

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

September 13th, 2016

76 NORTH MAIN, KANAB, UTAH

NOTICE is hereby given that the Kanab City Council will hold its regular council meeting on the 13th day of September, 2016, in the Commission Chambers at the Kane County Court House, 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

- Chapter 10 General Ordinance
- Chapter 16 General Ordinance

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. Discuss- Vote on Temporary Beer Event Permit for Ultra Adventures/ Vacation Races Inc for the Grand Circle Trailfest event located at the Jacob Hamblin Park October 12th through the 15th
7. 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.

– A Western Classic –

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General Ordinances

Section 10: FIRE, HEALTH, SAFETY AND WELFARE

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Section 10-110	Department
Section 10-111	Creation
Section 10-120	Personnel and Duties
Section 10-121	Creation of Position of Chief
Section 10-122	Powers and Duties of Chief
Section 10-123	Employees
Section 10-130	Powers of Fire Department
Section 10-131	Emergency Vehicles
Section 10-132	Removal of Obstructions at Fire
Section 10-133	Control of Persons
Section 10-134	Interference with Firemen in Discharge of Duties
Section 10-135	Unlawful Interference With Officers, Apparatus, Water, etc.
Section 10-136	Investigation after Fire Report
Section 10-137	Right to Enter Upon and Inspect Premises
Section 10-138	Males Present At Fire Subject To Orders
Section 10-139	False Alarm
Section 10-140	Burning Ordinance
Section 10-141	Fee For Inspection
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Section 10-151	Uniform Fire Code Adopted
Section 10-152	Establishment and Duties of Bureau of Fire Prevention
Section 10-153	Definitions
Section 10-154	Establishment of Limits of Districts in Which Storage Of Flammable Or Combustible Liquids In Outside Above Ground Tanks Is To Be Prohibited
Section 10-155	Establishment of Limits in Which Bulk Storage Of Liquefied Petroleum Gases Is To Be Restricted
Section 10-156	Establishment of Limits of Districts In Which Storage Of Explosives And Blasting Agents Is Prohibited
Section 10-157	Amendments Made In the Uniform Fire Code

Last Updated 6.23.2015

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Section 10-223	Unwholesome Food
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Section 10-226	Inadequate Plumbing
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Section 10-241	Commencement of Offensive Business
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Section 10-300	Nuisances
Section 10-301	Purpose
Section 10-302	Definitions
Section 10-305	Nuisance - Definition
Section 10-310	Exceptions
Section 10-312	Responsibility For Nuisances
Section 10-316	Finding a Nuisance - Responsibility

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Section 10-318	Voluntary Correction
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Section 10-410	Garbage Regulations
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Section 10-413	Permits
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Section 10-415	Enforcement, Service of Notices and Orders, Hearings
Section 10-416	Inspection
Section 10-417	Storage Of Refuse And Preparation For Collection
Section 10-418	Frequency of Collection
Section 10-419	Time and Place of Collection
Section 10-420	Refuse Disposal
Section 10-421	Equipment
Section 10-422	Penalties
Section 10-430	Litter – Handbills
Section 10-431	Definitions
Section 10-432	Litter in Public Places
Section 10-433	Placement of Litter In Receptacles So As To Prevent Scattering
Section 10-434	Sweeping Litter into Gutters Prohibited except as Otherwise Authorized by the governing Body
Section 10-435	Merchants' Duty to Keep Sidewalks Free From Litter
Section 10-436	Litter Thrown By Persons in Vehicles
Section 10-437	Truck Loads Causing Litter
Section 10-438	Litter in Parks
Section 10-439	Litter in Lakes and Fountains
Section 10-440	Throwing or Distributing Commercial Handbills in Public Places

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Section 10-441	Placing Commercial and Non-commercial Handbills On Vehicles
Section 10-442	Depositing Commercial and Non-Commercial Handbills on Uninhabited or Vacant Premises
Section 10-443	Prohibiting Distribution of Handbills Where Properly Posted
Section 10-444	Distributing Commercial and Non-Commercial Handbills At Inhabited Private Premises
Section 10-445	Exemption for Mail And Newspapers
Section 10-446	Posting Notice Prohibited
Section 10-447	Litter on Occupied Private Property
Section 10-448	Litter on Vacant Lots
Section 10-449	Handbills and Posters
Section 10-500	Flood Management
Section 10-560	Fire, Health, Safety and Welfare
Section 10-560.1	As used in this Section:
Section 10-560.2	Recovery of Expenses
Section 10-560.3	Cost Recovery Procedure
Section 10-560.4	Action to
Section 10-560.5	Expenses of Other Responding entities
Section 10-561	Fire, Health, Safety and Welfare
Section 10-561.1	Severability
Section 10-561.2	Effective Date

Section 10-100 Fires - Department – Code

Section 10-110 Department

Section 10-111 Creation

There is hereby created a fire department to be known as the Kanab City Voluntary Fire Department.

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Section 10: FIRE, HEALTH, SAFETY AND WELFARE

Section 10-120 Personnel and Duties

Section 10-121 Creation of Position of Chief

There is hereby created the position of chief of the fire department.

Section 10-122 Powers and Duties of Chief

- A. The chief shall have responsibility for the general supervision of the department.
- B. During a fire, the chief shall have full authority to take all measures as he shall deem necessary, subject to state law, to control and extinguish fire and for that purpose he is hereby made a special peace officer.
- C. The chief shall at least quarterly report to the governing body the condition of the fire equipment, the number of fires and their causes and the estimated loss there from together with such other information as the governing body may request or as he shall deem appropriate.
- D. The chief shall strictly enforce all of the provisions of the ordinances of this municipality relating to the protection against and prevention of fire.
- E. The chief shall maintain the equipment of the department in good repair and order and ready for use.
- F. The chief, subject to the approval of the mayor and governing body, shall establish rules and regulations for the operation of the department.
- G. The chief may delegate his duties to any person employed by the department, but such delegation shall not relieve the chief of his responsibility for the performance thereof.
- H. The chief shall cause all fires to be promptly investigated to determine the cause of the fire and report the cause of the fire, the time originated and such other information as may be relevant to prevent other fires.

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Section 10: FIRE, HEALTH, SAFETY AND WELFARE

Section 10-123 Employees

The chief may make recommendations to the mayor relating to the employment of firemen and such other personnel as may be necessary to enforce the provisions of this chapter. The chief may employ such additional personnel as the mayor and governing body may direct or authorize.

Section 10-130 Powers of Fire Department

Section 10-131 Emergency Vehicles

Fire trucks are hereby designated authorized emergency vehicles.

Section 10-132 Removal of Obstructions At Fire

The officer in charge at any fire may order the removal or destruction of any fence, building or structure, or that any utility be closed, cut or removed when deemed necessary to control, extinguish or prevent the spread of fire.

Section 10-133 Control of Persons

All persons present at a fire shall obey the orders of any firemen.

Section 10-134 Interference with Firemen in Discharge of Duties

Every person at the scene of any fire who disobeys the lawful orders of any public officer or fireman, or offers any resistance to or interference with the efforts of any fireman, or company of firemen to extinguish the same, or engages in any disorderly conduct calculated to prevent the same from being extinguished, or who forbids, prevents or dissuades others from assisting to extinguish the same, is guilty of an infraction.

Section 10-135 Unlawful Interference With Officers, Apparatus, Water, etc.

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Any person who shall willfully hinder any officer or fireman in the discharge of his duty at a fire, or in any manner injure, deface or destroy any engine, hose or other fire apparatus belonging to the municipality, or who shall interfere with any fire company or person, or who shall willfully break or injure any water pipe, or interfere with the water or its source of supply shall be deemed guilty of a class B misdemeanor and shall be punished accordingly.

Section 10-136 Investigation after Fire Report

The chief, or such persons as he shall designate, shall, after extinguishing a fire, make a prompt and thorough investigation of the cause of the fire, the time the fire began, the amount of loss and insurance, a description of the affected buildings and premises, and shall secure all other useful information available, and record the same in a record book kept for that purpose in the office of the department and shall report the same to the governing body at such time as it may direct.

Section 10-137 Right to Enter Upon and Inspect Premises

The fire chief or his deputies upon presentation of proper credentials shall have the right to enter upon any premises at all reasonable hours for the purpose of making _____ inspections.

~~Section 10-138 Males Present At Fire Subject To Orders~~

~~Every male person eighteen years or older present at a fire shall be subject to the orders of the officer in command and shall render assistance in the manner directed by the officer in command.~~

Comment [j1]: Already addressed (though it is for all persons). We need not have gender specific laws without very good reason.

