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When appropriate traffic control or regulatory signs are posted permitting angle parking, angle parking shall be permitted on the streets or parts of streets so posted at the angle designated by the sign.

Section 11-325 Through Streets-Stop And Yield Intersections

When appropriate traffic control or regulatory signs are posted at entrances to intersections identifying them as stop or yield entrances, such streets are hereby declared to be stop entrances and yield entrances as designated by said signs.

Section 11-326 Designation of Streets And Intersection To Be Posted

The governing body shall designate the places at which appropriate traffic control devices or regulatory signs shall be placed relating to maximum speed limits, angle parking, through streets, stop and yield intersections and other regulations governing traffic.

Section 11-331 Driving Animals on Streets

- A. Every person who drives any herd of sheep or band of horses, cattle or other animals upon any public street or highway without first obtaining a permit from the chief of police so to do is guilty of an infraction.
- B. No person shall drive livestock through this municipality upon streets not designated for that purpose except upon permission and according to the direction of the chief of police.

Section 11-341 Parking or Blocking Streets or Highways

In addition to the parking provisions contained in the Utah Traffic Code, as adopted by this municipality, it shall be a class B misdemeanor for any person to:

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- A. Remain standing, lying or sitting on any street or highway in such a manner as to obstruct the free passage of vehicular or pedestrian traffic thereon.
- B. Willfully remain standing, lying or sitting on any street or highway in such manner for more than one minute after being requested to move by any police officer.
- C. Willfully remain on such street or highway in such manner as to obstruct the free passage of any person or vehicle into or out of any property abutting upon the street or highway or any property having access to such street or highway.

Section 11-342 Signs

The governing body may authorize or direct any person employed by the municipality to erect or install any sign or traffic control device required to enforce the provisions of this part.

Section 11-343 No Parking

It shall be a class B misdemeanor to park or leave standing at any time a motor vehicle, as defined in the "Kanab City Traffic Code" in any of the places described in the appropriate appendix attached to this code when properly posted, except when necessary to avoid interference with other traffic or in compliance with the directions of a policeman or traffic control device.

Section 11-344 Unlawful Parking

- A. Parking at curb. No vehicle shall be parked with the left side of the vehicle next to the curb, except on one way streets. It shall be unlawful to stand or park any vehicle in a street other than parallel with the curb and with the two right wheels of the vehicle within twelve inches of the regularly established curb line except on those

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streets which have been marked for angle parking; then vehicles shall be parked at the angle to the curb indicated by such marks.

- B. Vehicles for sale. It shall be unlawful to park any vehicle on any street for the purpose of displaying it for sale, or to park any vehicle from which merchandise is peddled on any business street.
- C. Loading Zone. When so posted, it shall be unlawful for the driver of a passenger vehicle to stand or park such vehicle for a period of time longer than is permitted by the posted sign for the loading or unloading of passengers, or for the driver to stand or park any freight carrying vehicle for a period of time longer than is necessary to load, unload and deliver materials in any place designated as a loading zone and marked as such.
- D. Parking prohibited. It shall be unlawful for any person, except physicians on emergency calls or designated emergency vehicles when properly posted, to park any vehicle on any street in violation of the posted restrictions.
- E. Alley. No person shall park a vehicle within an alley in such manner or under such conditions as to leave less than ten feet of the width of the roadway available for the free movement of vehicular traffic. No person shall stop, stand, or park a vehicle within an alley in such a position as to block the driveway entrance to any abutting property.
- F. Cab Stands - Bus Stands. No vehicle other than a licensed taxicab shall be parked in any area designated by ordinance as a taxicab stand and no vehicle other than a bus shall be parked in a place so designated as a bus loading zone.
- G. Parking Prohibited. It shall be an infraction for any person to park or leave standing on any public road, street, alley or municipal property any vehicle for 48 or more consecutive hours, and any vehicle so parked or left standing may be impounded or removed by the chief of police. For purposes of impoundment and removal, the chief of police may impound and remove any vehicle which reasonably appears to have remained unmoved for 48 consecutive hours. The cost of

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impoundment and removal shall be charged to the owner or any person who claims the impounded vehicle.

Section 11-345 Parking and Operating Regulations

A. AUTHORITY TO DESIGNATE LIMITATIONS OR PROHIBITIONS

1. The Chief of Police shall have authority to prohibit or regulate the operation or parking of any class of vehicles or commercial or construction equipment, or to impose limitations as to the weight thereof, on designated streets, within the corporate limits of Kanab City, over which the City has jurisdiction.
2. Prohibitions or regulations may be imposed in any manner and to any extent deemed necessary by the Chief of Police, including but without limitation, restricting weight, size, hours of operation, types of vehicles, season or use, or any other designation deemed necessary.

B. NOTICE AND RECORD OF PROHIBITIONS - When in the opinion of the Chief of Police, it becomes necessary to exercise authority under Section 11-345-A above, the Chief of Police shall:

1. Direct the Public Works Director to designate by appropriate signs placed on such streets the prohibitions or limitations enacted. Said prohibitions or limitations shall not be enforced until after appropriate signs are erected.
2. File a copy of the directive to the Public Works Director with the City Manager.

C. APPROVAL BY THE CITY COUNCIL

1. Any directive issued by the Chief of Police under this Section shall be submitted for prior approval by the City Council in the regular City Council meeting. The City Council may approve, strike down or modify the prohibitions or limitations imposed.

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- D. EXEMPTED VEHICLES AND OPERATIONS - None of the prohibitions of limitations imposed under authority of this Section shall apply to the following:
1. Emergency vehicles
 2. Service vehicles in the normal course of their repair and/or maintenance work on public utilities and commercial operations.
 3. Semi-trucks or trailers in the process of commercial delivery or receipt of merchandise, goods, building materials or other items within the City, as long as the semi-trucks or trailers are actually engaged in loading or unloading operation.
 4. Semi-trucks or trailers that have become inoperable due to breakdowns or tire damage, as long as the semi-trucks or trailers do not remain parked for a continuous period of more than eight (8) hours.
 5. Recreational coaches, such as travel trailer, tent camper, camp car or other vehicle with or without motive power, designed and/or constructed to travel on the public thoroughfare in accordance with the provisions of the Utah Vehicle Code, and designed for use as human habitation for a temporary and recreational nature.
- E. STOPPING OR PARKING. PROHIBITION AS TO SPECIFIED AREAS.
1. It shall be unlawful to operate or park a vehicle on any street or section thereof of the City in violation of a designation, prohibition or limitation which has been posted by the Chief of Police.
 2. It shall be unlawful to park a vehicle exceeding seven feet (84") in width or twenty-two feet (22') in length on any street in front of a residence.
 3. It shall be unlawful to operate upon any street of the City in any platted subdivision, any vehicle that has a gross weight in excess of 20,000 pounds per vehicle.

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- F. No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic control device, in any of the following places:
1. On a sidewalk;
 2. In front or within five feet of a private driveway;
 3. Within an intersection;
 4. Within five feet of a fire hydrant;
 5. On a crosswalk;
 6. Within 20 feet of a crosswalk at an intersection;
 7. Within 30 feet upon the approach to any flashing beacon or traffic control device located at the side of a roadway;
 8. Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless authorized signs or markings indicate a different length;
 9. Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance when properly sign posted;
 10. Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct or be hazardous to traffic;
 11. Upon any bridge or other elevated structure upon a street or within a street tunnel or underpass;
 12. At any place where official signs or traffic markings prohibit stopping, standing or parking; or
 13. With the left-hand side of the vehicle to the curb except as otherwise permitted on one-way streets.

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- G. No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such distance as is unlawful.
- H. PENALTIES - Any person who parks or operates a vehicle on any City street in violation of this ordinance, shall be guilty of a Class C Misdemeanor. Nothing in this Section shall be constructed to prevent the City from invoking any other criminal or civil penalty as allowed by City Ordinance or State law, or from seeking recovery for the destruction or unlawful use of any street.
- I. SEVERABILITY - If any clause, section or paragraph of this ordinance is held to be unconstitutional or void for any reason, such holding shall not affect the remaining provisions.
- J. EFFECTIVE DATE - This ordinance being necessary for the safety, peace and health of this municipality, shall take effect immediately on publication.

Section 11-349 Dynamic Braking Device

It shall be unlawful for a person to operate any motor vehicle with a dynamic braking device engaged, except for the avoidance of imminent danger within this municipality.

The term "dynamic Braking Device" as used in this chapter means a device used primarily on trucks for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes, commonly referred to as a "Jacob' s Brake."

Section 11-350 Construction and Repair of Streets and Sidewalks

Section 11-351 Construction by Persons

It shall be unlawful for any person either as owner, agent, servant, contractor, or employee to construct a street or sidewalk which does not

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conform to specifications established by the municipal engineer or other authorized representative of the municipality, unless special permission to deviate from such specification is first obtained from the governing body.

Section 11-352 Permit Required - Supervision

- A. No person, either as owner, agent, servant, contractor, or employee, shall construct any permanent sidewalk without first obtaining from the recorder/clerk a permit so to do. The permit shall specify that the sidewalk be constructed of cement, the character and quality of the cement, the consistent parts of the mixture, and the thickness of the walk.
- B. It shall be unlawful to construct a sidewalk in violation of the specifications given by a proper municipal official.
- C. All sidewalks shall be constructed under the inspection of the superintendent of streets or his duly authorized representative.

Section 11-353 Construction of Driveways or Changes of Construction

It shall be unlawful for any person to construct a driveway across a sidewalk, or cut or change the construction of sidewalk, curb, or gutter without first making written application and obtaining from the recorder/clerk a permit to do so. The acceptance of such permit shall be deemed an agreement on the part of such person to construct said driveway in accordance with specifications furnished by the municipality.

Section 11-354 Building Materials in Street-Permit

It shall be unlawful for any person to occupy or use any portion of the public streets when erecting or repairing any building upon land abutting thereon, without first making application to and receiving from the governing body a permit for the occupation or use of such portions of streets for such periods of time and under such limitations and restrictions

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as may be required by the governing body. Any such permit may be revoked by the governing body at any time when the holder thereof fails to comply with any rule or regulation under which it is granted, or when, in the opinion of the governing body, the public interest requires such revocation.

Section 11-355 Placing or Mixing Sand or Gravel on Paved Street or Sidewalk

Unless a permit from the superintendent has been obtained, it shall be unlawful to:

- A. Place or pile, or permit to be placed or piled, any sand, gravel, lime, cement, mortar, plaster, concrete, or any like substance or mixture, or allow the same to remain on any portion of any paved street or sidewalk.
- B. Make or mix or permit to be made or mixed any mortar, plaster, concrete or any like substance or mixture on any portion of any paved street or sidewalk.

Section 11-356 Overflowing Of Water on Public Property

It shall be unlawful for any person to allow water to overflow from any ditch, canal, well, or irrigation stream onto the streets, sidewalks, or property of the municipality.

Section 11-357 Irrigation Ditches Across Sidewalks

All owners or occupants of lots in this municipality who require water from a main ditch for irrigation or other purposes shall dig ditches, erect flumes, lay pipes and install culverts, as needed, and maintain the same to convey water under sidewalks to or from their respective lots. All culverts, ditches, pipes and flumes conveying water under sidewalks shall

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meet such reasonable standards and specifications as may be established by the superintendent of streets.

Section 11-358 Removal of Sod, Earth from Streets or Other Property

No person shall dig, cut or remove any sod or earth from any street or other public place without a permit from the superintendent of streets.

Section 11-360 Sidewalk Regulations

Section 11-361 Removal of Snow

- A. It shall be unlawful for the owner, occupant, lessor, or agent of any property, abutting on a paved sidewalk to fail to remove, or have removed from such paved sidewalk, all hail, snow, or sleet thereon within a reasonable time after such snow, hail, or sleet has fallen. In the case of a storm between the hours of 5 p.m. and 6 a.m. such sidewalks shall be cleaned before 9 a.m. of the same day.
- B. It shall be unlawful for any person removing snow from the sidewalk, to deposit snow, dirt, leaves, or any other material in the gutter so as to clog or prevent the free flow of water therein.

Section 11-362 Placing Trash or Other Obstruction in Streets, Gutters, Sidewalks

It shall be unlawful for any person owning, occupying or having control of any premise to place, or permit to be placed upon or in the sidewalk, parking area, gutter, or on the half of the street next to such premise:

- i) Any broken ware, glass, filth, rubbish, sweepings, refuse matter, ice, snow, garbage, ashes, tin cans or other like substances.

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- ii) Any wagons, lumber, wood boxes, fencing, building material, dead trees, tree stumps, merchandise or other thing which shall obstruct such public street, gutter, parking area or sidewalk, or any part thereof, or the passage over and upon the same, or any part thereof, except as expressly authorized by ordinance, without the permission of the governing body first had and obtained.

Section 11-363 Operations in Street

It shall be unlawful to construct or maintain coal holes or other openings in streets or sidewalks, except with the special permission of the governing body, and under the direction and supervision of the superintendent of streets.

Section 11-364 Doors Opening Into Streets

It shall be unlawful for any person, firm, or corporation owning or having the control or management of any alley, road, or passageway to construct or hang gates or doors thereto, when open, shall project outwardly more than two feet over or upon the sidewalk beyond the property line.

Section 11-365 Discharge of Water on Street

It shall be unlawful for any person owning, occupying, or having control of any premise, to fail, refuse or neglect to prevent water from the roof or eaves of any house, building, or other structure, or from any other source under the control of such person to be discharged upon the surface of any sidewalk.

Section 11-366 Crossing At Intersections

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It shall be unlawful for any person to drive or park a self-propelled vehicle or lead, drive, or ride any animal upon any sidewalk except across a sidewalk at established crossings.

Section 11-367 Business to Keep Sidewalk Clean

It shall be unlawful for any owners or occupants of any place of business to refuse neglect or fail to cause the sidewalk abutting thereon to be swept or cleaned each morning before the hour of 9 a.m.