Section 10-139 False Alarm

It shall be unlawful for any person to turn in or report to the fire department a false alarm or report of a fire or to tamper or remove any part of the fire alarm

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system.

Section 10-140 Burning Ordinance

~~An ordinance regulating burning and establishing a fire danger in the City of Kanab, Utah. WHEREAS, during the warmer months of the year there is an increased danger to the citizens of Kanab from fire caused by open unregulated burning and WHEREAS, the City Council deems it in the public interest to reduce such fire danger, NOW THEREFORE, be it ordained by the City Council at Kanab, Utah that:~~

- A. It shall be unlawful to kindle or maintain any open fire or authorize any such fire to be kindled or maintained within the City without first having obtained a permit from the City Fire Department or other authorized agency.
- B. It shall be unlawful to kindle or maintain any fire in any outdoor container to burn trash or other refuse within the City.
- C. The violation of any provisions of this part shall be a Class B misdemeanor. It is hereby declared that this ordinance is necessary for the immediate safety of the citizens of Kanab and it shall take effect on its publication.

Comment [j2]: Unnecessary language.

Comment [j3]: We need a definition of what an open fire is.

Section 10-141 Fee For Inspection

The fire chief or his deputies upon presentation of proper credentials shall have the right to enter upon any premises at all reasonable hours for the purpose of making required inspections. A reasonable fee shall be imposed for each inspection performed. The charge for inspections shall be \$25.00 per visit; however, this rate may be changed, from time to time, by resolution of the City Council of Kanab, Utah. Places of business that require an annual inspection shall pay the base \$25 fee as part of application for a business license.

Section 10-150 Uniform Fire Code

~~Section 10-151 Uniform Fire Code Adopted~~

Comment [j4]: This is already adopted in state code.

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~~An ordinance of Kanab City adopting the 2006 edition of the International Fire Code, regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the City of Kanab providing for the issuance of permits and collection of fees therefor; repealing Ordinance No. 10-151 of the City of Kanab and all other ordinances and parts of the ordinances in conflict therewith.~~

Formatted: GO Section Title

The City Council of Kanab City does ordain as follows:

~~SECTION 1. That a certain document, three (3) copies of which are on file in the office of Kanab City Recorder of Kanab City, being marked and designated as International Fire Code 2006 Edition, including Appendix Chapters B,C,D,E,F and G as published by the International Code Council, be and is hereby adopted as the Fire Code of Kanab City, State of Utah regulating and governing the safeguarding of life and property from fire and explosions hazards arising from the storage, handling and use of hazardous substance, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided, providing for the issuance of permits and collection of fees therefor; and each and all regulations, provisions, penalties, conditions and terms of said Fire Code on file in the office of Kanab City are hereby referred to, adopted, and made a part hereof, as is fully set out in the ordinance, with the additions, insertions, deletions, and changes, if any, prescribed in Section 2 of this ordinance.~~

Comment [j5]: Unnecessary language.

~~SECTION 2. The following sections are hereby revised:~~

~~Section 101.1: Kanab City.~~

~~Section 109.3: \$1,000.00 for a Class B Misdemeanor, U.C.A.76-3-301, 180 Days.~~

~~Section 111.4: \$1000.00 for a Class B Misdemeanor.~~

~~SECTION 3. That the geographic limits referred to in certain section of the 2006 International Fire code as hereby established as follows:~~

~~Section 3204.3.1.1 The entire City, except where permitted by conditional use permit.~~

~~Section 3404.2.9.5.1 The entire City, except where permitted by condition use permit. Such permits shall not be granted in areas zoned to be used solely for~~

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~~mercantile establishments, primarily retail in character and in the business district and the congested commercial areas.~~

~~Section 3406.2.4.4 The entire City, except where permitted by conditional use permit.~~

~~Section 3804.2 The entire City, except where permitted by conditional use permit.~~

~~SECTION 4. That Ordinance No. 10-151 of Kanab City entitled UNIFORM FIRE CODE and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.~~

~~SECTION 5. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.~~

~~SECTION 6. That the Kanab City Recorder is hereby ordered and directed to cause this ordinance to be published and specify that it is to be in a newspaper in general circulation. Posting may also be required.~~

~~SECTION 7. That this ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall effect and be in full force and effect from and after the date of its final passage and adoption.~~

Comment [j6]: Unnecessary.

Section 10-152 Establishment and Duties of Bureau of Fire Prevention

- A. The Uniform Fire Code shall be enforced by the bureau of fire prevention in the fire department of the municipality which is hereby established and which shall be operated under the supervision of the chief of the fire department.
- B. The chief of the fire department may detail such members of the fire department as inspectors as shall from time to time be necessary. The chief of the fire department shall recommend to the mayor the employment of technical inspectors, who, when such authorization is made, shall be selected through an examination to determine their fitness for the position. The examination shall be open to members and nonmembers of the fire department, and appointments made after examination shall be for an indefinite term with removal only for cause.

Section 10-153 Definitions

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- A. The word "jurisdiction" as used in the Uniform Fire Code, shall mean the boundaries of this municipality.
- B. The term "corporation counsel" as used in the Uniform Fire Code shall mean the attorney for this municipality.

Section 16-100.2 Entire Municipality Designated Fire District

The entire municipality is declared to be and hereby is designated a fire zone for the purposes of the Uniform Building Code and any ordinances of the municipality relating to building and fire prevention.

Comment [j7]: Anything labeled Section 16 was taken from Appendix to incorporate it into this chapter.

Section 16-100.3 Fire District Number One

Fire district number one shall include the following described areas:

- A.
- B.
- C.

Fire district number one is heavily concentrated buildings in large downtown cities. Examples include downtown Salt Lake City, Provo, Logan, St. George, Cedar City, Price, and Brigham City. Most towns and small cities would not have a fire district number one. Only limited areas of most downtown small cities would be designated to this classification. In this district the opportunity for fire spreading to other buildings is great.

Section 16-100.4 Fire District Number Two

Fire district number two shall include all of those areas of the municipality located in areas zoned commercial or industrial by the zoning ordinances of the municipality, except the areas above described in District One.

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Fire district number two is less concentrated commercial and industrial areas. Fire district number two is characterized by commercial and industrial buildings having minimum setbacks of 20 feet from side (sometimes front) property lines.

Section 16-100.5 Fire District Number Three

Fire district number three shall include all areas of the municipality not included in fire districts one or two.

Fire district number three is characterized by residential zoning and buildings. Generally, in district three, there is little risk of fire spreading to adjacent buildings.

~~Section 10-154 Establishment of Limits of Districts In Which Storage Of Flammable Or Combustible Liquids In Outside Above Ground Tanks Is To Be Prohibited~~

~~A. The limits referred to in Section 15.201 of the Uniform Fire Code in which storage of flammable or combustible liquids in outside above ground tanks is prohibited, are hereby established in an appendix to this code.~~

~~B. The limits referred to in Section 15.601 of the Uniform Fire Code, in which new bulk plants for flammable or combustible liquids are prohibited, are hereby established in an appendix to this code.~~

~~Section 10-155 Establishment of Limits in Which Bulk Storage of Liquefied Petroleum Gases Is To Be Restricted~~

~~The limits referred to in Section 20.105(a) of the Uniform Fire Code, in which the bulk storage of liquefied petroleum is restricted, are hereby established in the appropriate appendix attached to this code.~~

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~~Section 10-156 Establishment of Limits of Districts In Which Storage of Explosives And Blasting Agents is Prohibited~~

~~The limits referred to in Section 11.106(b) of the Uniform Fire Code, in which the storage of explosives and blasting agents is prohibited, are hereby established in the appropriate appendix attached to this code.~~

~~Section 10-157 Amendments Made In the Uniform Fire Code~~

~~Any amendments to the Uniform Fire Code shall be set forth in the appropriate appendix to this code.~~

Section 16-110.2 Prohibited Storage above Ground

The limits referred to in Sections 79.501 and 79.1001 of the Uniform Fire code in which storage of flammable or combustible liquids in outside above-ground tanks are prohibited are as follows:

The entire City, except where permitted by conditional use permit. Such permits shall not be granted in areas zoned to be used solely for mercantile establishments, primarily retail in character and in the business district and the congested commercial areas.

- A. Existing above-ground tanks may remain in use subject to the provisions of this code, the Uniform Fire Code and any other bylaws, ordinances and statutes;
- B. Above-ground tanks for the storage of flammable liquids may be installed in permitted areas as follows:
 - 1. Above-ground tanks for the storage of flammable liquids may not be larger than two-thousand gallons.
 - 2. Above-ground tanks must provide double containment, protect against damage to any surrounding structures and vehicles, and shall provide protection from vehicular damage, and meet all specifications provided by the manufacturer and other applicable codes, laws, ordinances and statutes.

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3. All above-ground storage tanks must be located at least one-hundred (100) feet from a residential unit.
4. Liquid stored in any above-ground storage tank constructed pursuant to these provisions may not be sold.
5. The total number of gallons of flammable liquids stored on each business property shall be limited to two-thousand (2,000) gallons.

Section 16-110.3 Bulk Plants for Flammable or Combustible Restricted

The limits referred to in Section 79.1401 of the Uniform Fire Code in which bulk plants for flammable or combustible liquids are prohibited is as follows:

The entire City, except where permitted by conditional use permit. Such permit shall not be granted in areas zoned to be used solely for residential occupancies and for mercantile establishments, primarily retail in character and in the business district and the congested commercial areas.

In all areas where such an installation is approved, the installation shall be no closer than 100 feet from the nearest structure of any kind, and shall be surrounded by a berm or barrier which shall be sufficient to contain the entire contents of the storage facility should it leak.

Section 16-110.4 Bulk Storage of Liquefied Petroleum Gases

The limits referred to in Section 82.104(b) of the Uniform Fire Code in which the storage of liquefied petroleum gas is prohibited are:

- A. The entire City.

Section 16-110.5 Explosives Restricted

The limits referred to in Section 77.107 of the Uniform Fire Code in which the storage of explosives and blasting agents is prohibited are as follows:

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A. The entire city.

Additional restrictions:

- A. STORAGE OF FLAMMABLE OR COMBUSTIBLE LIQUIDS - In outside above-ground tanks (Sections 79.501 and 79.1001 of the Uniform Fire Code) should be prohibited in the mercantile and other congested areas.
- B. NEW BULK PLANTS FOR FLAMMABLE OR COMBUSTIBLE LIQUIDS - (Section 79.1401 of the Uniform Fire Code) should be prohibited in areas zoned to be used solely for mercantile establishments, primarily retail in character.
- C. BULK STORAGE OF LIQUIFIED PETROLEUM GASES - (Section 82.104(b) of the Uniform Fire Code) should be restricted in areas of heavy population and in the congested commercial areas.
- D. STORAGE OF EXPLOSIVES AND BLASTING AGENTS - (Section 77.107 of the Uniform Fire Code) should be prohibited in the business district, closely built commercial areas and heavily populated areas.

Section 10-158 Appeals

Whenever the chief shall disapprove an application, refuse to grant a permit for which application has been received, or when it is claimed that the provisions of the fire code do not apply or that the true intent and meaning of the fire code have been misconstrued or wrongly interpreted, the applicant may appeal the decision of the chief in accordance with the procedures outlined in Chapter 3 of the Land Use Ordinance.~~to the governing body within 30 days from the date of such decision.~~

Section 10-159 New Materials, Processes or Occupancies Which May Require Permits

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The building inspector and the chief of the bureau of fire prevention shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies, which shall require permits in addition to those now enumerated in the fire code. The chief of the bureau of fire prevention shall post such list in a conspicuous place in his office and distribute copies thereof to interested persons.

Section 10-160 Penalties

- A. Any person who shall violate any of the provisions of the Uniform Fire Code or fail to comply therewith, or who shall violate or fail to comply with any order thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificated or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the ~~appeal authority governing body~~ or by a court of competent jurisdiction within the time fixed herein shall, severally for each and every such violation and noncompliance respectively, be guilty of a class B misdemeanor. Imposition of one penalty for any violation shall not excuse the violation or permit it to continue. All persons shall be required to correct or remedy such violations or defects within a reasonable time, and when not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.
- B. The application of the above penalty shall not be held to prevent the enforced removal of the prohibited condition.

~~Section 10-170 Standard Fire-Fighting Equipment~~

~~Section 10-171 Equipment for New Fire Protection Systems—Standard Equipment~~

~~See U.C.A. Section 11-4-1.~~

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~~Section 10-172 Duty of Local Governing Body To Maintain And Comply~~

~~See U.C.A. Section 11-4-2.~~

~~Section 10-173 Prohibited Sales and Penalties~~

~~See U.C.A. Sections 11-4-3 and 11-4-4.~~

Comment [j8]: Unnecessary.

Section 10-200 Health

Section 10-210 Board Of and Health Officer

Section 10-211 Board of Health Established

The Southwestern District Health Department is hereby designated as the board of health of this municipality.

Section 10-212 Duties and Powers of Board of Health

- A. The municipality may contract with the Southwestern District Health Department on such terms and conditions as the parties may agree to enforce the provisions of this chapter and such other ordinances of this municipality which authorize or require action or impose any duty on the board of health.
- B. The board of health shall adopt such rules and regulations as it shall deem necessary to govern its meetings and conduct.
- C. The board of health shall review and approve all applications for permits to operate any business or engage in any construction for which a permit is required from the board of health pursuant to any ordinances or regulations of this municipality.

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- D. The board of health shall recommend to the mayor for promulgation by the governing body such health rules, regulations, and ordinances as it deems necessary for the health of the persons within the municipality.

Section 10-213 Permits

It shall be unlawful for any person to engage in any of the following businesses or activities without first obtaining a permit from the board of health.

- A. Handling, selling, offering for sale, preparing or serving any food or food products or beverages or water intended for human consumption.
- B. Operating or permitting public access to any public swimming pool.
- C. Commercially operating any public dump, garbage or refuse collection or disposal facility, or cleaning out or installing any privy, cesspool or septic tank.
- D. Fumigating or eradicating pests, insects, vermin or any other infestation from any building occupied or to be occupied by humans.

Section 10-220 Health Director

Section 10-221 Position Created

The health director of the Southwestern District Health Department is hereby designated as the health director of this municipality.

Section 10-222 Powers and Duties of Health Director

- A. The health director may appoint or designate any qualified person to act as his assistant for the purpose of enforcing the ordinances of this municipality.
- B. Subject to the terms and conditions of the contract between the Southwestern District Health Department, the health director shall:

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1. Be the executive officer of the board of health.
2. Enforce all ordinances of this municipality and the state of Utah which relate to the health and welfare of the residents of this municipality.
3. Enforce all rules, regulations and ordinances relating to:
 - a. Plumbing, sanitation, contagious infectious diseases, quarantine and sewage disposal.
 - b. Producing, storing, keeping and selling meat, dairy or other foods or food products.
 - c. The quarantine and disposal of all animals affected with any contagious or infectious diseases.
4. Enforce the nuisance ordinances of this municipality.
5. Have the power to impose and maintain a strict quarantine of all infected persons and premises having contagious or infectious diseases, and to require such persons or premises to be disinfected.
6. Have the right and authority, when he shall deem necessary to secure or preserve the public health, to enter into or upon any premises, building, or other places during the daytime to examine, analyze, or test any building, structure, premise, product or good manufactured, stored, or kept within the municipality for the purposes of enforcing this chapter.

Section 10-223 Unwholesome Food

It is a class B misdemeanor for any person to sell or offer for sale any unwholesome food or beverage which has been condemned by any government food inspector.

Section 10-224 Vacating Premises

- A. It shall be unlawful for any person, upon vacating or moving from any dwelling, storeroom, or other building, to fail to remove all garbage,

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rubbish, or ashes from such building or premise and the grounds appurtenant thereto, or to fail to place the same in a thoroughly sanitary condition within 24 hours after the premises are vacated.

- B. In situations where rental property is so vacated, the owner of the property shall be concurrently responsible with the tenant thereof for compliance with this section.

Section 10-225 Discharge of Sewage Pollution

- A. It shall be unlawful for any person to discharge or permit the discharge of any sewage or filth from any premises into and upon any public highway, stream, water course, or public place, or into any drain, cesspool, or private wastewater disposal system which does not conform to standards established by the state division of health or by this municipality.
- B. The health director may order a connection for sewage disposal to be made with the public sewer system provided by the municipality if such is available, provided that the public sewer system is within 300 feet of the premises.
- C. The health director shall use all due measures to prevent the fouling of any streams, water courses, reservoirs, or any source furnishing water to any of the inhabitants of this municipality.