Section 11-368 Placing Goods on Sidewalks for Sale or Show

No goods, wares, merchandise shall be placed, maintained or permitted for sale or show in or on any parking area, street, or sidewalk beyond two feet from the front line of the lot, without first obtaining a permit in accordance with Section 9-05.

Section 11-369 Placing goods on Sidewalks for Receipt or Delivery

It shall be unlawful for any person to place, or suffer to be placed or kept upon any sidewalk, any goods, wares or merchandise which he may be receiving or delivering, without leaving a foot passageway upon such sidewalk. It shall be unlawful for any person receiving or delivering such goods, wares or merchandise to suffer the same to be or remain on such sidewalk for a longer period than four hours.

Section 11-370 Playing On Sidewalks

Every person who obstructs the sidewalk or street by playing any game or engaging in any activity which obstructs the free travel thereon is guilty of an infraction.

Section 11-371 Congregating On Sidewalks

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It is an infraction for any person or persons to congregate about or upon any sidewalks, stairway, doorway, window or in front of any business or dwelling house, theater, lecture room, church or elsewhere and by so doing to obstruct or interfere with the free passage of persons entering, leaving or occupying such building or premises.

Section 11-380 Excavations

Section 11-381 Permit Franchise Required

- A. No person shall make any excavation in any street, lane, or alley, or remove any pavement or other material from any street or improvement thereon without first obtaining a permit from the superintendent of streets or other authorized representative of the municipality.
- B. No person shall excavate any sidewalk without first obtaining a permit from the superintendent of streets or other authorized personnel.
- C. Nothing contained in this part shall be construed to waive the franchise required from any person by the ordinances of this municipality or laws of Utah.

Section 11-382 Excluded Excavations

The following types of excavations do not come within the scope of this part:

- A. Excavations of any kind in municipal streets in projects designed, contracted for, and inspected by the municipal engineer or other authorized personnel of the municipality.

Section 11-384 Preparation

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The pavement, sidewalk, driveway, or other surface shall be cut vertically along the lines forming the trench in such a manner as to not damage the adjoining pavement or hard surfacing. An undercut bevel at the rate of one inch per foot of thickness will be provided at the proposed junction between the old and new surfaces. The portion to be removed shall be broken up in a manner that will not cause damage to the pavement outside the limits of the trench. However, any pavement damaged by operations outside the limits of the trench shall be replaced. All waste material resulting from the excavation shall be removed immediately from the site of the work.

Section 11-385 Backfill

- A. Materials for backfill will be of select nature. All broken concrete, peat, decomposed vegetable matter and similar materials obtained from excavation will be removed from the site prior to beginning of backfilling. All backfilling will be placed in layers not over eight inches loose measure in thickness. Compaction will be obtained by mechanical rollers, mechanical tampers or similar means. Material for backfilling will have optimum moisture to insure compaction to a degree equivalent to that of the undisturbed ground in which the trench was dug. Jetting or internal vibrating methods of compacting sand fill or similar methods of compacting sand or similar granular free draining materials will be permitted.
- B. The density (dry) of the backfill under pavements, sidewalks, curbs, or other structures will be not less than that existing prior to excavation. The fill shall be restored and placed in a good condition which will prevent settling.

Section 11-386 Restoration of Surfaces

- A. General. All street surfacing, curbs, gutters, sidewalks, driveways, or other hard surfaces falling in the line of the excavation which must be removed in performance of the work shall be restored in kind by the

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excavator, unless otherwise directed by the governing body, in accordance with the specifications contained herein governing the various types of surfaces involved.

- B. Protection of Paved Surfaces. In order to avoid unnecessary damage to paved surfaces, track equipment shall use pavement pads when operating on or crossing paved surfaces.
- C. Time. In traffic lanes of paved streets, the excavator shall provide temporary gravel surfaces or cold mulch in good condition immediately after back fill has been placed, and shall complete permanent repairs on the street, sidewalk, curb, gutter, driveway and other surfaces, within five days from the date of completion of the backfill except for periods:
 - 1. When permanent paving material is not available.
 - 2. When weather conditions prevent permanent replacement.
 - 3. When an extension of time is granted by the superintendent of streets.
- D. Temporary Repair. If temporary repair has been made on a paved street with gravel and a permanent repair cannot be made within the time specified above due to any of the above mentioned conditions, then the excavator shall be required to replace the gravel with cold mulch as soon as possible.

Section 11-387 Restoring Bituminous

Concrete or asphalt street surfaces.

- A. Temporary grade surface. Where excavations are made in paved areas, the surface shall be replaced with a temporary gravel surface. The gravel shall be placed deep enough to provide a minimum of six inches below the bottom of the bituminous or concrete surface. Normally, this will require nine inches of gravel for bituminous surfaces, twelve inches of gravel for concrete, and concrete base for asphalt wearing surfaces. The gravel shall be placed in the trench at

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the time it is backfilled. The temporary gravel surface shall be maintained by blading, sprinkling, rolling, adding gravel, to maintain a safe, uniform surface satisfactory to the inspector until the final surface is laid. Excess material shall be removed from the premises immediately. Material for use on temporary gravel surfaces shall be obtained from sound, tough, durable gravel or rock meeting the following requirements for grading:

Passing 1-inch sieve	100 percent
Passing 3/4- inch sieve	85%- 100 percent
No. 4 sieve	45%- 65 percent
Passing No. 10 sieve	30%- 50 percent
Passing No. 200 sieve	5%- 10 percent

- B. Bituminous surface. The exposed edges of existing pavement shall be primed with Type MC-1 bituminous material. The type, grade, and mixture of the asphalt to be used for street surface replacement shall be approved by the superintendent of streets. The thickness shall be equal to the adjacent surface thickness but not less than three inches. The complete surface shall not deviate more than one-half inch between old and new work.

Section 11-388 Concrete Surfaces

The sub-base for concrete surfaces shall be sprinkled just before placing the concrete. Joints and surfaces shall be made to match the original surfaces. The thickness of concrete shall be equal to the adjacent concrete but in no case less than six inches thick. The mixing, cement, water content, proportion, placement, and curing of the concrete will be approved by the superintendent of streets. In no case shall the concrete have less compressive strength than 3,000 pounds per square inch at the end of 28 days.

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Section 11-389 Concrete Base, Bituminous Wearing Surfaces

This type of surfacing shall be constructed as above described.

Section 11-390 Gravel Surfaces

Trenches excavated through gravel-surfaced area, such as gravel roads and shoulders and unpaved driveways, shall have the gravel restored and maintained as described in part 11-388 of this part, except that the gravel shall be a minimum of one inch more than the thickness of the existing gravel.

Section 11-391 Protection of Public during Excavation Project

Excavation operations shall be conducted in such a manner that a minimum amount of interference or interruption of street traffic will result. Inconvenience to residents and businesses fronting on public streets shall be minimized. Suitable, adequate and sufficient barricades shall be available and used where necessary to prevent accidents involving property or persons. Barricades must be in place until all of excavator's equipment is removed from site and excavation has been backfilled and proper temporary gravel surface is in place. From sunset to sunrise all barricades and excavations must be clearly outlined by acceptable warning lights, lanterns, flares, and other devices. Police and fire departments shall be notified at least 24 hours in advance of any planned excavation requiring street closures or detour.

Section 11-392 Relocation and Protection of Utilities

An excavator shall not interfere with any existing utility without the written consent of the governing body and without advance notice to the owner of the utility. If it becomes necessary to relocate an existing utility, it shall be done by its owner unless the owner otherwise directs. No

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utility, whether owned by the municipality or by a private enterprise, shall be moved to accommodate the permittee unless the cost of such work be borne by the permittee or an expressly written agreement is made whereby the utility owner and the excavator make other arrangements relating to such cost. The permittee shall support and protect by timbers or otherwise all pipes, conduits, poles, wires, or other apparatus which may be in any way affected by the excavation work, and shall do everything necessary to support, sustain and protect them under, over, along, or across the work. In case any of the pipes, conduits, poles, wires, or apparatus should be damaged (and for this purpose pipe coating or other encasement or devices are to be considered as part of a substructure), they shall be repaired by the agency or person owning them, but the utility owner shall be reimbursed for the expense of such repairs by the permittee. It is the intent of this part that the permittee shall assume all liability for damage to substructures, and any resulting damage or injury to anyone because of such substructure damage and such assumption of liability shall be deemed a contractual obligation which the permittee accepts upon acceptance of an excavation permit. The municipality need not be made a party to any action because of this part. The permittee shall inform itself as to the existence and location of all underground utilities and protect the same against damage.

Section 11-393 Jetting Pipe

Jetting pipe by means of water under pressure, or compressed air, is permitted only when approved by the municipality.

Section 11-394 Inspection and Acceptance

- A. In order to insure proper backfill and restoration of surface, the permittee shall deposit a surety bond or cash deposit with the recorder/clerk payable to the municipality, except that a public utility operating or using any of the streets under a franchise from the municipality will not be required to furnish such bond, providing such

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franchise obligates the holder thereof to restore the streets and to hold the municipality harmless in the event of any injury to any person or damage to any property due to negligence of such holder in conducting excavation and restoration operations under such franchise. The required surety bond must be:

1. With good and sufficient surety.
 2. By a surety company authorized to transact business in the state.
 3. Satisfactory to the municipal attorney in form and substance.
 4. Conditioned upon the permittee's compliance with this part in order to secure and hold the municipality and its officers harmless against any and all claims, judgments, or other costs arising from the excavation and other work covered by the excavation permit or for which the municipality, the governing body or any municipal officer may be made liable by reason of any accident or injury to any person or property through the fault of the permittee arising out of failure to properly guard the excavation or for any other negligence of the permittee.
 5. Conditioned to fill up, restore and place in good and safe condition, as near as may be to its original condition, and to the satisfaction of the municipality, all openings and excavations made in streets, and to maintain any street where excavation is made in as good condition for the period of 24 months after the work shall be done, usual wear and tear excepted, as it was before the work shall have been done.
- B. The amount of the surety bond or cash deposit shall be established by resolution and may be changed from time to time, but until such resolution is passed the amount of the surety or cash deposit shall be \$200.00 and \$10.00 for each foot of street the permittee shall excavate.

Section 11: TRANSPORTATION, STREETS AND PUBLIC WAYS

Section 11-395 Application for Street Excavation Permit

It shall be unlawful for any person to break, excavate, tunnel, undermine, or in any manner affect the surface or base of any other excavated material obstructing or tending to interfere with the free use of the street, unless such persons shall first have obtained an excavation permit therefor from the recorder/clerk. Any public utility regulated by the state of Utah or holding a franchise from the municipality which in the pursuit of its calling has frequent occasion to open or make excavations in streets, may, upon application, receive a general permit from the municipality to cover all excavations such utilities may make within the streets of the municipality. All permits shall be subject to revocation and the municipality may refuse to issue a permit for failure of the permittee or applicant to abide by the terms and conditions of this part. Excavation permits will not be requested prior to excavation in case of emergency endangering life or property, providing the municipality is notified as soon as practicable and a permit is applied for upon the next regular working day following the emergency.

ORDINANCE NO. 5-2-16 O

AN ORDINANCE AMENDING KANAB CITY GENERAL ORDINANCE SECTION 14

WHEREAS, the City Council of Kanab desires to amend and clarify section 14 of the Kanab City General Ordinance.

WHEREAS, The Kanab City Council and staff have evaluated current ordinance requirements and has found the need for clarification.

NOW, THEREFORE, BE IT ORDAINED by the Kanab City Council that the Kanab City General Ordinance is hereby amended as reflected in the following 59 pages.

All former codes or parts thereof conflicting or inconsistent with the provisions of this Ordinance or of the Code hereby adopted are hereby repealed.

The provisions of the Code shall be severable, and, if any provision thereof or any application of such provision is held invalid, it shall not affect any other provisions of this code or the application in a different circumstance.

This ordinance shall be effective upon the required posting.

PASSED AND ORDERED POSTED this 10th day of, May 2016.