Section 10-226 Inadequate Plumbing

The health director shall have power to require the prompt repair of all leaks or other defects in plumbing throughout the municipality. He shall have power to condemn and abate all plumbing which is deficient under the plumbing ordinances. When, in the opinion of the health officer, a change in occupants, type of business or other cause requires changes in plumbing, he shall have the power to compel the installation of an increased number of plumbing fixtures and a change in their type or capacity, and to make such other alterations or increases

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as may be necessary for the health and safety of the occupants of the building and of the public generally.

Section 10-240 Offensive Business and Facilities

Section 10-241 Commencement of Offensive Business

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

Section 10-242 Issuance Of Permits

- A. The recorder/clerk shall cause a study to be made of the proposed business or relocation of any offensive business or establishment by the board of health and personnel engaged in the inspection of buildings and other facilities. A report and recommendation shall be made to the governing

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body. The governing body, after review, may grant to the applicant an opportunity to be heard and present additional facts. Thereafter the governing body may:

1. Deny the application.
 2. Recommend a modification thereof.
 3. Grant a limited permit to enter into the business or make the change of location subject to the requirement that the business or facility conform to standards established by the governing body with reference to controlling the offensive features of the business.
- B. In the event a permit is granted, it shall be subject to revocation either upon failure of the operator or owner to conduct his business in the manner specified by the governing body at the time of the granting of the permit, or because a change of circumstances makes the continued operation or maintenance of the business or facility a public nuisance.
- C. The governing body shall have power to revoke or modify the permission to operate and maintain the business in such a manner as it deems necessary for the public good.

Comment [j9]: This section probably better belongs in Chapter 9 Business regulations

~~Section 10-243 Existing Offensive Business and Facilities~~

~~A. _____ The governing body may require an investigation of any existing offensive business or facility to determine whether or not it should be permitted to remain in existence in or within one mile of the municipal limits. If the governing body determines that the continuation of the business or facility has become a nuisance to persons situated within the municipal limits or that ample control is not being exercised to minimize the creation of excessive odors, fumes, smoke, gases, and noise, it shall notify the owner or operator thereof that the governing body is considering revoking or modifying the operator's license.~~

~~B. If the governing body decides to require a modification of the manner in which the business or facility is to be maintained, it shall specify the standards~~

Formatted: GO Section Title, No bullets or numbering

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~~or specifications to which the enterprise must conform or otherwise lose its license to engage thereafter in the business or activity.~~

~~Section 10-244 Control of Animal And Fowl Facilities~~

- ~~A. The governing body shall have the power to prohibit or control the location and management of any offensive, unwholesome business or establishment in or within one mile of the municipality and may compel the owner of any pigsty, privy, barn corral, fur bearing animal farm, feed yard, poultry farm, or other unwholesome or nauseous house or place to cleanse, abate or remove the same.~~
- ~~A. The governing body may on its own initiative and shall, on complaint of a member of the public, examine the operation, control or location of any business or facility for the purpose of determining whether or not the operation of such business or facility should be improved so as to minimize the offensive and unwholesome characteristics or whether the business or activity should be moved or abated.~~
- ~~B. In the event that the governing body decides that the business or facility should be abated, removed, or controlled, it shall notify the owner or operator of the business or facility of such fact.~~
- ~~C. After a hearing, the governing body may issue a limited license wherein it may prescribe the specifications and standard which must be followed by the business or facility in order to be permitted to continue in operation.~~
- ~~D.A. Upon a determination by the governing body that the business or facility is a nuisance, it shall have power to order the abatement or removal of the facility or establishment. If the owner fails to conform to such order, the governing body shall have power to bring all necessary legal proceedings to force removal, abatement, or adherence to standards.~~

Comment [j10]: This section is handled in the Nuisance section below.

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Chapter 10 Nuisances

- [10-301 Purpose](#)
- [10-302 Definitions](#)
- [10-305 Nuisance - Definition](#)
- [10-310 Exceptions](#)
- [10-312 Responsibility For Nuisances](#)
- [10-316 Finding A Nuisance - Responsibility](#)
- [10-318 Voluntary Correction](#)
- [10-320 Administrative Citation](#)
- [10-322 Other Remedies](#)
- [10-324 Appeals](#)

10-301 Purpose

- A. The purpose of this ordinance is to provide a means for the City and individuals to identify nuisances within the City and to provide a means for correcting or abating the nuisances.
- B. The City needs the ability to abate nuisances in order to protect the health and safety of the public, to foster neighborhood stability, to preserve the appearance, character and beauty of neighborhoods, to encourage community pride, to preserve the value of property, and to protect the general welfare of the City and its citizens, businesses and visitors. This ordinance provides for progressive enforcement measures to abate

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nuisances; the most aggressive forms of enforcement are generally reserved for the most recalcitrant violators of the ordinance.

10-302 Definitions

“**Abate**” means to repair, replace, remove, destroy, correct or otherwise remedy a condition which constitutes a nuisance by such means, in such a manner and to such an extent as the Code Enforcement Officer determines is necessary in the interest of the general health, safety and welfare of the community.

“**Active Construction**” means any building or structure that is under active construction and has a current and valid building permit.

“**Code Enforcement Officer**” shall primarily be the Land Use Coordinator, but may also include any code enforcement officer(s) hired by the City to enforce City codes, any Law Enforcement Officer or Designee, the City Fire Chief and the Chief’s assistants, the City Building Inspector, and any authorized representatives of the Building Inspector or Land Use Coordinator.

“**Completion Date**” means the date by which the Responsible Person must abate a nuisance. The Completion Date is originally set by the Code Enforcement Officer in the Voluntary Correction Agreement or in the administration citation. The Completion Date may be modified by the Hearing Officer.

“**Driveway**” means a private roadway, the use of which is limited to persons residing, employed, or otherwise using or visiting the parcel on which the driveway is located.

“**Driveway extension**” means a hard compacted surface that extends from the driveway and which is primarily used for the parking of vehicles and not for traveling between two places. The driveway extension must have a base of asphalt, concrete, stone, or gravel.

“**Emergency**” means a situation which, in the opinion of the Code Enforcement Officer, requires immediate action to prevent or eliminate an immediate threat to the health or safety of a person or property.

“**Hearing Officer**” means the person(s) designated to hear appeals pursuant to this ordinance. The Hearing Officer shall be the City Council.

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“**Owner**” means any person who, alone or with others, has title or interest in any building or premises, with or without accompanying actual possession thereof. For the purpose of giving notice, the term Owner also includes any person in physical possession.

“**Premises**” means a plot of ground, whether occupied or not.

“**Property**” means a building or structure, or the premises on which the building or structure is located, or undeveloped land.

“**Public Place**” means an area generally visible to the public view and includes alleys, bridges, driveways, parking lots, parks, plazas, sidewalks, streets, and buildings open to the general public, including those that serve food or drink or provide entertainment, and the doorways and entrances to the buildings of dwellings and the grounds enclosing them.

“**Recreational Vehicle**” means a motor vehicle or trailer equipped with living space and amenities found in a home.

“**Responsible Person**” means the person(s) responsible for correcting or abating a nuisance pursuant to this ordinance. The Responsible Person includes the property owner and any person who causes or permits a nuisance to occur or remain upon property including owner(s), lessor(s), lessee(s), or other person(s) entitled to control, use and/occupy property where a nuisance occurs. In cases where there are more than one Responsible Person, the City may proceed against one, some, or all of them.

“**Three or More Persons**” means three persons, each of which have different residences.

10-305 Nuisance - Definition

This section defines a nuisance by providing three general definitions of what constitutes a nuisance (subsection A), and then providing specific examples of situations, conduct or activities that constitute nuisances (subsection B). The purpose of the general definitions is to allow the City to classify an offending situation, conduct or activity as a nuisance, even though the situation, conduct or activity may not be listed as a nuisance in the specific examples. The first three general definitions are taken directly from Utah Code Annotated (U.C.A.). The purpose of listing the specific examples is to identify some of the specific situations, conduct and activities that the City intends to abate as nuisances.

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- A. **General definitions of Nuisance.** Any activity that meets any one or more of the three definitions set forth below shall constitute a Nuisance if it occurs within the City of Kanab.
1. Anything which is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.
 2. Any item, thing, manner, or condition whatsoever that it is dangerous to human life or health or renders soil, air, water, or food impure or unwholesome.
 3. Unlawfully doing any act or omitting to perform any duty, which act or omission:
 - a. annoys, injures, or endangers the comfort, repose, health, or safety of three or more persons.
 - b. offends public decency
 - c. unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage, any lake, stream, canal, or basin, or any public park, square, street, or highway; or
 - d. in any way renders three or more persons insecure in life or the use of property. An act which affects three or more persons in any of the ways specified in this subsection is still a nuisance regardless of the extent to which the annoyance or damage inflicted on individuals is unequal.
- B. **Nuisances Enumerated.** Every situation, conduct or activity listed below constitutes a nuisance and may be abated pursuant to this ordinance. The listed examples are not exhaustive; a situation, conduct or activity not listed below, but coming within one of the general definitions of nuisance listed above, or coming within one of the general definitions of nuisance listed above, shall also constitute a nuisance. The first six listed nuisances are also listed as nuisances pursuant to U.C.A.
1. **Drug Houses.** Every building or premises where the unlawful sale, manufacture, service, storage, distribution, dispensing, or acquisition of any controlled substance, precursor or analog specified in Title 57 of the Utah Code (Utah Controlled Substances Act) occurs.
 2. **Gambling.** Every building or premises where gambling is not permitted to be played, conducted, or dealt upon as prohibited in Title 76, Chapter 10, Part 11 of the Utah Code (Gambling).
 3. **Gangs.** Every building or premises wherein criminal activity is committed in concert with two or more persons as provided in Title 76, Chapter 3, Part 2, or chapter 9, Part 8, of the Utah Code.
 4. **Party Houses.** Every building or premises where parties occur frequently which creates conditions of a nuisance as defined in Section 10-305(A) of this ordinance. "Frequently" shall mean two or more times within thirty days.

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5. **Prostitution.** Every building or premises where prostitution or the promotion of prostitution is carried on by one or more persons as provided in Title 76 (Prostitution) of the Utah Code.
6. **Weapons.** Every building or premises where a violation of Title 76 (Weapons) of the Utah Code occurs on the premises.
7. **Noxious Emanations.** Emanation of noxious or unreasonable odors, fumes, gas, smoke, soot or cinders.
8. **Noxious Weeds.** Noxious weeds, as defined by State and County Code, located on vacant lots or other property, along public sidewalks or the outer edge of any public street, or weeds in any other location which constitute a fire hazard.
9. **Refuse.** Keeping or storing of any refuse or waste matter which interferes with the reasonable enjoyment of nearby property or has the potential to be a health hazard.
10. **Stagnant Water.** It shall be unlawful for any person or persons to permit any collection or retention of water, natural or artificial, so as to cause back up and overflow therefrom, or to become unsanitary, stagnant or unhealthy.
11. **Improper Accumulations.** Accumulation of soil, litter, debris, plant trimmings, or trash visible from the street or an adjoining property, for a period of 30 days or more.
12. **Accumulation of Junk.** Accumulation of used or damaged junk, salvage materials, abandoned, discarded or used furniture, stoves, toilets, cabinets, sinks, refrigerators, or other fixtures or equipment stored so as to be visible from a public street or adjoining property, for a period of 30 days or more (except in licensed junk yards). However, this does not include stacked firewood for personal non-commercial use of the premises.
13. **Attractive Nuisances.** Any attractive nuisance, dangerous to children and other persons including, but not limited to, abandoned, broken, or neglected household appliances, equipment and machinery, abandoned foundations or excavations, or improperly maintained or secured pools.
14. **Vegetation.** Dead, decayed, diseased or hazardous trees, weeds, hedges, and overgrown or uncultivated vegetation which is in a hazardous condition, is an obstruction to pedestrian or vehicular traffic, or which is likely to harbor rats, vermin or other pests. This section does not apply to properly contained compost bins.
15. **Weeds/Grass.**
 - a) Any weeds or grasses that, due to height or dryness, constitute a fire hazard as deemed by the fire marshal.
 - b) When, in the opinion of the fire marshal, the large size or terrain of property makes the cutting of all weeds or grasses impractical, the fire

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marshal, or any assistant fire marshal, may, by written order, allow and limit the required cutting of weeds and grasses to a firebreak of not less than fifteen feet (15') in width cut around the complete perimeter of the property and around any structures existing upon the property, unless the fire marshal, or assistant fire marshal, determines that a firebreak of a lesser width will provide adequate protection against fire spread at the particular location.

16. **Dust.** Any premise which causes excessive dust due to an altering of the natural landscape, or any activity that causes excessive dust.
17. **Improper Storage.** The keeping, storing, depositing or accumulating of dirt, sand, gravel, concrete, construction equipment, or other similar materials, or maintenance of such material, on the premises or in public right-of-way so as to be visible from a public street or adjoining property, for a period of 30 days or more. Material stored as part of an active construction or landscaping project shall not be considered a nuisance.
18. **Construction Equipment.** Construction equipment or machinery of any type of description parked or stored on the street, except while excavation, construction or demolition operations covered by an active building permit are in progress on the subject property, right-of-way or street, or adjoining property or when the property is zoned for the storage of construction equipment and/or machinery.
19. **Improper Sign.** Improper maintenance of a sign, or signs, which advertise a business that is no longer in existence, or signs in violation of City Ordinance.
20. **Improper Parking or Storage.**
 - a. Vehicles must be parked or stored completely and only on a driveway or driveway extension.
 - b. No more than two (2) recreational vehicles may be parked or stored in any driveway or on any driveway extension of a residence.
 - c. No more than one (1) properly secured inoperable vehicle and one (1) recreational vehicle may be parked or stored at the same time in any driveway or on a driveway extension.
 - i. "Inoperable Vehicle" means any motor vehicle that cannot be started and moved under its own power without the assistance of another person, vehicle, or gravity. It also includes any unregistered vehicle.
21. **Hazardous Conditions.** Any wall, sign, fence, gate, hedge, or structure maintained in such condition of deterioration or disrepair as to constitute a hazard to persons or property.

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22. **Graffiti.** Graffiti which remains for more than 72 hours on the exterior of any building, wall, fence, sign or other structure and is visible from a public street or right-of-way.
23. **Improper Maintenance.** Maintenance of buildings and/or structures in such condition as to be deemed defective or in a condition of deterioration or disrepair including, but not limited to:
 - a. Any building or structure which is unfit for human habitation, or which is an unreasonable hazard to the health of people residing in the vicinity thereof, or which presents an unreasonable fire hazard in the vicinity where it is located ; or
 - b. Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of City ordinances, or premises in violation of City ordinances; or
 - c. Buildings which are abandoned, partially destroyed or left in an unreasonable state of partial construction for a period of six (6) months or longer. An unreasonable state of partial construction is defined as any unfinished building where the appearance or condition of the building or structure does not meet the requirements for finished buildings or structures as required by applicable City ordinances or building codes. The building or structure shall not be considered to be a nuisance if it is under active construction; or
 - d. Buildings having dry rot, warping, termite infestation, decay, excessive cracking, peeling, or chalking as to render the building unsightly and/or in a state of disrepair; or
 - e. Buildings with missing doors and/or windows containing broken glass and/or no glass at all where the window is of a type which normally contains glass; or
 - f. Building exteriors, walls, fences, gates, driveways, sidewalks, walkways, signs or ornamentation, or alleys maintained in such condition as to render them unsightly and/or in a state of disrepair; or
 - g. Buildings or conditions which violate any building, electrical, plumbing, fire, housing, or other code adopted by the City.
24. **Alcohol.** Every property or premise not licensed under applicable State law or City ordinance where any intoxicating liquors or alcohol are kept for unlawful use, sale or distribution.
25. **Electrical Disturbances.** Electrical installations for signs, equipment, or other facilities which create electrical disturbances that cause interference with normal

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radio or television reception beyond the immediate vicinity of such electrical installations.

26. **Hazardous Trees.** Any dead or diseased tree on public or private property within the City, when such tree threatens the public safety, constitutes a hazard to life and property, or harbors insects or diseases that constitute a potential threat to other trees.
27. **Pruning.** A tree located on private property but which overhangs any street or right of way within the City that is not pruned so that there is a clear space of eight feet (8') above the surface of the sidewalk, twelve feet (12') above the street or fifteen feet (15') above the UDOT corridor. Also, any dead, diseased, dangerous, broken or decayed limbs that constitute a menace to the safety of the public, or any tree or shrub that is not pruned so as to not interfere with the visibility of any traffic control device or sign.
28. **Noise.** Using any devices which produce an audible report, blast, siren, or other offensive noise, including but not limited to the use of jake brakes within the City limits. This section shall not apply to emergency vehicles or sirens.
29. **Excessive Animal Noise.** A. Possessing or owning an animal or fowl and to allow the animal or fowl to make a sound or combination of sounds that are frequent, repetitive, or continuous, and loud or raucous to the extent that the sound or sounds unreasonably disturbs or interferes with the peace, comfort or repose of another, including but not limited to barking, howling, braying, quacking and crowing.