KANAB CITY

MAYOR

ATTEST:

RECORDER

KANAB

General Ordinances

Section 14: UTILITIES

- Section 14-100 Water
- Section 14-110 Water Department and System
- Section 14-110.1 Water & Streets Advisory Board
- Section 14-110.2 Terms of Office
- Section 14-110.3 Vacancies and Removals for Cause
- Section 14-110.4 Compensation
- Section 14-110.5 Officers
- Section 14-110.6 Quorum and Vote
- Section 14-110.7 Employees, Expenditures
- Section 14-110.8 Duties and Responsibilities
- Section 14-110.9 Reviews by City Council
- Section 14-110.10 Effective Date
- Section 14-110.11 Meetings
- Section 14-110.12 Bylaws
- Section 14-111 Public Works Director
- Section 14-112 Duties of the Public Works Director
- Section 14-113 Application for Water Connections
- Section 14-113.1 Application for Water Connection within the Kanab City Limits
- Section 14-113.2 Application for Water Connection outside the City Limits
- Section 14-113.3 Application for Water Service within the Kanab City Limits
- Section 14-113.4 Application for Water Service Outside Kanab City Limits
- Section 14-113.5 Severability
- Section 14-113.6 Effective Date
- Section 14-114 Application for Water Connection by Sub-divider
- Section 14-115 Application for Water Service
- Section 14-116 Non-Owner applicants - Agreement of Owner
- Section 14-117 Rates and Connection Fees
- Section 14-117.1 Security Deposits
- Section 14-118 Special Rates
- Section 14-119 Board of Equalization, Rates, and Rebates
- Section 14-120 Use without Payment Prohibited
- Section 14-121 Delinquency-Discontinuance of Service

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KANAB

General Ordinances

Section 14: UTILITIES

Section 14-122	Turning On Water after Being Turned Off Prohibited
Section 14-123	Separate Connections
Section 14-124	Unauthorized Users
Section 14-125	Period for Visitors
Section 14-126	Pipes to Be Kept In Good Repair
Section 14-127	Quality of Service Pipe
Section 14-128	Faulty Equipment
Section 14-129	Sprinkling Vehicles
Section 14-130	Department To Have Free Access
Section 14-131	No liability for Damages
Section 14-132	Water Not Supplied for Motors, Siphons, Etc.
Section 14-133	Sprinklers
Section 14-134	Scarcity of Water
Section 14-135	Waste of Water
Section 14-136	Water Meters
Section 14-137	Permits for Installation
Section 14-138	Applications for Installation Permit
Section 14-139	Moving or Replacement of Water Lines
Section 14-140	When Permits Shall Not Be Issued
Section 14-141	Discontinuance of Service
Section 14-141.1	Temporary Discontinuance of Service
Section 14-142	Fire Hydrants
Section 14-143	Extension of Water Mains within the Municipality
Section 14-144	Cost of Extensions Determined
Section 14-145	Amount of Cost to Be Deposited With Recorder
Section 14-146	Return of Any Money-Forfeiture
Section 14-147	Ownership of Extension
Section 14-148	Water Meter Relocation
Section 14-149	Minimum Size and Depth
Section 14-150	Service Outside Municipality
Section 14-151	Supply of Water Services to Person outside the Municipal Limits
Section 14-152	Petitions for Service
Section 14-153	Extensions May Be Master Metered
Section 14-154	Cost of Extensions to Be Determined By Water <u>Public</u> <u>Works Director</u>

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General Ordinances

Section 14: UTILITIES

Section 14-160	Back Flow and Cross Connections
Section 14-161	Purpose
Section 14-162	Definitions
Section 14-163	Contamination and Backflow Prevention
Section 14-164	Water Service Connection
Section 14-165	Cross-Connection Prevention
Section 14-166	Installation of Backflow Prevention Assembly
Section 14-167	Specifications for Backflow Prevention Assemblies
Section 14-168	Maintenance of Backflow Prevention Assembly
Section 14-169	Testing Of Backflow Prevention Assemblies
Section 14-170	Nonconforming Backflow Prevention Assemblies
Section 14-171	Water System Inspection
Section 14-172	Discontinuance of Service
Section 14-173	Enforcement
Section 14-200	Sewers
Section 14-210	Administration
Section 14-211	Sewer Department and System
Section 14-212	Public Works Director <u>Public Works Director</u>
Section 14-213	Duties of the <u>Public Works Director</u>
Section 14-214	Application for Sewer Service
Section 14-215	Non-Owner Applicants - Agreement by Owner
Section 14-216	Rates and Connection Fees
Section 14-216.1	Service Charge Procedure
Section 14-217	Special Rates
Section 14-218	Board of Equalization, Rates and Rebates
Section 14-219	Delinquency - Discontinuance of Service
Section 14-220	Use of Sewer System Mandatory
Section 14-221	Qualified Plumbing Necessary
Section 14-222	Permits for Installations
Section 14-223	When Permits Shall Not Be Issued
Section 14-224	Revocation of Permits
Section 14-225	Pipes to Be Kept In Good Repair
Section 14-226	Quality of Service Pipe
Section 14-227	Department To Have Free Access
Section 14-228	Trial Sewer Survey
Section 14-230	Regulation and Control of Sewer

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Section 14: UTILITIES

Section 14-231	Prohibited Uses
Section 14-232	Regulations
Section 14-233	Ownership of Connecting Lines
Section 14-234	Sewer Man-Holes
Section 14-235	Destruction
Section 14-400	Utility Offenses
Section 14-410	Definitions
Section 14-411	Interference with Utility Service
Section 14-412	Theft of Utility Service
Section 14-413	Presumption
Section 14-414	Penalties
Section 14-415	Restitution
Section 14-500	Uniform Utility Billing Ordinance
Section 14-501	Name
Section 14-502	Billing
Section 14-503	Due Date
Section 14-504	Monthly Minimum
Section 14-505	Late Charges
Section 14-506	Involuntary Disconnect Procedures
Section 14-507	Voluntary Disconnect Procedures
Section 14-600	Municipal Hookup Fees
Section 14-610	Hookup Fees Imposed
Section 14-700	Municipal Impact Fees
Section 14-710	Municipal Impact Fees Imposed
Section 14-711	Definitions.
Section 14-712	Written Impact Fee Analysis
Section 14-713	Impact Fee Calculations
Section 14-714	Capital Facilities Plan
Section 14-715	Impact Fee Schedules and Formulas
Section 14-716	Fee Exceptions and Adjustments
Section 14-717	Adjusted to Reflect Inflationary Costs
Section 14-720	Service Area
Section 14-730	Adjustment of Impact Fee
Section 14-740	Accounting, Expenditure and Refund of Impact Fees
Section 14-750	Administrative Challenges and Appeals Procedure

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General Ordinances

Section 14: UTILITIES

Section 14-100 Water

Section 14-110 Water Department and System

The water department of the municipality is hereby created. It shall administer the operation and maintenance of the water system of the municipality.

Section 14-111 ~~Public Works Director~~Public Works Director

There is hereby created the position of ~~Public Works Director~~Public Works Director.

Section 14-112 Duties of the ~~Public Works Director~~

The ~~Public Works Director~~ shall manage and supervise the municipal water system pursuant to the provisions of this part and pursuant to resolutions, rules, and regulations adopted by the governing body from time to time prescribing his powers and duties and directing the manner and frequency with which he shall make reports to the mayor relating to the water system. All of the functions and activities of the ~~Public Works Director~~ shall be carried on under the direction of the mayor.

Section 14-113.3 Application for Water Service within the Kanab City Limits

Comment [j1]: Doesn't exist.

Deleted: Section 14-110.1 Water & Streets Advisory Board ¶
Creation and Establishment of a Water and Streets Board¶
The Board shall consist of 5 members who shall be recommended by the City Council member in charge of Water and Streets and appointed by the Mayor with the consent of the City Council. Board members shall serve a term of four years and until their successors are appointed; provided, that the members first appointed shall be appointed for such terms that two members shall serve until 12/31/01, and their successors are appointed and the remaining members shall serve until 12/31/02, and their successors are appointed. A member of the Board shall be the City Council person in charge of water and streets or the Mayor. Vacancies shall be filled by City Council appointment for the unexpired term of the Board Member. Members may serve additional terms at the request of the appointing body. The members of the water and streets board shall serve in that capacity without compensation.¶

Section 14-110.2 Terms of Office¶ (...)

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Deleted: superintendent

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Comment [j2]: City says that they do not do "Connections," but that the application for water service encompasses any connection.

Deleted: Section 14-113 Application for Water Connections

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Section 14: UTILITIES

Any person who desires or is required to secure water service when such service is available from the municipal water system, shall file with the water department a written application and agreement for the service which shall be in substantially the following form:

KANAB, UTAH

APPLICATION FOR WATER SERVICE

TO THE MUNICIPALITY OF KANAB CITY, UTAH

The undersigned hereby applies for water service from the municipality of Kanab, Utah, for premises located at _____, and hereby agrees:

1. To pay charges for such water service as are fixed from time to time by the governing body until such time as I shall direct such service to be discontinued.
2. In the event of a failure to pay water charges within the due dates fixed by the governing body or of a failure of the occupant of the premises to conform to the ordinances and regulations established by the governing body regulating the use of the water system, that the municipality shall have the right to discontinue the water system service at its election, pursuant to five days written notice of the municipality's intention mailed to the address of service, until all delinquencies and any re-connection fees imposed are paid in full or until any failure to conform to this ordinance or regulations issued thereunder is eliminated.
3. To be bound by the rules, regulations, resolutions, or ordinances enacted or adopted by the governing body applicable to the municipality's water system.
4. Applicant does hereby deposit \$_____ with the municipality on the filing of this application for water service, and it is agreed and understood that the municipality may, but need not, apply the deposit upon bills due for prior service and that the right of the municipality to shut off service as above provided shall exist even though the deposit has not been applied to the payment of past due bills for services. On final settlement of applicant's account, any unused balance of the deposit will be refunded to applicant upon return of the security deposit receipt issued by the

KANAB

General Ordinances

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municipality at the time the deposit was made.

5. The deposit shall not be considered as an advance payment for any service. Charges and unpaid accounts shall be considered delinquent notwithstanding the existence of the deposit, and the applicant or user of water service shall not have the right to compel the municipality to apply the deposit to any account to avoid delinquency.

6. In the event of collection, to pay a reasonable attorney's fees and costs of court.

DATED this _____ day of _____, 20_____.

Applicant

Section 14-113.4 Application for Water Service Outside Kanab City Limits

Any person who desires or is required to secure water service when such service is available from the municipal water system, to property located outside the Kanab City limits, shall file with the water department a written application and agreement for the service which shall be in substantially the following form:

Comment [j3]: Currently, the City does not accept new applicants that live outside city limits (not sure why). But we should leave this in in case things change.

KANAB, UTAH

APPLICATION FOR WATER SERVICE

OUTSIDE KANAB CITY LIMITS

The undersigned hereby applies for water service from the municipality of Kanab, Utah, for premises located at _____ and hereby agrees:

1. To pay charges for such water service as are fixed from time to time by the governing body until such time as I shall direct such service to be discontinued.

2. In the event of a failure to pay water charges within the due dates fixed by the governing body or of a failure of the occupant of the premises

Section 14: UTILITIES

to conform to the ordinances and regulations established by the governing body regulating the use of the water system, that the municipality shall have the right to discontinue the water system service at its election, pursuant to five days written notice of the municipality's intention mailed to the address of service, until all delinquencies and any re-connection fees imposed are paid in full or until any failure to conform to this ordinance or regulations issued thereunder is eliminated.

3. To be bound by the rules, regulations, resolutions, or ordinances enacted or adopted by the governing body applicable to the municipality's water system.

4. Applicant does hereby deposit \$_____ with the municipality on the filing of this application for water service, and it is agreed and understood that the municipality may, but need not, apply the deposit upon bills due for prior service and that the right of the municipality to shut off service as above provided shall exist even though the deposit has not been applied to the payment of past due bills for services. On final settlement of applicant's account, any unused balance of the deposit will be refunded to applicant upon return of the security deposit receipt issued by the municipality at the time the deposit was made.

5. The deposit shall not be considered as an advance payment for any service. Charges and unpaid accounts shall be considered delinquent notwithstanding the existence of the deposit, and the applicant or user of water service shall not have the right to compel the municipality to apply the deposit to any account to avoid delinquency.

6. In the event of collection, to pay a reasonable attorney's fees and costs of court.

7. It is understood and agreed that this agreement is for the supply of surplus water only as determined available by the City Council and this agreement shall at all times be subject to obligations of the City to supply its inhabitants with water as required by Article XI, Section 6 of the Constitution of Utah, and the provision of Utah Code Ann. 10-8-14. In the event of shortages, absence of surplus, or circumstances requiring the

Section 14: UTILITIES

use of the City's surplus waters within the corporate limits of the City the delivery of waters by the City under this agreement may be restricted or terminated, either temporarily or permanently, without liability to the City. In the event of termination of less than 30 days duration or restriction of any duration, the City shall give reasonable notice thereof to the user. In the event of permanent termination, the City shall give the user sixty (60) days written notice thereof.

8. It is understood and agreed that user may be receiving its water supply through lines, mains or systems not owned by Kanab City and that the City assumes no liability or responsibility for said lines, mains, or systems.

DATED _____ this _____ day of _____, 20_____.

Section 14-113.5 Severability

If any clause, section or paragraph of this ordinance is held to be unconstitutional or void for any reason, such holding shall not affect the remaining provisions.

Section 14-114 Application for Water Connection by Sub-divider

Whenever a sub-divider or developer desires or is required to install water connections and extensions for a subdivision or development, the sub-divider or developer shall enter into a written extension agreement which shall constitute an application for permission to make the extensions and connections and an agreement specifying the terms and conditions under which the water extensions and connections shall be made and the payments that shall be required.

Section 14-116 Non-Owner applicants - Agreement of Owner

Applications for water service made by the tenant of an owner must in addition to the above requirements be guaranteed by an agreement

Deleted: Section 14-113.6 Effective Date¶

This ordinance being necessary for the safety, peace and health of this municipality, shall take effect immediately on posting. ¶

Comment [j4]: Currently, the city does not do a separate application for developers. Do we want to keep it separate?

Comment [j5]: City does not currently do this, but it is a good idea to do it.

Deleted: Section 14-115 Application for Water Service

Deleted: ¶
Any person who desires or is required to secure water service when such service is available from the municipal water system, shall file with the water department a written application and agreement for the service which shall be in substantially the following form:¶

KANAB, UTAH¶
APPLICATION FOR WATER SERVICE¶
TO THE MUNICIPALITY OF KANAB CITY, UTAH¶
The undersigned hereby applies for water service from the municipality of Kanab, Utah, for premises located at _____

- _____, and hereby agrees:¶
1. To pay charges for such water service as are fixed from time to time by the governing body until such time as I shall direct such service to be discontinued.¶
 2. In the event of a failure to pay water charges within the due dates fixed by the governing body or of a failure of the occupant of the premises to conform to the ordinances and regulations established by the governing body regulating the use of the water system, that the municipality shall have the right to discontinue the water system service at its election, pursuant to five days written notice of the municipality's intention mailed to the address of service, until all delinquencies and any re-connection fees imposed are paid in full or until any failure to conform to this ordinance or regulations issued thereunder is eliminated.¶
 3. To be bound by the rules, regulations, resolutions, or ordinances enacted or ...

Section 14: UTILITIES

signed by the owner of the premises or his duly authorized agent in substantially the following form:

In consideration of the acceptance of the application for water service submitted by _____ (tenant), I or we will pay for all water services for any such tenant or any other occupant of _____ premises in case such tenant or occupant shall fail to pay for the same according to the ordinances, rules regulations or resolutions enacted by the municipality.

Dated this _____ day of _____, 20_____.

(Owner)

Section 14-117 Rates and Connection Fees

The rates, penalty fee for delinquency in payment, connection fee, reservoir fee, inspection fee and other charges incidental to connection and services from the municipal water system shall be fixed from time to time by resolution enacted by the governing body. The governing body may from time to time promulgate rules for levying, billing, guaranteeing and collecting charges for water services and all other rules necessary for the management and control of the water system. Rates for services furnished shall be uniform with respect to each class or classes of service established or that may hereafter be established.

Section 14-117.1 Security Deposits

- A. Applicants for culinary water service who are not the owners of the real property upon which the requested service is intended to be used shall deposit the sum of \$50 with the City Treasurer as security for payment of culinary water charges incurred by such user.
- B. The security deposit shall be returned to the depositor, together with the interest thereon at the rate of 9% per annum computed annually,

Comment [j6]: Double check. Seems high.

Section 14: UTILITIES

after the closing and final billing has been determined and paid or upon request after five consecutive years of payment without delinquency.

- C. The amount of the security deposit required herein or rate of interest payable thereon may be amended from time to time by resolutions of the City Council.

Section 14-118 Special Rates

The governing body may from time to time fix by agreement or resolution special rates and conditions for users using exceptionally large amounts of water service or making use of the water system under exceptional circumstances, upon such terms and conditions as they may deem proper.

Section 14-119 Board of Equalization, Rates, and Rebates

The governing body is hereby constituted a board of equalization of water rates to hear complaints and make corrections of any assessments deemed to be illegal, unequal, or unjust. They may, if they see fit, rebate all or any part of the water bill of any indigent person.

Section 14-120 Use without Payment Prohibited

It shall be unlawful for any person by himself, family, servants, or agents to utilize the municipal water or sewer system without paying therefor, as herein provided or, without authority, to open any fire hydrant, stopcock, valve, or other fixtures attached to the system of water supply unless it is done pursuant to proper application, agreement, or resolution. It shall be unlawful to injure, deface, or impair any part or appurtenance of the water or sewer system, or to cast anything into any reservoir or tank belonging to the water system.

Section 14-121 Delinquency-Discontinuance of Service

Section 14: UTILITIES

- A. The recorder/clerk or water supervisor shall furnish to each user, or mail to, or send notice electronically, or leave at his place of residence or usual place of business, a written or printed statement stating thereon the amount of water service charges assessed against him once each month or at such other regular interval as the governing body shall direct.
- B. The statement shall specify the amount of the bill for the water service and the place of payment and date due. If any person fails to pay the water charges on or before the date due, the recorder/clerk or water supervisor shall give the customer notice in writing of intent to discontinue the service to the customer unless the customer pays the bill in full within ten (10) days from the date of notice.
- C. If the water service is thereafter discontinued for failure to make payment, then before the water service to the premises shall again be provided, all delinquent water charges must have been paid to the treasurer or arrangements made for their payment in a manner satisfactory to the municipality. In the event water is turned off for nonpayment of water charges, then before the water service to the premises shall again be provided, the customer shall pay, in addition to all delinquent water charges, such extra charge for turning the water on and off as the governing body may have established by resolution. Until such a resolution has been adopted, there shall be added an extra charge of \$40.00 for turning on the water. Furthermore, in addition to such payments and penalties, a delinquent customer may be required to make and file a new application and deposit if the previous deposit has theretofore been applied to the payment of delinquent bills. The recorder/clerk is hereby authorized and empowered to enforce the payment of all delinquent water charges by an action at law in the name of the municipality.

Comment [J7]: We can delete this if there is a different rate established.

Section 14-122 Turning On Water after Being Turned Off Prohibited

Section 14: UTILITIES

It shall be unlawful for any person, after the water has been turned off from the premises for nonpayment of water charges or other violation of the ordinances, rules, regulations, or resolutions pertaining to the water supply, to turn on or allow the water to be turned on or used without authority from the Public Works Director or recorder/clerk.

Deleted: superintendent

Section 14-123 Separate Connections

It shall be unlawful for two or more families or service users to be supplied from the same service pipe, connection or water meter unless special permission for such combination usage has been granted by the governing body and the premises served are owned by the same owner. In all such cases, a failure on the part of any one of the users to comply with this section shall warrant a withholding of a supply of water through the service connection until compliance or payment has been made, and in any event, the property owner shall be primarily liable to the municipality to require separate pipes, connections, or meters at a subsequent time.

Section 14-124 Unauthorized Users

It shall be unlawful for any water service user to permit any person from other premises or any unauthorized person to use or obtain water services regularly from his premises or water facilities, either outside or inside his premises.

Section 14-125 Period for Visitors

Individuals visiting the premises of an authorized user in a recreational vehicle not including a mobile home and continuing to live therein during the period of visitation may receive water service from the service pipes or facilities of the host during the visitation period which shall not exceed one month. Continued use thereafter shall be deemed unauthorized and volatile of the provisions of this part relating to separate connections and unauthorized use.

Section 14: UTILITIES

Section 14-126 Pipes to Be Kept In Good Repair

All users of water services shall keep their service pipes and connections and other apparatus in good repair and protected from frost at their own expense. No person except under the direction of the Public Works Director shall be allowed to dig into the street for the purpose of laying, removing, or repairing any service pipe.

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Section 14-127 Quality of Service Pipe

A. All service and other pipe used in conjunction with the water services of the municipality shall be of such material, quality, and specifications as the governing body may from time to time by resolution provide, and shall be installed at such distances below the ground as may be specified by regulations relating to the water department. All work, alterations, or extensions affecting water pipes shall be subject to the acceptance of the Public Works Director, and no connections with any water mains shall be made without first obtaining a permit therefor from the recorder/clerk.

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Deleted: superintendent

B. No consumer shall be permitted to conduct water pipes across lots or buildings to adjoining premises without permission from the Public Works Director and subject to such requirements relating to controls as may be imposed by him.

Deleted: water superintendent

Section 14-128 Faulty Equipment

It shall be unlawful for any water user to:

- A. Waste water.
- B. Allow it to be wasted by stops, taps, valves, leaky joints or pipes or to allow tanks or watering troughs to leak or overflow.
- C. Wastefully run water from hydrants, faucets, or stops or through basins, water closets, urinals, sinks, or other apparatus.

Section 14: UTILITIES

D. Use the water for purposes other than for those which he has applied, or to use water in violation of the rules and regulations for controlling the water supply.

Section 14-129 Sprinkling Vehicles

Vehicles for sprinkling shall be regulated and controlled by the water department through the Public Works Director.

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Section 14-130 Department To Have Free Access

The Public Works Director and his agents shall at all ordinary hours have free access to any place supplied with water services from the municipally system for the purpose of examining the apparatus and ascertaining the amount of water service being used and the manner of its use.

Deleted: water superintendent

Section 14-131 No liability for Damages

The municipality shall not be liable for any damage to a water service user by reason of stoppage or interruption of his or her water supply service caused by fires, scarcity or water, accidents to the water system or its mains, or which occurs as the result of maintenance and extension operations, or from any other unavoidable cause. This section shall not be construed to extend the liability of the municipality beyond that provided in the Governmental Immunity Act.

Section 14-132 Water Not Supplied for Motors, Siphons, Etc.

No water shall be supplied from the pipes of the municipal water system for the purpose of driving motor, siphon, turbine, or other wheels, or any hydraulic engines, or elevators, or for driving or propelling machinery of any kind whatsoever, nor shall any license be granted or issued for any such purpose except by special permission of the governing body.

Section 14: UTILITIES

Section 14-133 Sprinklers

- A. It shall be unlawful for any person to use such number of outlets simultaneously or to use such sprinkler or combinations of sprinkler or outlets as will in the opinion of the governing body materially affect the pressure or supply of water in the municipal water system or any part thereof, and the governing body may from time to time, by resolution, specify combinations or numbers of outlets which may have such effect.
- B. The governing body shall, after determining that such improper use exists, notify the affected water user or the owner of the premises whereon such use occurs of such determination in writing, order such use discontinued and advise that such continues usage constitutes a violation of this part.

Section 14-134 Scarcity of Water

In time of scarcity of water, whenever it shall in the judgment of the mayor and the governing body be necessary, the mayor shall by proclamation limit the use of water to such extent as may be necessary. It shall be unlawful for any person, his family, servants, or agents, to violate any proclamation made by the mayor in pursuance of this part.

Section 14-135 Waste of Water

- A. Users of water from the municipal water system shall not permit water to continue to run wastefully and without due efforts to conserve water. If, in the judgment of the Public Works Director or of any of the officers of the municipality, a user of municipal water engages in practices which result in the needless waste of water and continues so to do after reasonable notice to discontinue wastefulness has been given, the Public Works Director or any officer may refer the matter to the governing body.
- B. The governing body may thereupon consider terminating the right of the individual to use culinary water. If it elects to consider the matter

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Section 14: UTILITIES

of termination, it shall give notice to the water user of the intention to terminate his water connection at least five days prior to the meeting of the governing body at which termination of water service is to be considered. The notice shall inform him of the time and place of the meeting and of the charges which lead to the consideration of the termination.

- C. A water user whose right to utilize municipal water is being reviewed shall have opportunity to appear with or without counsel and present his reasons why his water service should not be discontinued.
- D. After due hearing the governing body may arrive at a determination. If the determination is to discontinue the wasteful water user's service connection, it shall notify him of the decision and of the period during which the service will remain discontinued.

Section 14-136 Water Meters

- A. Except as otherwise expressly permitted by this part, all structures, dwelling units, establishments and persons using water from the municipal water system must have such number of water meters connected to their water system as are necessary in the judgment of the Public Works Director to adequately measure use and determine water charges to the respective users.
- B. Meters will be furnished by the municipality upon application for a connection, and upon payment of such connection fees and other costs as may be established by the governing body from time to time.
- C. Meters shall be deemed to be and remain the property of the municipality. Whenever a dispute between the Public Works Director and the property owner arises as to the appropriate number of meters to be installed on any premises, the matter shall be heard and determined by the governing body after due notice in writing to the parties involved.

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- D. The Public Works Director shall cause meter readings to be taken regularly and shall advise the recorder/clerk thereof for the purpose of recording the necessary billings for water service.
- E. Meters may be checked, inspected or adjusted at the discretion of the municipality, and they shall not be adjusted or tampered with by the customer. Meter boxes shall not be opened for the purpose of turning on or off the water except by an authorized representative of the municipality unless special permission is given by the municipality through its representatives to the customer to do so.
- F. If a customer submits a written request to the Public Works Director to test his water meter, the municipality may, if under the circumstances it deems it advisable and in its discretion, order a test of the meter measuring the water delivered to such customer. If such request is made within twelve months after the date of the last previous test, the customer may be required to pay the cost of such test. If the meter is found in such test to record from 97% to 103% of accuracy under methods of testing satisfactory to the governing body, the meter shall be deemed to accurately measure the use of water.
- G. If the municipality's meters fail to register at any time, the water delivered during the period of failure shall be estimated on the basis of previous consumption during a period which is not questioned. In the event a meter is found to be recording less than 97% or more than 103% of accuracy, the municipality shall make such adjustments in the customer's previous bills as are just and fair under the circumstances.
- H. All damages or injury to the lines, meter, or other materials of the municipality on or near the customer's premises caused by any act or neglect of the customer shall in the discretion of the municipality be repaired by and at the expense of the customer, and the customer shall pay all costs and expenses, including a reasonable attorney fee, which may arise or accrue to the municipality through its efforts to repair the damage to the lines, meters, or to other equipment of the department or collect such costs from the customer.

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Section 14-137 Permits for Installation

It shall be unlawful for any person to lay, repair, alter, or connect any water line to the municipal culinary water system without first having received a construction permit from the office of the recorder/clerk or from the Public Works Director.

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Section 14-138 Applications for Installation Permit

A. Applications for permits to make water connections or other alteration or for laying or repairing lines connected directly or indirectly to the municipal water system must be made in writing by a licensed plumber, his authorized agent, or by the owner of the premises who shall describe the nature of the work to be done for which the application is made.

The application shall be granted if the Public Works Director determines that:

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1. The connection, repair, alteration or installation will cause no damage to the street in which the water main is laid, or that it will not be prejudicial to the interests of persons whose property has been or may thereafter be connected to the water main.
2. The connection conforms to the ordinances, regulations, specifications and standards of materials required by the municipality.
3. That the applicant has a current valid building permit for the lot which he is requesting the water connection.
4. The minimum monthly water fee shall begin when the applicants permit is granted for the installation of the water meter. All connections, alterations or installations shall be to the line and grade designated by the Public Works Director.

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B. Fees for permits or for inspection services shall be of such amounts as the governing body shall from time to time determine by resolution.

This Ordinance shall be effective immediately from its publication.

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Section 14-139 Moving or Replacement of Water Lines

In the event that the municipality in its sole discretion determines that any water line of the municipality must be moved or replaced, the municipality shall bear that portion of the cost of such move or replacement which applies to main lines up to the property line of the customer. The cost of re-connecting such new line or lines from the house of the customer to his property lines shall be borne by the customer.

Section 14-140 When Permits Shall Not Be Issued

Permission to connect with the municipal water system shall not be given unless the plumbing in the house or building to be connected meets the provisions of the building and plumbing codes of the municipality.

Section 14-141 Discontinuance of Service

Any customer desiring to discontinue service shall notify the municipality in writing of such fact at least ten days before the date when such service shall be discontinued. On giving such written notice, the customer shall not be responsible for water bill incurred after the date specified in the notice. Any credit balance in favor of the customer as a result of an advance payment of bills or a deposit made will be refunded upon discontinuance of service. The City may, in its discretion, accept such notice orally.

Section 14-141.1 Temporary Discontinuance of Service

- A. In the event a customer discontinues his services as provided in 14-141, and at the time of discontinuance of service said user indicates the discontinuance of service will be temporary, the municipality shall, in its discretion, have the water meter physically removed or locks installed.

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- B. A customer shall be charged a fee of ~~\$40.00~~ for reinstallation of a water meter removed pursuant to this Section, or for re-connection of water at the customer's address in the event the water meter was not physically removed.
- C. The fee charged in this ordinance may be amended from time to time by resolution of the City Council.