B. It shall be prima facie evidence that the noise referred to in subsection A is frequent, repetitive or continuous if it occurs:

- i) Between the hours of 10:01 p.m. and 7:00 a.m. and continuously for a period of five minutes or more, or intermittently for a period of fifteen minutes or more; or
- ii) Between the hours of 7:01 a.m. and 10:00 p.m. and continuously for a period of fifteen minutes or more, or intermittently for a period of thirty minutes or more.

C. It shall be prima facie evidence that the noise referred to in subsection A is loud or raucous to the extent that it unreasonably disturbs or interferes with the peace comfort or repose of another if the sound can be heard anywhere on the property of another.

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30. **Kanab Creek Dumping.** No dumping allowed in Kanab Creek, unless the material dumped is a state-approved erosion control material.

10-310 Exceptions

No act which is done or maintained under the express authority of an authoritative statute, ordinance or court ruling shall be declared a nuisance.

No building, structure, or use of land that is specifically allowed under any city land use ordinance shall be declared a nuisance.

The following above subsections do not apply to commercial property in commercially zoned areas where such items are an integral part of the property's commercial operation: (17) Improper Storage and (20) Improper Parking or Storage.

The following above subsections do not apply if a proper fence, wall, hedge, or other well-maintained appropriate barrier reasonably blocks the visibility of the items from the street or adjoining properties: (11) Improper Accumulation, (12) Accumulation of Junk, (17) Improper Storage, and (20) Improper Parking or Storage.

10-312 Responsibility For Nuisances

The Responsible Person(s) is responsible for abating nuisances pursuant to this ordinance. Any person, whether owner, agent or occupant, who creates, aids in creating, or contributes to a nuisance, or who supports, continues or retains a nuisance is responsible for the nuisance and is therefore a Responsible Person pursuant to this ordinance. Every successive owner or tenant of a property or premises who fails to abate a continuing nuisance upon or in the use of such property or premises caused by a former owner or tenant is responsible therefore in the same manner as the one who first created it.

10-316 Finding A Nuisance - Responsibility

- A. It is the City's intent not to seek out or proactively find nuisances on private property. Instead, a Code Enforcement Officer will generally only investigate a nuisance on private property if the City has received a complaint from three or more persons, regarding the same nuisance, all of whom live within 500 feet of the nuisance. An exception to this

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practice applies to i) nuisances on public property or ii) nuisances on private property that a Code Enforcement Officer has determined to be primarily a health or safety hazard. While this is generally the City's practice, such practice does not preclude the Code Enforcement Officer from, at his or her discretion, investigating nuisance violations.

- B. If a Code Enforcement Officer finds that a nuisance exists, the Code Enforcement Officer shall attempt to have the Responsible Person abate the nuisance. Although the Code Enforcement Officer's first step in correcting or abating the nuisance will always be to obtain voluntary compliance, the City may pursue any remedy or combination of remedies available pursuant to this ordinance, State law or common law in order to abate the nuisance. Nothing in this section shall be interpreted to prohibit the City from engaging in its standard prosecution practices. Nothing in this ordinance shall be interpreted to prevent the City from enforcing applicable City ordinances, ICC building codes, or the Uniform Code for the Abatement of Dangerous Buildings without first treating the offending conduct, situation or activity as a nuisance pursuant to this ordinance.

10-318 Voluntary Correction

This section applies whenever a Code Enforcement Officer or other peace officer determines that a nuisance exists.

- A. **Contact.** Before taking other steps to abate the nuisance, a Code Enforcement Officer shall make a reasonable attempt to secure voluntary correction or abatement of the nuisance by:
1. Contacting the Responsible Person, where and when possible;
 2. Explaining the nuisance;
 3. Requesting the Responsible Person to abate the nuisance; and
 4. Agreeing to terms with the Responsible Person to abate the nuisance.
- B. **No Agreement.** If the Code Enforcement Officer and the Responsible Person cannot agree to terms for correcting or abating the nuisance, the Code Enforcement Officer may still abate the nuisance using one or more of the procedures set forth in this ordinance, State law, or common law.
- C. **Voluntary Correction Agreement.** If the Code Enforcement Officer and the Responsible Person agree to terms for abating the nuisance, they shall enter into and sign a Voluntary Correction Agreement. The Voluntary Correction Agreement is a contract between the City and the Responsible Person in which the Responsible Person agrees to abate the nuisance within a specified time and according to specified conditions. The voluntary Correction Agreement shall include the following terms:

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1. The name and address of the Responsible Person;
 2. The street address of the nuisance, or a description sufficient to identify the building, structure, premises, or land upon which or within which the nuisance is occurring;
 3. A description of the nuisance;
 4. The necessary corrective action to be taken, and a date or time by which the corrections must be completed;
 5. An agreement by the Responsible Person that the City may inspect the premises as may be necessary to determine compliance with the Voluntary Correction Agreement;
 6. An agreement by the Responsible Person that the City may abate the nuisance and recover its costs and expenses to abate the nuisance, as well as a monetary fine pursuant to this ordinance from the Responsible Person, if terms of the Voluntary Correction Agreement are not met;
 7. An agreement by the Responsible Person acknowledging that he/she waives the right to appeal the Code Enforcement Officer's finding that a nuisance exists and waives the right to appeal the specific corrective action required in the Voluntary Correction Agreement; and
 8. An agreement by the Responsible Person that failure to comply with the Voluntary Correction Agreement may be grounds for criminal prosecution.
- D. **Time Extension or Fulfillment.** The Code Enforcement Officer may grant an extension of the time limit for correcting or abating the nuisance if the Responsible Person has shown due diligence and/or substantial progress in correcting or abating the nuisance but unforeseen circumstances render abatement under the original conditions unattainable. The Code Enforcement Officer shall first obtain approval from the City Manager before any time extension is granted.
- E. **Compliance.** If the Responsible Person complies with the terms of the Voluntary Correction Agreement, the City shall take no action against the Responsible Person related to the nuisance described in the Voluntary Correction Agreement unless the nuisance reoccurs.

10-320 Administrative Citation

- A. **Administrative Citation.** When a Code Enforcement Officer determines that a nuisance exists and is unable to secure voluntary correction pursuant to the provisions of this Chapter, the Code Enforcement Officer may issue an administrative citation. Also, an administrative citation may be issued without first having attempted to secure voluntary correction under the following circumstances:

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1. When an emergency exists;
 2. When the Code Enforcement Officer is unable to locate or determine the identity of the Responsible Person; or
 3. When the Responsible Person has failed in the past to fulfill the terms of a Voluntary Correction Agreement.
- B. **Content of Administrative Citation.** The administrative citation shall include the following:
1. The name and address of the Responsible Person;
 2. The street address of the nuisance or a description sufficient for identifying the building, structure, premises, or land upon or within which the nuisance is occurring;
 3. A description of the nuisance;
 4. The required corrective action;
 5. The Completion Date and a notice that the City may abate the nuisance and charge the Responsible Person for all abatement costs if the Responsible Person does not correct the nuisance on or before the Completion Date;
 6. The time for appealing the administrative citation to the Hearing Officer and the procedure for filing an appeal;
 7. A statement indicating that no monetary fine will be assessed if the Code Enforcement Officer approved the completed, required corrective action prior to the Completion Date; and
 8. A statement that the City may abate the nuisance and assess costs and expenses of abatement and a monetary fine against the Responsible Person if the correction is not completed by the Responsible Person and approved by the Code Enforcement Officer on or before the Completion Date.
- C. **Service of Administrative Citation.** The Code Enforcement Officer shall serve the administrative citation upon the Responsible Person, either personally or by mailing, certified, return receipt requested, a copy of the administrative citation to the Responsible Person at his/her last known address. If the Responsible Person cannot after reasonable attempts be personally served within Kane County and if an address for mailed service cannot after reasonable attempts be ascertained, notice shall be served by posting a copy of the administrative citation conspicuously on the affected property or structure. Proof of service shall be made by a written declaration under penalty of perjury executed by the person effecting the service, declaring the time and date of service, the manner by which the service was made, and if by posting, the facts showing that reasonable attempts were used in attempting to serve the person personally or by mail.
- D. **Time Extension.** The Code Enforcement Officer may grant an extension of the time limit for correcting or abating the nuisance if the Responsible Person has shown due diligence

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and/or substantial progress in correcting or abating the nuisance but unforeseen circumstances render abatement under the original conditions unattainable. The Code Enforcement Officer shall first obtain approval from the City Manager before any time extension is granted.