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Section 14-142 Fire Hydrants

Water for fire hydrants will be furnished free of charge by the municipality. Installation and repairs on such hydrants shall be at the expense of the municipality and shall be made under the direction of the municipality. All customers shall grant the municipality, upon demand, a right-of-way or easement to install and maintain such hydrants on their premises if the municipality concludes that hydrants shall be so installed for the protection of the residents of the municipality.

Section 14-143 Extension of Water Mains within the Municipality

Any person or persons, including any sub-divider, who desires to have the water-mains extended within the municipality, and is willing to advance the whole expense of such extension and receive the return of an agreed portion thereof, as hereinafter provided, may make application to the governing body by petition. The petition shall contain a description of such proposed extension accompanied by a map showing the location of the proposed extension together with an offer to advance the whole expense thereof, which cost shall be verified by the Public Works Director. The governing body may grant or deny the petition as in its discretion seems best for the welfare of existing water users in the municipality.

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Section 14-144 Cost of Extensions Determined

Upon the receipt of such petition and map and before the petition is granted, the governing body shall obtain from the Public Works Director a

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certified statement showing the whole cost of expense of making such extension.

Section 14-145 Amount of Cost to Be Deposited With Recorder

If the governing body grants the petition, the amount of the cost of making the extension, as certified by the Public Works Director shall be deposited with the recorder/clerk before any work shall be done on such extension. The deposit shall be made within 30 days, or such other time as the governing body shall indicate, after the granting thereof.

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Section 14-146 Return of Any Money-Forfeiture

- A. At the time the governing body decides whether or not to grant petition for an extension, it shall also decide whether or not any portion of the costs is to be refunded and the manner and circumstances under which such refund shall be made or credited to the applicant, his successors or representatives. Such determination shall be duly recorded in writing and a copy thereof furnished to the applicant.
- B. In the event any deposit remains unclaimed for a period of five years after the depositor has discontinued water service, the deposit may be forfeited and then transferred to the water utility fund.

Section 14-147 Ownership of Extension

Any such extension shall be deemed the property of the municipality.

Section 14-148 Water Meter Relocation

- A. Any person who has applied for a water connection to the City's water supply, but has not installed the water meter may transfer his rights under said application to any other person or to an entirely different location.

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- B. The transfer of such rights as are provided in this Ordinance shall not be allowed after the water meter has been installed. The right to transfer said installation rights shall terminate once work has commenced to install the said water meter.
- C. Any property owner may have his water meter relocated on the same lot or to an adjoining parcel of property where said meter will service the original residence. The property owner requesting the relocation shall be charged for the actual cost of labor and materials in relocating the water meter and any water lines necessary in making the change.
- D. Water meter relocations provided for in this Ordinance shall be prohibited in all subdivisions which are not in compliance with City, County or State law.
- E. Any property owner connected to the City's water supply, shall be required to have his water meter located on or near the same lot, where said meter will service the customer. The municipality in its sole discretion will determine the exact location of said meter. The property owner requiring the relocation shall be charged for the actual cost of labor and materials in relocating the water meter and any water lines.

Section 14-149 Minimum Size and Depth

The minimum depth of cover for water mains shall be 3 feet below the final grade or the street. Where final grades have not been established, mains shall be installed to depth great enough to insure 3 feet of cover below future grade based on the best information available. The minimum size water line shall generally be 6 inches in diameter. Some 4-inch diameter lines may be used in single-family residential areas where the distance between connecting mains is 450 feet or less and for short dead-end runs.

Valves generally shall be located at street intersection in line with an extension of property line. Fire hydrants shall be spaced and located as follows:

- A. At each intersection, generally on alternate sides of the street.

Comment [j8]: This section transferred from Chapter 16 (which we completely eliminated).

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- B. In residential areas, fire hydrant spacing shall be no greater than 500 feet from a fire hydrant via a public access to the property being served.
- C. In multiple family, industrial, business or commercial areas, fire hydrant spacing shall not be greater than is allowed by the Uniform Fire Code.
- D. Generally, hydrants should be located in line with extensions of the property line when located in line with extensions of the property line when located mid-block.
- E. Hydrants shall be placed about 5 feet from the curb, with a 5-foot elliptical radius of clearance at adjacent obstacles and with the lowest water outlet not less than 18 inches or more than 30 inches from the final ground elevation.
- F. All hydrant installation must be on dedicated easements or public right-of-way and are to be owned maintained by the City of Kanab Utilities Department.

Section 14-150 Service Outside Municipality

Section 14-151 Supply of Water Services to Person outside the Municipal Limits

The municipality may furnish water service from its water system to persons outside the municipality in accordance with the provisions of this part.

Section 14-152 Petitions for Service

Any person located outside the municipal limits who desires to be supplied with water services from the municipal water system and is willing to pay in advance the whole expense of extending the water system to his property, including the cost of extending any water main beyond its

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present location, may make application to the governing body by petition containing:

- A. A description of the proposed extension.
- B. A map showing the location thereof.
- C. An offer to pay the whole expense incurred by the municipality in providing such extension and to advance such expense as shall be verified to by the Public Works Director. The governing body and the person or persons seeking such extension may enter into an agreement providing in detail the terms under which the extension may be utilized by others in the future and the terms under which all or any portion of the cost of installing such extension may be refunded.
- D. An acknowledgment that the municipality is granting the petition need supply only such water to the petitioner which from time to time the governing body deems beyond the requirements of water users within the municipal limits, and that such extension shall be the property of and subject to the control of the municipality.

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Section 14-153 Extensions May Be Master Metered

When an extension supplying more than one house or user outside the municipal limits is connected to municipal water mains, the Public Works Director may require a master meter to be installed near the point where the connection is to be made to the municipal main. This installation will be at the expense of the persons served by such extension according to the regular rates for meter installation. Responsible parties must agree to pay all bills for water served through the meter at the applicable water rates.

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Section 14-154 Cost of Extensions to Be Determined By Public Works Director

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Upon receipt of such petition and map and before the petition is granted, the governing body shall determine what portion, if any, of the extension of the municipal water mains to the municipal limits the municipality shall construct, and shall obtain from the Public Works Director a verified statement showing the whole cost and expense of making such extension. Such costs and expenses shall include administrative and supervisory expenditures of the municipal water department, which shall in no event be deemed to be less than ten percent of the cost of materials and labor.

Section 14-160 Back Flow and Cross Connections

Section 14-161 Purpose

This Ordinance is enacted:

- A. To protect the public potable water supply of Kanab City from the possibility of contamination or pollution by isolating within the customer's internal distribution system(s) such contaminants or pollutants which could backflow into the public water system either by back-pressure or back-siphon.
- B. To eliminate or control existing cross-connections, actual or potential, between the customer's in-plant potable water system(s), and non-potable water system(s), plumbing fixtures and industrial piping system(s).
- C. To provide for the maintenance of a continuing program of cross connection control which will systematically and effectively prevent the contamination or pollution of all potable water systems.

Public Works Director~~Public Works Director~~,

Section 14-168 Maintenance of Backflow Prevention Assembly

It is the responsibility of the person or persons (including owners and lessees) having control of backflow prevention assemblies installed in a potable water supply system for protection against backflow to assure that such assemblies are maintained in good working condition. Upon

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Comment [J9]: These crossed out sections are already covered in the International Plumbing Code, which is adopted by state code.

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Section 14-162 Definitions

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<#>Approved Backflow Assembly:¶
Approved Backflow Assembly shall mean that assembly which is accepted by the Utah Department of Health as meeting an applicable specification or as suitable for the proposed use.¶
<#>Auxiliary Water Supply:¶
Auxiliary Water Supply shall mean any water supply on or available to the premises other than Kanab City's public water supply. These auxiliary waters may include water from another public potable water supply or any natural sources such as a well, spring, river, stream, etc., or "used waters" or "industrial fluids". These waters may be contaminated or polluted or they may be objectionable and constitute an unacceptable water source over which Kanab City does not have authority for sanitary control.¶
<#>Backflow:¶
Backflow shall mean the reversal of the normal flow of water caused by either back-pressure or back siphon.¶
<#>Back-Pressure:¶

Deleted: shall give notice in writing to said customer to install such an approved backflow prevention assembly(s) at specific location(s) on his premises. The customer shall immediately install such approved assembly(s) at the customer's own expense and failure, refusal or

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¶
Section 14-165 Cross-Connection Prevention¶

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inspection, any assembly found to be defective or inoperative shall be replaced or repaired. No assembly shall be removed from use, relocated, or substituted without the approval of the Public Works Director.

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Section 14-169 Testing Of Backflow Prevention Assemblies

- A. Only Certified Backflow Assembly Technicians shall do the testing, maintenance and/or repair of backflow prevention assemblies. The Certified Technician shall tag each double check valve, pressure vacuum breaker, reduced pressure backflow assembly and air gap, showing the serial number of the assembly, date tested and by whom. The technician's license number shall also be on this tag. Tests are made according to the regulations set forth by the State Department of Health, Bureau of Drinking Water/Sanitation.
- B. A technician making any test shall report the results of that test to the customer, the Kanab City Public Works Director and the Bureau of Drinking Water/Sanitation. If such a commercial tested assembly is in need of repair, a licensed plumber shall make the actual repair as required by Utah Code Ann. 58A-2-5-(3).
- C. Backflow prevention assemblies shall be inspected and tested at least once per year at the expense of the owner, lessee or user of the premises. In those instances where the Public Works Director deems the hazard to be great, he may require certified inspections and tests at a more frequent interval. These inspections and tests shall be performed by a Certified Backflow Assembly Technician.
- D. All backflow prevention assemblies shall be tested within ten (10) working days of initial installation.
- E. No backflow prevention assembly shall be installed so as to create a safety hazard or in violation of any plumbing, building or other code.

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Section 14-170 Nonconforming Backflow Prevention Assemblies

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All presently installed backflow prevention assemblies which do not meet the requirements of this section but were approved assemblies for the purposes described herein at the time of installation and which have been properly maintained, shall, except for the inspection and maintenance requirements under this ordinance, be excluded from the requirements of these rules if the Public Works Director determines they will satisfactorily protect the public water system. The unit shall be replaced by an approved backflow prevention assembly meeting the requirements of this ordinance whenever the existing assembly is moved from the present location or requires more than minimum maintenance, or when the Public Works Director finds that the maintenance of this assembly constitutes a hazard to health.

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Section 14-171 Water System Inspection

The customer's system shall be open for inspection at all reasonable times to the Public Works Director to determine whether cross connections or other structural or sanitary hazards, including violations of this ordinance, exist. When such a condition becomes known, the Public Works Director shall deny or immediately discontinue service to the premises by providing a physical break in the service line until the customer has corrected the condition in conformance with the State and City statutes relating to plumbing, water supplies and the regulations adopted pursuant thereto.

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Section 14-172 Discontinuance of Service

Service of water to any premises shall be discontinued by the Public Works Director if any violation of this ordinance is suspected, or if a backflow prevention assembly required by this ordinance for control of backflow and cross connections is not installed, tested, and maintained, or if it is found that a backflow prevention assembly has been removed, bypassed, or if an unprotected cross connection exists on the premises. Service shall not be restored until such conditions or defects are corrected.

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Section 14-173 Enforcement

The Kanab City Public Works Director is invested with the authority and responsibility for the implementation of an effective cross connection control or cross connection containment program and for the enforcement of the provisions of this ordinance.

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Section 14-200 Sewers

Section 14-210 Administration

Section 14-211 Sewer Department and System

The sewer department is hereby created. It shall comprise all of the property, equipment and personnel necessary to the maintenance and operation of the municipality's sewage collection and disposal system. The department shall administer the operation and maintenance of the municipal water system.

~~Public Works Director~~Public Works Director,

Section 14-213 Sewer Duties of the Public Works DirectorPublic Works Director

The Public Works DirectorPublic Works Director shall manage and supervise the municipality's sewer system under the direction of the governing body which from time to time shall by resolution or otherwise prescribe his powers and duties and direct the manner and frequency with which he shall make reports to the mayor relating to the sewer system.

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Section 14-212 Superintendent

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There is hereby created the position of superintendent

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Section 14-214 Application for Sewer Service

Any person who desires or is required to secure sewer service when such service is available from the municipal sewer systems shall apply therefor

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to the recorder/clerk and file an agreement with the municipality which shall be in substantially the below stated form:

APPLICATION FOR SEWER SERVICE

(Date)

TO THE MUNICIPALITY OF KANAB:

The undersigned hereby applies for sewer services from the municipality for premises located at _____ and hereby agrees to pay charges for such sewer services as shall be fixed by the governing body of the municipality by resolution or ordinance until such time as I shall direct such service to be discontinued.

In the event of a failure to pay for this service within the due dates fixed by the governing body or of a failure of the occupant of the premises to conform to the ordinances and regulations established by the governing body relating to the use of the sewer system, the municipality shall have the right to discontinue my water service from the municipal water system until all delinquencies and any re-connection fees imposed are paid in full or until any failure to conform to the sewer ordinances or regulations issued thereunder is eliminated.

Additionally, I agree that the municipality shall have the right to institute collection proceedings by all means available to it, including suit in a court of proper jurisdiction. The applicant agrees to pay all costs of collection including court costs and attorney's fees.

The undersigned agrees to be bound by the rules, regulations, resolutions, or ordinances enacted or adopted by the governing body of the municipality applicable to the municipality's sewer system.

(signed)

Section 14-215 Non-Owner Applicants - Agreement by Owner

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Applications for sewer services made by the tenant or an owner must in addition to the above requirement be guaranteed by an agreement signed by the owner of the premises or his duly authorized agent to the following effect:

In consideration of the acceptance of the application for sewer service submitted by (any present or future tenant) _____, I, or we, will pay for all sewer services furnished to such tenant, or other occupant of _____ (premises) , in case such tenant or occupant shall fail to pay for the same according to the ordinances, resolutions, rules or regulations of the municipality.

(Owner)

Section 14-216 Rates and Connection Fees

The rates, penalty fee for delinquency in payment and connection fees for sewer services from the municipal sewer system shall be fixed from time to time by resolution or ordinance of the governing body. The governing body may from time to time enact rules for levying, billing, guaranteeing and collecting charges for sewer services and all other rules necessary for the management and control of the sewer system.

Section 14-216.1 Service Charge Procedure

- A. PURPOSE - The purpose of this ordinance shall be to generate sufficient revenue to pay all costs for the operation and maintenance of the complete wastewater system. The costs shall be distributed to all users of the system in proportion to each user's contribution to the total loading of the treatment works. Factors such as strength (BOD and TSS), volume, and delivery flow rate characteristics shall be considered and included as the basis for the user's contribution to

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ensure a proportional distribution of operation and maintenance costs to each user (or user class).

- B. ANNUAL COST OF OPERATION AND MAINTENANCE - The City of Kanab, or its City Engineer, shall determine the total annual costs of operation and maintenance of the wastewater system which are necessary to maintain the capacity and performance, during the service life of the treatment works, for which such works were designed and constructed. The total annual cost of operation and maintenance shall include, but need not be limited to labor, repairs, equipment replacement, maintenance, necessary modifications, power, sampling, laboratory tests, and a reasonable contingency fund.
- C. WASTEWATER CONTRIBUTION PERCENTAGE - The City of Kanab, or its City Engineer, shall determine for each user or user class the average daily volume of wastewater discharged to the wastewater system, which shall then be divided by the average daily volume of all wastewater discharged to the wastewater system to determine such user's volume contribution percentage. The amount used as the total average daily volume of wastewater shall exclude infiltration and inflow. The City of Kanab, or its City Engineer, shall determine for each user or user class the average daily poundage of 5-day 20-degree Centigrade Biochemical Oxygen Demand (BOD) discharged to the wastewater system which shall then be divided by the average daily poundage of all 5-day BOD discharged to the wastewater system to determine such user's BOD contribution percentage.
 - 1. The City of Kanab, or its City Engineer, shall determine for each user or user class the average daily total suspended solids (TSS) poundage discharged to the wastewater system which shall then be divided by the average daily poundage of all TSS discharged to the wastewater system, to determine such user's TSS contribution percentage. The volume contribution percentage, BOD contribution percentage and TSS contribution percentage for each user or user class shall be multiplied by the annual operation and maintenance costs for wastewater treatment of

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the total volume flow, total 5-day 20-degree centigrade BOD and total TSS, respectively.

- D. SURCHARGE FOR EXCESS BOD AND TSS - The City of Kanab, or its City Engineer, will assess a surcharge rate for all nonresidential users discharging wastes with BOD and TSS strengths greater than the average residential user. Such users will be assessed a surcharge sufficient to cover the cost of treating their above-normal strength wastes. Normal strength wastes are considered to be 120 ppm BOD and 150 ppm TSS. The surcharge rate structure for such above-normal strength waste dischargers is attached (Appendix A).
- E. SERVICE CHARGE - Each non-residential user's wastewater treatment cost contributions as determined in Sections 3 and 4 shall be added together to determine such user's annual wastewater service charge. Residential users may be considered to be one class of user and an equitable service charge may be determined for each user based on the estimate of the total wastewater contribution of this class of user. The governing body may classify industrial, commercial, and other non-residential establishments as a residential user, provided that the wastes from these establishments are equivalent to the wastes from the average residential user with respect to volume, total suspended solids, and BOD. Each user's wastewater treatment cost contribution will be assessed in accordance with the attached rate schedule (Appendix B).
- F. WASTEWATER FACILITIES REPLACEMENT FUND - A reserve fund called the Wastewater Facilities Replacement Fund is hereby established within the wastewater utility fund for the purpose of providing sufficient funds to be expended for obtaining and installing equipment, accessories and appurtenances during the useful life (20 years) of the wastewater treatment facilities necessary to maintain the capacity and performance for which such facilities are designed and constructed (Appendix C).
- G. PAYMENT OF SERVICE CHARGE AND PENALTIES - The City shall submit an annual statement to the user for the user's annual wastewater service charge or one-twelfth of the user's annual

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Section 14: UTILITIES

wastewater service charge may be included with the monthly water and/or wastewater utility billings. The City shall add a penalty of \$5.00 if the payment is not received by the City within 60 days. Should any user fail to pay the user wastewater service charge and penalty within 60 days of the due date, the City may stop the wastewater service to the property.

- H. REVIEW OF SERVICE CHARGE - The City shall review the total annual cost of operation and maintenance as well as each user's wastewater contribution percentage not less often than every two years and will revise the system as necessary to assure equity of the service charge system established herein and to assure that sufficient funds are obtained to adequately operate and maintain the wastewater treatment works. The City shall apply excess revenues collected from a class of users to the costs of operation and maintenance attributable to that class for the next year and adjust the rate accordingly. If a significant user, such as an industry, has completed in-plant modification which would change that user's wastewater contribution percentage, the user can present, at a regularly scheduled meeting of the governing body, such factual information and the City shall then determine if the user's wastewater contribution percentage is to be changed. The City shall notify the user of its findings as soon as possible.
- I. NOTIFICATION - Each user will be notified, at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to wastewater treatment services.
- J. WASTES PROHIBITED FROM BEING DISCHARGED TO THE WASTEWATER TREATMENT SYSTEM - The discharge of any waters containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly, or by interaction with other wastes, to contaminate the sludge of any municipal systems, or to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisances, or create any hazard in or have an adverse effect on the waters receiving any discharge from the treatment works is hereby prohibited.

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1. Each user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge of the Kanab City Treatment Works shall pay for such increased costs.
 2. (Article No. V of the City's "Regulation of Sewer Use" ordinance contains additional requirements covering the use of the City's public sewers.)
- K. PROHIBITION OF CLEAR WATER CONNECTIONS - No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
- L. PROPER DESIGN AND CONSTRUCTION OF NEW SEWERS AND CONNECTIONS - The size, slope, alignment, materials of construction of all sanitary sewers and sewer connections, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City of Kanab and the State of Utah. In the absence of code provision or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9 shall apply.
1. (Article No. IV of the City's "Regulations of Sewer Use" ordinance contains additional requirements covering the proper design and construction of the City's sanitary sewers, building sewers, and connections.)
- M. VALIDITY - All ordinances or parts of ordinances in conflict herewith are hereby repealed.
- N. ORDINANCE IN FORCE - This ordinance shall be in full force and effect from and after its passage, approval, recording, and publication as provided by law.

Comment [j10]: Does this exist?

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APPENDIX A

SURCHARGE RATE SCHEDULE FOR ABOVE-NORMAL STRENGTH WASTES

The City of Kanab, or its Engineer, has determined that the average total suspended solids (TSS) and 5-day biochemical oxygen demand (BOD) daily loadings for the average residential user are 120 ppm BOD and 150 ppm TSS. The City of Kanab, or its Engineer, has assessed a surcharge rate for all non-residential users discharging wastes with BOD and TSS strengths greater than the average residential user. The surcharge will be sufficient to cover the costs of treating such users' above normal strength wastes. Such users will pay an additional service charge of 1.7 cents per 1,000 gallons for each 25 ppm over 150 ppm TSS.

APPENDIX B

RATE SCHEDULE

~~Users are assessed a charge of \$10.05 per month.~~

Comment [J11]: City does not currently use this formula to charge non residents differently than residents, nor does it use water flow to measure sewer rates.

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APPENDIX C

WASTEWATER FACILITIES REPLACEMENT FUND SCHEDULE

The reserve fund, called the Wastewater Facilities Replacement Fund, will not be required since all components of the wastewater treatment facility have a life expectancy of at least 20 years.

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Non-residential users with volumes greater than the average residential user will pay an additional charge of \$0.176 per 1,000 gallons per month for all flows greater than the average residential user's flow of 3,600 gallons per month.¶ Any non-residential user with BOD and TSS greater than the average residential user's strength of 120 ppm BOD and 150 ppm TSS will pay a surcharge in accordance with the rates shown in the surcharge rate schedule.

Section 14-217 Special Rates

The governing body may from time to time fix by agreement or resolution special rates and conditions upon such terms as they may deem proper

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for users of the sewer service discharging wastes of unusual characteristics or making use thereof under exceptional circumstances.

Section 14-218 Board of Equalization, Rates and Rebates

The governing body is hereby constituted a board of equalization of sewer rates to hear complaints and make corrections of any assessments or charges deemed to be illegal, unequal, or unjust.

Section 14-219 Delinquency - Discontinuance of Service

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- A. The sewer department, or such other person as the governing body may designate, shall furnish to each user or mail or leave at his place of residence or usual place of business, a written or printed statement stating the sewer service charges assessed against him once each month or at such other regular intervals as the governing body shall direct. The statement shall specify the amount of the bill, the place of payment, and the date due.
- B. If any person fails to pay his sewer charges within 10 days of the date due, the recorder/clerk or the Public Works Director shall give the customer notice in writing of the intent to discontinue the service of water to the premises unless the customer pays the bill in full within five days from date of notice.
- C. If the water service is thereafter discontinued for failure to make payment of the sewer service charges, before the water service to the premises shall again be provided, all delinquent sewer charges must have been paid to the municipal treasurer or arrangements made for their payment that are satisfactory to the municipality.
- D. In the event water is turned off for nonpayment of sewer charges, before the water service to the premises shall again be provided, the customer shall pay, in addition to all delinquent charges, such extra charge for turning the water on and off as the governing body may have established by resolution or ordinance.
- E. If any person fails to pay his sewer charges within 10 days of the due date, the recorder/clerk or the sewer supervisor is hereby authorized

Comment [J12]: To make it the same as water bill.

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to take all action necessary to enforce collection, including but not limited to the commencement of legal proceedings in a court of proper jurisdiction seeking judgment for the amount of the delinquent fees and service charges and all costs of collection, including court costs and attorney's fees.

Section 14-220 Use of Sewer System Mandatory

It shall be unlawful for the owner or any other person occupying or having charge of any premises within the municipality which are located within 300 feet of a sewer main to dispose of sewage therefrom by any means other than by use of the municipal sewer system. It shall be unlawful to construct or to continue the use of any other sewage disposal system such as a privy, vault, cesspool, or septic tank on the property except by written approval of the governing body in cases of undue hardship.

Section 14-221 Qualified Plumbing Necessary

It shall be unlawful for any person to connect any drain or sewer pipe with the municipal sewer system unless the person is a duly licensed plumber or unless, in the absence of a duly licensed plumber, any proposed connection to, alteration of, or change of connection to the sewer system shall be first submitted to the Public Works Director~~Public Works Director~~ for review and approval. After such approval, the installation or work done shall be subject to inspection by the Public Works Director or his agent.

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Section 14-222 Permits for Installations

It shall be unlawful for any person to directly or indirectly engage in the laying, repairing, altering or connecting of any drain or sewer pipe connected with or part of the municipal sewer system without first having received a permit from the office of the recorder/clerk or the Public Works Director~~Public Works Director~~.

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Section 14-223 When Permits Shall Not Be Issued

Permits to connect to the municipal sewer system shall not be issued unless the plumbing in the house or building to be connected is in accordance with the provisions of the building and plumbing codes of the municipality.

Section 14-224 Revocation of Permits

All construction permits for sewer connections or installations shall be issued to the plumber who is to do the work or to the owner of the property, subject to the supervision and inspection by the Public Works Director or his agents. The recorder/clerk or Public Works Director may at any time revoke a permit because of defective work or because of undue delay in completing the permitted work.

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Section 14-225 Pipes to Be Kept In Good Repair

All users of the sewer services shall keep their service pipes, connections, and other apparatus in good repair and protected from frost at their own expense. No person, except under the direction of the Public Works DirectorPublic Works Director, shall be allowed to dig into the street for the purpose of removing or repairing any sewer service pipe or main.

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Section 14-226 Quality of Service Pipe

All service and other pipes used in conjunction with the sewer services of the municipality shall be of such material, quality and specifications as the governing board may from time to time by resolution provide and shall be installed at such distances below ground as may be specified by regulations relating to the sewer department. All work, alterations or extensions affecting sewer pipes shall be subject to the acceptance of the Public Works DirectorPublic Works Director, and no connections with sewer mains shall be made without first obtaining a permit therefor from the recorder/clerk.

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Section 14-227 Department To Have Free Access

The ~~Public Works Director~~ Public Works Director and his agents shall at all ordinary hours have free access to places supplied with sewer services from the municipal system for the purpose of examining the apparatus, ascertaining the sewer service being used and the manner of its use.

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Section 14-228 Trial Sewer Survey

In order to determine the feasibility of connecting a basement or proposed basement to the sanitary sewer, the owner or plumber may make application for a trial sewer survey, the cost of which shall be as established from time to time by resolution of the governing body. The result of a trial sewer survey shall not constitute a permit to connect to the sewer and is merely for information purposes.

Section 14-230 Regulation and Control of Sewer

Section 14-231 Prohibited Uses

- A. Inflammables. It shall be unlawful for any person to injure, break or remove any part or portion of any sewer appliance or appurtenance, or to discharge into a sewer any inflammable gas, gasoline or oil, any calcium carbide or residue therefrom, or any liquid or other materials or substance which will emit an inflammable gas when in contact with water, sewage or fire. Oil separators installed in any building where volatile fluids are used must not be connected directly or indirectly with a sewer.
- B. Waste pipes from enumerated establishments. The contents of waste pipes from water filters, gas engines, air compressors, vacuum or dry cleaners, garages, wash racks, stores or warehouses containing inflammable substances, car barns, buildings for the stabling or keeping of horses, cows and other animals, or plants using milk or

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processing milk products, and all similar establishments shall not be disposed of through connection with a sanitary sewer unless such contents are discharged into settling tanks properly trapped and vented. The construction of such tanks must be approved by the municipal engineer, and must be subject to his inspection, approval, or condemnation before cement is poured and at all times thereafter until completion of such construction. Upon condemnation by the municipal engineer, the sewage from the tanks shall not be allowed to flow into the sewer until satisfactory alterations have been made and the construction approved by the municipal engineer.