10-322 Other Remedies

The City may take one or more of the following actions against any Responsible Person who fails to comply with the terms of the Voluntary Consent Agreement, Administrative Citation, or an order of the Hearing Officer:

A. Abatement by the City.

1. The City may abate a nuisance when:
 - a. The terms of a Voluntary Correction Agreement have not been met;
 - b. The requirements of an administrative citation have not been complied with, or, if the administrative citation is appealed to a Hearing Officer and the terms of the administrative citation are amended by the Hearing Officer, the terms of the Hearing Officer's order have not been complied with; or
 - c. The condition is subject to summary abatement as provided in subsection 2, below.
2. Whenever a nuisance is occurring which constitutes an immediate and emergent threat to public health, safety or welfare or to the environment, the City may summarily and without prior notice abate the condition. Notice of such abatement, including the reason for it, shall be given to the Responsible Person as soon as reasonably possible after the abatement.
3. Using any lawful means, the City may enter upon the subject property and may remove or correct the condition which is subject to abatement. The City may seek, but is not required to seek, such judicial process as it deems necessary to effect the removal or correction of the condition.
4. To collect costs, the City will follow the procedures outlined in Utah Code 10-11-3(1)(a)(ii). The costs, including incidental expenses, of correcting or abating the violation shall be billed to the Responsible Person and/or the owner, lessor, tenant or other person entitled to control, use and/or occupy the property and shall

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become due and payable to the City within thirty (30) days of the mailing date if the bill is mailed. The term Incidental Expenses includes, but is not limited to:

- a. Personnel costs, both direct and indirect, including attorney fees and costs;
 - b. Costs included in documenting the violation;
 - c. Hauling, storage and disposal expenses;
 - d. Actual expenses and costs for the City in preparing notices, specifications and contracts, and in accomplishing and/or contracting and inspecting the work; and
 - e. The costs of any required printing and mailing.
- B. **Monetary Fine.** The Responsible Person shall pay the City a monetary fine for each day the nuisance continues after the Completion Date. The nuisance shall be considered to continue until the Code Enforcement Officer approves the Responsible Person's actions to correct or abate the nuisance. The amount of the monetary fine shall be as follows:
1. One Hundred Dollars (\$100.00) per day for each day during their first week that the nuisance remains uncorrected or unabated after the Completion Date;
 2. Two Hundred Dollars (\$200.00) per day for each day thereafter until the nuisance is corrected or abated according to the terms set forth in the administrative citation. The monetary fine shall be cumulative. Payment of a monetary fine pursuant to the section does not relieve the Responsible Person from the duty to abate the nuisance as required by the Voluntary Consent Agreement or the Administrative Citation. The monetary fine constitutes a personal obligation of the Responsible Person. Any monetary fine assessed must be paid to the City within (30) days from the date of mailing of the Hearing Officer's decision and order or a notice from the City that the fine is due. The City Attorney and his/her designee is authorized to take appropriate action to collect the monetary fine, plus reasonable attorney fees and costs incurred in collecting said monetary fine.
- C. **Civil Actions.** Either the City or any private person directly affected by a nuisance may bring civil action to abate or enjoin the nuisance, or for damages for causing or maintaining the nuisance (including cost, if any, of cleaning the subject property). The civil action may be brought pursuant to this ordinance or pursuant to State law.
- D. **Criminal Actions.** Criminal actions may be initiated by criminal citation from a Code Enforcement Officer or by long form Information.
1. Any person who maintains or assists in maintaining a nuisance is guilty of a Class C misdemeanor. No person shall be prosecuted under this subsection (1) unless a Code Enforcement Officer first attempted to obtain voluntary correction pursuant to this chapter.
 2. If the alleged nuisance is also a violation of a provision of City Code (other than this nuisance ordinance) or State law, the Responsible Person may be charged

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under the specific provision of City Code or State law, even if a Code Enforcement Officer did not first attempt to obtain voluntary correction as provided in this ordinance.

3. Any person who knowingly obstructs, impedes, or interferes with the City or its agents, or with the Responsible Person, in the performance of duties imposed by this ordinance, or a decision and Order issued by the Hearing Officer, or a Voluntary Correction Agreement, is guilty of a Class B misdemeanor.
 4. Any violation under this subsection requires mandatory court appearance by the cited individual.
- E. **Abatement by Eviction.** Whenever there is reason to believe that a nuisance under section 10-305(B) (1-6) is kept and maintained, or exists in the City, the City Attorney or any citizen(s) residing in the City, in his or her own names, may maintain an action in a court of competent jurisdiction to abate the nuisance and obtain an order for the automatic eviction of the tenant of the property harboring the nuisance. The eviction shall take place as specified in Utah law.
- F. **Lien for Costs.** If a person fails to pay any fines or costs related to nuisance abatement when due, the City may record a lien on the property or premises associated with the nuisance for the full amount of unpaid fines and costs. The City, in accordance with Utah Code 10-11-4, may pursue unpaid costs and expenses through certification to the County Treasurer.
- G. **Abatement of Dangerous Buildings.** The "Uniform Code for the Abatement of Dangerous Buildings," 1997 edition, with any official amendments, is hereby approved and adopted as the Abatement of Dangerous Buildings Code of this municipality. All buildings or portions thereof which are determined after inspection by the building official to be dangerous, as defined in the Abatement of Dangerous Building Code, are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with procedures specified in the Uniform Code for the Abatement of Dangerous Buildings.
- H. **Non-exclusive Remedies.** The City may take any or all of the above-mentioned remedies (administrative, civil or criminal) to abate a nuisance and/or punish any person or entity who creates, causes or allows a nuisance to exist. The abatement of a nuisance does not prejudice the right of the City or any person to recover damages or penalties for its past existence.

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- A. **Grounds.** Any person receiving an administrative citation may appeal the administrative citation to the Hearing Officer. Only the following issues may be appealed to the Hearing Officer:
1. The person charged in the administrative citation as the Responsible Person is not the Responsible Person as defined by this ordinance.
 2. The condition described as a nuisance in the administrative citation is not a nuisance as defined by this ordinance.
 3. The method required by the administrative citation to abate the nuisance is inappropriate or is not the most cost effective method of effectively correcting or abating the nuisance.
 4. The time period given to abate the nuisance in the administrative citation is unreasonable.
 5. The monetary fine set forth in the administrative citation is unreasonable.
 6. The Code Enforcement Officer refused to approve a corrective action that met the requirements of the administrative citation.
 7. The Responsible Person claims that the requirement(s) of the administrative citation violates his/her constitutional rights.
- B. **Filing.** The person desiring to appeal must file a notice of appeal within ten (10) days of receipt of the administrative citation or within fifteen (15) days of the mailing date if the administrative citation was mailed.
- C. **Hearing.** The hearing before the Hearing Officer shall be informal according to rules and procedures established by the Hearing Officer. The appellant may, but is not required to, bring an attorney or other representative to assist him or her. The appellant and the Code Enforcement Officer may each call witnesses at the hearing. The Hearing Officer may, with or without the parties present, visit the site of the alleged nuisance. If the Hearing Officer allows parties at the site visit, both parties must be given the opportunity to be present. The hearing shall be scheduled by the Hearing Officer within thirty (30) days of when the notice of appeal is filed with the City.
- D. **Burden of Proof.** The appellant shall have the burden of proof to demonstrate by a preponderance of the evidence that he/she had legitimate grounds for the appeal. The determination of the Code Enforcement Officer as to the need for the required corrective action shall be accorded substantial weight by the Hearing Officer in determining the reasonableness of the corrective action.
- E. **Authority of the Hearing Officer.** The Hearing Officer shall have authority to affirm or vacate the administrative citation, or to modify or waive specific provisions of the administrative citation. If the appellant fails to attend the hearing, the Hearing Officer shall affirm the administrative citation. Before the Hearing Officer may address the merits of the appeal, he or she must first determine if the appeal is timely. If it is untimely, the

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Hearing Officer shall affirm the administrative citation. The Hearing Officer shall not vacate the administrative citation unless he/she finds that no nuisance exists. The Hearing Officer shall modify the administrative citation if he/she finds that a nuisance exists, but that one or more of the requirements of the administrative citation is improper or inappropriate. A requirement is improper if it is contrary to this ordinance. A requirement is inappropriate if the Hearing Officer finds that there is a better means of resolving the problem or that the proposed solution is inappropriate given the nature or severity of the problem. When determining whether to waive or modify a requirement of the administrative citation, the Hearing Officer may also consider:

1. Whether the appellant responded to the Code Enforcement Officer's attempts to contact the appellant and cooperated with efforts to correct the nuisance;
2. Whether the appellant has shown due diligence and/or substantial progress in correcting the nuisance;
3. The financial ability of the appellant and the amount, if any, that the appellant has benefitted financially by maintaining a nuisance.
4. Any other relevant factors. If the appellant appeals the Code Enforcement Officer's refusal to approve the appellant's corrective action, the Hearing Officer shall visit the site and determine if the appellant complied with the requirements of the administrative citation.