- C. Obstructive material. It shall be unlawful for any person to empty or discharge into the public sanitary sewer any garbage, refuse or other similar matter or substance likely to obstruct the sewer, or any substance, solid or liquid other than the waste products for which the sewer is provided.
- D. Drainage waters and destructive materials. It shall be unlawful for any person to connect with a public sanitary sewer any drain or pipe which discharges rain water, cellar or surface water, acids, alkalies, lye or other injurious liquids, or the contents of any spring, flowing well, creek, ditch, or other water courses. No boiler or heating plant shall be directly connected to the sanitary sewer. The overflow from boilers or heating plants, when cooled to a temperature not to exceed 120 degrees Fahrenheit, will be allowed to run to a sump, which sump shall be connected to the sewer. The discharge of the contents of waste pipes from water filter, gas engines, air compressors, vacuum or dry cleaner, garages, wash racks, stores or warehouses which contain inflammable substances, animals, and all similar establishments, shall not be made into or connected with a sanitary sewer, unless such contents are discharged in to settling tanks properly trapped and vented. Settling tanks shall be constructed of a material approved by the Public Works Director and shall be at all times subject to his inspection and approval or condemnation. Upon condemnation by the Public Works Director, the sewage from said tanks shall not be allowed to flow in to sewer until satisfactory

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alterations have been made and the construction approved by the Public Works Director.

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Section 14-232 Regulations

The governing body shall have power to and retains the right to adopt regulations controlling the manner and circumstances under which the sewer system may be used in addition to the regulatory provisions set forth expressly in this section.

Section 14-233 Ownership of Connecting Lines

Unless provision is expressly made for ownership of mains or lines by the owner of the adjacent property by means of written agreement, all lines and mains connecting the sewer system to a land owner or resident's premises which are situated on the public way between the main and the property line shall be deemed to be the property of the municipality and subject to its absolute control and supervision even though actual installation may have been performed by the owner or resident of the premises.

Section 14-234 Sewer Man-Holes

It shall be unlawful for any person to open any sewer man-hole without permission from the Public Works Director.

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Section 14-235 Destruction

It shall be unlawful for any person to destroy, deface, injure, or interfere with the operation of any part or appurtenance of the sewer system.

Section 14-400 Utility Offenses

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Section 14-410 Definitions

As used in this Part:

- A. "Owner" includes any part-owner, joint owner, tenant in common, joint tenant, or tenant by the entirety of the whole or a part of any building and the property on which it is located.
- B. "Person" means any individual, firm partnership, corporation, company, association, or other legal entity.
- C. "Tenant or occupant" includes any person including the owner, who occupies the whole or part of any building whether alone or with others.
- D. "Utility" means any public utility, municipally-owned utility, or cooperative utility which provides electricity, gas, water, or sewer, or any combination of them, for sale to consumers.

Section 14-411 Interference with Utility Service

A person is guilty of interference with a utility service if he commits any of the following acts. Any person aiding and abetting in these prohibited acts is a principal and is so punishable. Prohibited acts include:

- A. connecting any tube, pipe, wire, or other instrument with any meter, device, or other instrument used for conducting gas, electricity, water, or sewer in a manner as permits the use of the gas, electricity, water, or sewer without its passing through a meter or other instrument recording the usage for billing;
- B. altering, injuring, or preventing the normal action of a meter, valve, stopcock, or other instrument used for measuring quantities of gas, electricity, water, or sewer service;
- C. reconnecting gas, electricity, water, or sewer connections or otherwise restoring service when one or more of those utilities have been lawfully disconnected or turned off by the provider of the utility service;

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- D. intentionally breaking, defacing, or causing to be broken or defaced any seal, locking device, or other part of a metering device for recording usage of gas, electricity, water, or sewer service, or a security system for the recording device;
- E. removing a metering device designed to measure quantities of gas, electricity, water, or sewer service;
- F. transferring from one location to another a metering device for measuring quantities of public utility services of gas, electricity, water, or sewer service;
- G. changing the indicated consumption, jamming the measuring device, bypassing the meter or measuring device with a jumper so that it does not indicate use or registers use incorrectly, or otherwise obtaining quantities of gas, electricity, water, or sewer service from the utility without their passing through a metering device for measuring quantities of consumption for billing purposes;
- H. using a metering device belonging to the utility that has not been assigned to the location and installed by the utility; or
- I. fabricating or using a device to pick or otherwise tamper with the locks used to deter utility service diversion, metering tampering, and meter thefts.

Section 14-413 Presumption

When a device or alteration is present on property which device or alteration cause the use of utility service not to register on a meter or to otherwise not be recorded for payment, there shall be a presumption that the person in possession of the property installed the device or caused the alteration if:

- A. the presence of the device or alteration can be attributed only to a deliberate act in furtherance of an intent to avoid payment for utility service; and

Comment [J13]: Already a state code crime, 76-6-409.3

Deleted: Section 14-412 Theft of Utility Service

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A person is guilty of theft of a utility service if he commits any of the following acts which make gas, electricity, water, or sewer available to a tenant or occupant, including himself, without the payment of full compensation to the utility. Any person aiding and abetting in these prohibited acts is a principal and is so punishable. Prohibited acts include:¶

<#>connecting any tube, pipe, wire, or other instrument with any meter, device, or other instrument used for connecting gas, electricity, water, or sewer in a manner as permits the use of the gas, electricity, water, or sewer without its passing through a meter or other instrument recording the usage for billing;¶

<#>altering, injuring, or preventing the normal action of a meter, valve, stopcock, or other instrument used for measuring quantities of gas, electricity, water, or sewer service;¶

<#>reconnecting gas, electricity, water, or sewer connections or otherwise restoring service when one or more of those utilities have been lawfully disconnected or turned off by the provider of the utility service;¶

<#>intentionally breaking, defacing, or causing to be broken or defaced any seal, locking device, or other part of a metering device for recording usage of gas, electricity, water, or sewer service, or a security system for the recording device;¶

<#>removing a metering device designed to measure quantities of gas, electricity, water, or sewer service;¶

<#>transferring from one location to another a metering device for measuring quantities of public

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- B. the person in possession of the property has received the direct benefit of the reduction of the cost of the utility service.

Section 14-414 Penalties

A person who violates provisions of this part is guilty of a Class B Misdemeanor.

Section 14-415 Restitution

- A. A person who violates this section shall make restitution to the utility for the value of the gas, electricity, water, or sewer service consumed in violation of this section plus all reasonable expenses and costs incurred on account of the violation of this section. Reasonable expenses and costs include expenses and costs for investigation, disconnection, re-connection, service calls, employee time, and equipment use.
- B. Criminal prosecution under this section does not affect the right of a utility to bring a civil action for redress for damages suffered as a result of the commission of any of the acts prohibited by this section.
- C. This section does not abridge or alter any other right, action, or remedy otherwise available to a utility.

Section 14-500 Uniform Utility Billing Ordinance

Section 14-501 Name

This Ordinance shall be known as the "Uniform Utility Billing Ordinance."

Section 14-502 Billing

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All charges for water, sewer and electrical services provided by the City shall be billed monthly on a combined statement (the "statement"), together with charges for solid waste collection services.

Section 14-503 Due Date

All charges billed on the statement shall be due and payable on the due date provided on the statement. The due date shall be the date printed on the statement that is mailed. Bills ordinarily will be rendered regularly at monthly intervals, but may be rendered more frequently at the Department's option. Non-receipt of bills by the Customer shall not release or diminish the obligation of the Customer with respect to payment thereof. All payments received by the City shall be allocated among the charges billed on the statement according to procedures determined by the City's independent auditor. Those procedures shall be based on requirements of the City's debt obligations and limitations in the City's computer facilities.

Section 14-504 Monthly Minimum

When a Customer receives service for less than thirty (30) days during the billing period, ~~charges shall be prorated.~~

Comment [J14]: Current custom

Deleted: the applicable monthly minimum shall apply.

Section 14-505 Late Charges

A late charge equal to five percent (5%) of all charges not paid on the due date thereof is hereby assessed. The late charge shall be due and payable with all other unpaid charges.

Section 14-506 Involuntary Disconnect Procedures

In the event any customer fails to pay all charges billed for electrical, water, and sewer services, and any late charges assessed, on or before the due date on the statement, the customer shall be subject to the following disconnect procedures:

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- A. The customer shall be mailed at the customer's last known address a notice providing ~~that the customer's water service shall be disconnected if all delinquent charges for water and sewer services and all related late charges are not paid within ten (10) days of the date of the notice. The customer shall be informed in that notice that the customer may request a hearing to be held within that ten (10) day period to challenge the correctness of charges.~~
- B. In the event any portion of any bill is disputed, including questions relating to metering, the disputed amount shall be paid under protest when due. Said protest must be in written form and must be received by the Department on or before the due date of the bill in question. The protest shall be referred to the Department Manager for resolution. Upon their written determination of the amount due, the Customer may appeal to the Utility Hearing Officer. In the absence of such an appeal, the determination of the Department Manager shall be final. If protest is not made as herein provided, no adjustment will be made.
- C. The City Manager and/or his designee is hereby appointed as Utility Hearing Officer for the City. If a customer requests in writing that a hearing be held during normal business hours within that 10 day period and that writing is received by the City no later than 24 hours prior to the time for the hearing , the Utility Hearing Officer shall hold an informal hearing with the customer to determine if the charges are correct. The hearing may be continued by the Utility Hearing Officer from time to time in order for the Officer to assemble evidence. The determination of the Utility Hearing Officer shall be announced to the customer at the hearing and that determination. Any further appeal of that decision shall be done in accordance with Chapter 3 of the Land Use Ordinance. The Utility Hearing Officer shall not have any authority to consider questions of hardship or inability to pay.
- D. If all delinquent charges for water and sewer services and all related late charges are not paid within the 10 day period and are incorrect, the water services for the customer shall be disconnected. The water meter may be removed from the premises as part of the

Deleted: (1) that the customer's electrical service shall be disconnected if all delinquent charges for electrical services and all related late charges are not paid within ten (10) days of the date of the notice, and (2)

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disconnection process, if such removal is deemed necessary by the City utility personnel to prevent unauthorized re-connection to the City water system.

- E. The water services may only be reconnected for the customer if the following are paid:
1. A water reconnect charge of \$40.00
 2. All outstanding late charges for water and sewer services
 3. All delinquent charges for water and sewer services
 4. All applicable deposits are made, and
 5. Any Attorney fees and Court costs incurred in the collection of past due water and sewer services.

Section 14-507 Voluntary Disconnect Procedures

In the event a customer desires to disconnect the water service, the service shall be disconnected by the City. The City may, for security purposes, remove the water meters as part of the disconnection process. Then, if service is again requested by that customer, a single reconnect charge of \$40.00 per utility service shall be paid to reconnect the service disconnected.

Any provision of this Ordinance held invalid shall be ineffective to the extent of such invalidity without affecting or invalidating the remaining provisions of this Ordinance. This Ordinance then supersedes and repeals that portion of any Ordinance or Resolution that is inconsistent with the provisions of this Ordinance.

FEE FOR DISCONNECT NOTICE The fee for a disconnect notice to a Kanab City Customer, pursuant to Section 14-500, the Uniform Billing Ordinance, shall be a fee of fifteen (\$15.00)

Section 14-600 Municipal Hookup Fees

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Section 14-610 Hookup Fees Imposed

- A. A Hookup fee is hereby imposed for each new connection to the City's municipal culinary water system, sewer or waste water system, and municipal power system.
- B. The amount of the hookup fees shall be the actual costs incurred by the City for labor and materials in order to provide a new connection to the City's municipal culinary water system, sewer or waste water system, and municipal power system.
- C. The City Council is hereby authorized to pass a resolution amending the applicable hookup fees to be paid by applicants for new building permits.
- D. The City Manager is hereby authorized to adopt written policies consistent with this ordinance and any resolutions authorized hereunder to assist in the implementation, administration and interpretation thereof.
- E. The Kanab City Council shall have the authority in its sole discretion to consider studies and data submitted by an applicant and to adjust the applicable hookup fees as necessary to respond to unusual circumstances and ensure that such hookup fees are imposed fairly and equitably.

Comment [j15]: City no longer makes it a condition to getting a building permit.

Deleted: as a condition of the issuance of a building permit

Deleted: <#>The hookup fees shall be assessed upon and paid by or on behalf of an applicant for a building permit.¶
<#>The hookup fees are due and payable prior to and as a condition precedent to the issuance of a building permit and are in addition to all other applicable fees, including the impact fees.¶

Section 14-700 Municipal Impact Fees

Section 14-710 Municipal Impact Fees Imposed

Impact fees are hereby imposed as a condition of the issuance of a building permit by the City for any development activity which creates additional demand and need for public facilities for the culinary water system, sewer or wastewater, storm water, parks and recreation, roadways, open space, and public safety facilities as set forth in Exhibit A which is attached hereto and incorporated herein by this reference.

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Section 14-712 Written Impact Fee Analysis

- A. Executive Summary. A summary of the findings of the Written Impact Fee Analysis that is designed to be understood by a lay person is included in the Kanab City Capital Facilities Plan Development and Impact Fee Analysis "Exhibit C" and demonstrates the need for impact fees to be charged. A copy of the Executive Summary is included in Exhibit C: Written Impact Fee Analysis and has been available for public inspection at least fourteen (14) days prior to the adoption of this Ordinance.
- B. Written Impact Fee Analysis. The City has prepared Exhibit C: Written Impact Fee Analysis for the six impact fees that identifies the impact upon the six facilities required by the development activity and demonstrates how those impacts on system improvements are reasonably related to the development activity, estimates the proportionate share of the costs of impacts on system improvements that are reasonably related to the development activity and identifies how the impact fees are calculated. A copy of Exhibit C: Written Impact Fee Analysis has been available for public inspection at least fourteen (14) days prior to the adoption of this Ordinance.
- C. Proportionate Share Analysis. The City must prepare a Proportionate Share Analysis which analyzes whether or not the proportionate share of the costs of public facilities is reasonably related to new development activity. The Proportionate Share Analysis must identify the costs of existing public facilities, the manner of financing existing public facilities, the relative extent to which new development will contribute to the cost of existing facilities and the extent to which new development is entitled to a credit for payment towards the costs of new facilities from general taxation or other means apart from user charges in other parts of the City. A copy of the Proportionate Share Analysis is included in Exhibit C: Written Impact Fee analysis and has been available for public inspection at least fourteen (14) days prior to the adoption of this Ordinance.

Comment [j16]: Already defined in Impact Fees Act

Deleted: Section 14-711 Definitions

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Words and phrases that are defined in the Act shall have the same definition in this Impact Fee Ordinance. The following words and phrases shall have the following meanings: ¶

<#>"Capital Facilities Plan" means the plan required by Section 11-36-201 of the Act. In Section 11-36-201 (2) (e) there is an exception to the Capital Facilities Plan for Cities of 5,000 or less in population, based on the latest census. While Kanab City does meet this exception, the City has opted to complete a Capital Facilities Plan in accordance with the Act and will adopt the Capital Facilities Plan in conjunction with this Ordinance.¶

<#>"Development Activity" means any construction or expansion of building, structure or use, any change in use of building or structure, or any change in the use of land that creates additional demand and need for public facilities. Development activity will include residential and commercial users who are not currently connected to any of the City's Public Facilities Systems, but will locate within the City-Wide Service Area.¶

<#>"Development Approval" means any written authorization from the City that authorizes the commencement of development activity.¶

<#>"City" means a local political subdivision of the State of Utah and referred to herein as Kanab City (the "City"). ¶

<#>"Impact Fee" means a payment of money imposed upon development activity as a condition of development approval. "Impact Fee" includes development impact fees, but does not include a tax, a special assessment, a hookup fee, a building permit fee, a fee for ...

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Section 14-713 Impact Fee Calculations

Ordinance Enacting Impact Fees. The City Council will, by this Ordinance, approve an impact fee in accordance with the Written Impact Fee Analysis set forth in Exhibit C: Written Impact.

Elements. In calculating the impact fee, the City has included the construction costs, land acquisition costs, costs of improvements, fees for planning, surveying, and engineering services provided for and directly related to the construction of system improvements, and debt service charges if the City might use impact fees as a revenue stream to pay principal and interest on bonds or other obligations to finance the cost of system improvements.

Notice and Hearing. Before approving the Ordinance, the City will hold a public hearing on February 27, 2007, and make a copy of the Ordinance available to the public in the Kanab City Hall at least fourteen (14) days before the date of the hearing, all in conformity with the requirements of Utah Code Annotated 10-9-103(2). After the public hearing, the City Council may adopt or reject the Impact Fee Ordinance as proposed or amend the Ordinance and adopt or reject it as amended.

Contents of the Ordinance. The Ordinance adopting or modifying an impact fee will contain such detail and elements as deemed appropriate by the City Council, including a designation of the service area(s) within which the impact fees are to be calculated and imposed. The City-Wide Service Area will be the only service area included in this analysis. The Ordinance will include (i) a schedule of impact fees to be imposed for or (ii) the formula to be used by the City in calculating the impact fees, or both. A copy of this requirement is included in Exhibit C: Written Impact Fee Analysis.

Adjustments. The standard impact fee may be adjusted at the time the fee is charged in response to unusual circumstances or to fairly allocate costs associated with impacts created by a development activity or project. The standard impact fee may also be adjusted to ensure that impact fees are imposed fairly for affordable housing projects, in

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accordance with the local government's affordable housing policy, and other development activities with broad public purposes. The impact fee assessed to a particular development may also be adjusted should the developer supply sufficient written information and/or data to the City showing a discrepancy between the fee being assessed and the actual impact on the system.

Previously Incurred Costs. To the extent that the new growth and development will be served by previously constructed improvements, the City's impact fee may include public facility costs and outstanding bond costs related to the public facility improvements previously incurred by the City.

Developer Credits. A developer may be allowed a credit against impact fees for any dedication or improvement to land or new construction of system improvements provided by the developer provided that it is (i) identified in the City's Capital Facilities Plan and (ii) required by the City as a condition of approving the development activity. Otherwise, no credit may be given.

Impact Fees Accounting. The City will establish separate interest-bearing ledger accounts for each type of public facility for which an impact fee is promulgated in accordance with the requirements of the Impact Fees Act and deposited in the appropriate ledger account. Interest earned on each fund or account shall be segregated to that account. Impact fees collected prior to the effective date of this Ordinance need not meet the requirements of this section.

Reporting. At the end of each fiscal year, the City shall prepare a report on each fund or account generally showing the source and amount of all monies collected, earned and received by the fund or account and each expenditure from the fund or account.

Impact Fee Expenditures. The City may expend impact fees covered by the Impact Fee Policy only for system improvements that are (i) public facilities identified in the City's Capital Facilities Plan and (ii) of the specific public facility type for which the fee was collected. Impact fees will be expended on a First-In First-Out ("FIFO") basis.

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Time of Expenditure. Impact fees collected pursuant to the requirements of this Impact Fees Policy are to be expended, dedicated or encumbered for a permissible use within six years of the receipt of those funds by the City, unless the City Council otherwise directs. For purposes of this calculation, the first funds received shall be deemed to be the first funds expended.

1. Extension of Time. The City may hold previously dedicated or unencumbered fees for longer than six years if it identifies in writing
 - a. an extraordinary and compelling reason why the fees should be held longer than six years and
 - b. Absolute date by which the fees will be expended.
2. Refunds. The City shall refund any impact fees paid by a developer, plus interest actually earned when
 - a. the developer does not proceed with the development activity and files a written request for a refund;
 - b. (ii) the fees have not been spent or encumbered; and
 - c. (iii) no impact has resulted. An impact that would preclude a developer from a refund from the City may include any impact reasonably identified by the City, including, but not limited to, the City having sized facilities and/or paid for, installed and/or caused the installation of facilities based, in whole or in part, upon the Developer's planned development activity even though that capacity may, at some future time, be utilized by another development.
3. Other Impact Fees. To the extent allowed by law, the City Council may negotiate or otherwise impose impact fees and other fees different from those currently charged. Those charges may, at the discretion of the City Council, include but not be limited to, reductions or increases in impact fees, all or part of which may be reimbursed to the developer who installed

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improvements that service the land to be connected with the City's system.

4. **Additional Fees and Costs.** The impact fees authorized hereby are separate from and in addition to user fees and other charges lawfully imposed by the City, and other fees and costs that may not be included as itemized component parts of the Impact Fee Schedule. In charging any such fees as a condition of development approval, the City recognizes that the fees must be a reasonable charge for the service provided.
5. **Fees Effective at Time of Payment.** Unless the City is otherwise bound by a contractual requirement, the impact fee shall be determined from the fee schedule in effect at the time of payment in accordance with the provisions of Exhibit "A".
6. **Imposition of Additional Fee or Refund after Development.** Should any developer under take development activities such that the ultimate density or other impact of the development activity is not revealed to the City, either through inadvertence, neglect, a change in plans, or any other cause whatsoever, and/or the impact fee is not initially charged against all units or the total density within the development, the City shall be entitled to charge an additional impact fee to the developer or other appropriate person covering the density for which an impact fee was not previously paid.

Section 14-714 Capital Facilities Plan

- A. **Capital Facilities Plan.** The City has developed a Capital Facilities Plan for culinary water, sewer or wastewater, storm water, parks and recreation, open space, roadways and public safety systems, which are required to maintain an adequate level of service, as shown in the Capital Facilities Plan. The Capital Facilities Plan has been prepared based on reasonable growth assumptions for the City and general demand characteristics of current and future users of the system. Further, the Capital Facilities Plan identifies the impact on

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system improvements created by development activity and estimates the proportionate share of the costs of impacts on system improvements that are reasonably related to new development activity.

Section 14-715 Impact Fee Schedules and Formulas

The proposed fees are based upon general demand characteristics and potential demand that can be created by each class of user. The City reserves the right under the Impact Fees Act (Utah Code 11-36202 (2) (c, d) to assess an adjusted fee to respond to unusual circumstances to ensure that fees are equitably assessed. Fees included in Exhibit "A" are standard impact fees assessed. Adjustment to these fees may be made with adequate documentation from the developer that the true impact differs from that shown.

Recommended Impact Fees: See Exhibit "A".

This adjustment may result in a higher impact fee if the City determines that a user would create a greater than normal impact on any of the systems. The City may also decrease the impact fee if the developer can provide documentation that the proposed impact will be less than what could be expected given the type of user. (Utah Code 11-36-202 (3) (a).

Section 14-716 Fee Exceptions and Adjustments

A. Waiver for "Public Purpose". The City Council may, on a project by project basis, authorize exceptions or adjustments to the Impact Fee rate structure for those projects the City Council determines to be of such benefit to the community as a whole to justify the exception or adjustment. Such projects may include facilities being funded by tax-supported agencies, affordable housing projects, or facilities of a temporary nature. The City Council may elect to waive or adjust impact fees in consideration of economic benefits to be received from the developers' activity.

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1. Procedures. Applications for exceptions are to be filed with the City at the time the applicant first request the extension of service to the applicant's development of property.

Section 14-717 Adjusted to Reflect Inflationary Costs

In any fiscal year in which an impact fee update is not conducted by the city, impact fees will be adjusted to reflect inflationary costs using the Engineering News Record's Construction Cost Index as of January 1 of that fiscal year. The adjustment shall be effective on July 1 of the next fiscal year.

Section 14-720 Service Area

The entire area of the City and any areas outside of the City serviced by such systems are hereby designated and established as one service area with respect to the provision of services for culinary, sewer or waste water, storm water, parks and open space, roadways and public safety.

Section 14-730 Adjustment of Impact Fee

- A. The City may adjust the impact fees imposed pursuant to this ordinance as necessary in order to:
 1. Respond to unusual circumstances in specific cases;
 2. Ensure that the impact fees are imposed fairly;
 3. Permit the adjustment of the amount of the fee based upon studies and data submitted by an applicant as approved by the City Council in order to ensure that the fee represents the proportionate share of the costs of providing such facilities which are reasonably related to and necessary in order to provide the services in question to anticipated future growth and development activities; and

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4. Allow credits against impact fees for, dedication of land for improvement to or new construction of, any system improvements which are identified in the Capital Facilities Plan and required by the City as a condition of approving the development activity. No credits shall be given for project improvements as defined by the Utah Impact Fees Act.
- B. The City Manager shall have the authority to make such adjustments based upon information submitted by an applicant and any recommendations from the City Engineer.
- C. The City Manager may adopt policies consistent with this ordinance and any resolutions passed by the City Council to assist in the implementation, administration and interpretation of this ordinance related to Municipal Impact Fees.
- D. If the applicant, person or entity is not satisfied with the City Manager's decision, a further appeal may be made to the City Council under the procedures set forth in below.

Section 14-740 Accounting, Expenditure and Refund of Impact Fees

The impact fees collected pursuant to this enactment shall be deposited into a separate interest bearing ledger account and may only be used for capital improvements for which the fees were collected. The accounting, expenditure and refund of all such impact fees collected shall be handled in accordance with the provisions of the Utah Impact Fees Act.

Section 14-750 Administrative Challenges and Appeals Procedure

- A. Any person or entity required to pay an impact fee who believes the fee does not meet the requirements of law may file a written request for information with the City as provided by the Utah Impact Fees Act. Within two weeks of the receipt of the request for information, the City shall provide the person or entity with the written analysis required by the Utah Impact Fees Act and any other relevant information relating to the impact fee.

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- B. Any person or entity residing in or owning property within the City who believes the fee does not meet the requirements of the law or wishes to challenge the fee shall file a written appeal within 30 days after payment of any impact fee with the Kanab City Manager setting forth in detail all factual and legal grounds in support of the appeal. Upon receipt of the appeal, the City Manager shall make a recommendation to the City Council and schedule a public hearing before the City Council on the appeal for the purpose of receiving input from all interested persons. The City Council shall thereafter render its decision on the appeal no later than 30 days after the date the appeal was filed. Any person or entity who has failed to comply with these administrative remedies may not file or join an action challenging the validity of any impact fee.
- C. Any person or entity who was a party to an appeal under this section who is adversely affected by the decision of the City Council may petition the district court for a review of the decision within 90 days of a decision upholding an impact fee by the City council or within 120 days after the date the challenge to the impact fee was filed, whichever is earlier. Such a declaratory judgment action or petition for review challenging the validity of the fee shall be filed in the Sixth District Court for Kane County.
- D. In the event a petition is filed with the court, the City shall transmit to the reviewing court the record of its proceedings including its minutes, findings, orders and, if available, a true and correct transcript of its proceedings.
- E. If the proceeding was tape recorded, a transcript of the tape recording is a true and correct transcript for the purposes of subsection D above.
- F. If there is a record:
 - 1. The District Court' s review is limited to the record provided by the City; and

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- 2. The court may not accept or consider any evidence outside the City's record unless that evidence was offered to the City and the court determines that it was improperly excluded by the City.
- G. If there is an inadequate record, the court may call witnesses and take evidence.
- H. The Court shall affirm the decision of the City if the decision was supported by substantial evidence in the record.
- I. The judge may award reasonable attorney's fees and costs to the prevailing party in any action brought under this section.

Maximum Allowable Impact Fee	
Water 3/4" meter	\$5,849.34
Sewer	\$1,702.00
Storm Water	\$319.34
Parks	\$1,224.72
Trails	\$164.80
Public Safety	\$86.68
Streets	\$341.34