F. **Order.** The Hearing Officer shall issue a written Order to the appellant and the Code Enforcement Officer notifying them of his/her decision. The Order shall include the Hearing Officer's findings of fact and ultimate decision. If the Hearing Officer modifies or waives provisions of the administrative citation, the Order shall specify which portions are modified and how they are modified. The Hearing Officer shall mail a copy of the Order to the appellant and the City within five (5) working days of the close of the hearing.

G. **Appeal to Kane County Justice Court.** Either the City or the appellant may appeal the Hearing Officer's Order by filing a petition for review of the Order. The petition must be filed in the Kane County Justice Court within thirty (30) days from the date the Hearing Officer's Order was mailed to the appellant. In the petition, the plaintiff may only allege that the Hearing Officer's order was arbitrary, capricious or illegal. The Hearing Officer shall transmit to the reviewing court the record of its proceedings, including any minutes, findings, orders and, if available, a true and correct transcript of its proceedings. If, in the opinion of the Justice Court, there is a sufficient record to review the Hearing Officer's Order, the Court's review is limited to the record provided by the Hearing Officer. The Justice Court may not accept or consider any evidence outside the Hearing Officer's record unless the evidence was offered to the Hearing Officer and the Court determines that it was improperly excluded by the Hearing Officer. If, in the opinion of

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the Justice Court, there is not a sufficient record to review the Hearing Officer's Order, the Court may call witnesses and take evidence. No petition or appeal may be filed in Justice Court unless the Responsible Person first appeals to the Hearing Officer pursuant to the terms set forth in this ordinance. Furthermore, the Justice Court shall not have jurisdiction to hear the merits of the appeal if the appeal is untimely in any stage.

Section 10-400 Garbage and Litter

Section 10-410 Garbage Regulations

Section 10-411 Definitions

- A. "Person" shall mean any institution, public or Private Corporation, individual, partnership or other entity.
- B. "Premises" shall mean land, buildings, or other structures, vehicles, or parts thereof, upon or in which refuse is stored.
- C. "Refuse" shall mean all solid waste of a community, including garbage, ashes, rubbish, dead animals, street cleanings, and solid market, and industrial waste, but not including body wastes.
- D. "Container" or "regulation container" means a type of garbage or trash container of galvanized metal or other approved material and having a tight fitting lid or properly and sufficiently treated weather resistant paper bag manufactured specifically for use in garbage and refuse collection.
- E. "Commissioner of Sanitation" shall mean the person designated by the City who shall be authorized and directed to implement and enforce the provisions of this ordinance. Such commissioner shall be designated from time to time by resolution of the City Council. In the absence of such designation, the Chief of Police shall so function.

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F. "Responsible Authority" shall mean the Western Kane County Special Service District No. 1, or its designee or any other party engaging in refuse collection or disposal.

Section 10-412 Functions Of Commissioner Of Sanitation

The Commissioner of Sanitation of the City shall be in charge of controlling the storage, collection and disposal of refuse within the City, in accordance with the provisions of this Chapter.

Section 10-413 Permits

Any person engaging in the business of refuse collection or refuse disposal for compensation must obtain a permit from the recorder/clerk. Haulage of refuse must be done in the manner, at such times and in such vehicles as may be approved for such purposes as the governing body may from time to time by regulation provide.

Section 10-414 No Accumulation of Garbage

It shall be unlawful for any person to accumulate garbage or refuse or cause garbage or refuse to be deposited upon any street or alley or upon any premises in the municipality without express permission from the Commissioner of Sanitation. The Commissioner of Sanitation may permit the feeding or processing of garbage or refuse upon premises properly equipped and maintained so as to prevent the creation of a nuisance or a hazard to health, or permit the depositing of ashes and other dry material for filling purposes at such places as the Commissioner of Sanitation may designate and under such restrictions as the governing body may by regulation impose. Additionally, the Commissioner of Sanitation may grant to any person permission for sorting, bailing and marketing trade waste upon premises properly equipped and maintained.

~~Section 10-415 Enforcement, Service of Notices And Orders, Hearings~~

Comment [j11]: Such violations should be handled as outlined in Nuisance ordinance.

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~~A. Wherever the Commissioner of Sanitation has determined that there are reasonable grounds to believe that there has been a violation of any provision of this ordinance, he shall give notice of such alleged violation to the person or persons responsible therefore. Such notice shall:~~

~~1. Be written.~~

~~2. Include a statement of the reasons why it is being issued;~~

~~b. Allow a reasonable time for the performance of any act it requires;~~

~~c. Be served upon the holder of a permit issued under this ordinance, or upon the owner or his agent or the occupant of any premises within the City. Notice shall be deemed to have been properly served when a copy thereof has been served personally or in accordance with any other method authorized or required under the laws of this state for commencement of civil actions.~~

~~B. Such notice may:~~

~~1. Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this chapter.~~

~~2. State that unless conditions or practices described in such notice which violate this chapter are corrected within the reasonable time specified in such notice, the violator may be punished in accordance with the provisions of this chapter, or a permit which has been issued pursuant to this chapter may be suspended or revoked.~~

~~C. Any person who is affected by any notice issued in connection with the enforcement of any provision of this chapter shall be granted a hearing on the matter before the Commissioner of Sanitation, after having first filed, in the office of the Commissioner of Sanitation a written petition requesting such hearing and setting forth a brief statement of the ground therefore, within ten (10) days after the date the notice was served. Upon receipt of such petition, the Commissioner of Sanitation shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing the petitioner shall be given an opportunity to be heard. The hearing shall be commenced not later than ten (10) days after the day on~~

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~~which the petition was filed. Upon application of the petitioner, the Commissioner of Sanitation may postpone the date of the hearing for a reasonable time beyond such ten day period when in his judgment, the petitioner has submitted a good and sufficient reason for such postponement.~~

~~D. After such hearing, the Commissioner of Sanitation shall sustain, modify, or withdraw the notice, depending upon his findings as to whether or not the provisions of this chapter and of the regulations adopted pursuant thereto have been complied with. If the Commissioner of Sanitation sustains or modifies such notice, it shall be deemed to be an order. Any notice shall automatically become an order if a written petition for a hearing has not been filed in the office of the Commissioner of Sanitation within ten (10) days after such notice was served. In the case of any notice which states that a permit required by this ordinance may be suspended or revoked, the Commissioner of Sanitation may suspend or revoke such permit if an order is issued and corrective action has not been taken within the time specified in the notice.~~

~~E. The proceedings at such hearing, including the findings and decision of the Commissioner of Sanitation, shall be summarized, reduced to writing, and entered as a matter of public record in the office of the Commissioner of Sanitation. Such record shall include a copy of every notice or order issued in connection with the matter.~~

~~F. If the corrective action ordered by the Commissioner of Sanitation under this chapter has not been taken within five (5) days after such decision or order thereof, the Commissioner of Sanitation shall deliver the order and accompanying file to the City Council for a hearing on the matter. The City Council shall give notice of the hearing (1) by personal place of business of the person not complying with anyone at such address who is over the age of fourteen (14) years or (2) by mailing a copy of the notice to the last known address of the person not complying with the order.~~

~~G. At the time set for the hearing the City Council shall hear the matter and receive evidence and determine what corrective action is required, if any.~~

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~~The decision of the City Council shall be in writing and a copy mailed to the person not complying.~~

~~H. Any person who does not comply with the decision of the City Council shall be guilty of a misdemeanor and punished as provided in 10-426. The City Council may order the Commissioner of Sanitation to take the corrective action required if the person who does not comply fails to do so. A court action may be commenced against such person for any costs incurred by the City.~~

~~I. Wherever the Commissioner of Sanitation finds that an emergency exists involving a serious health hazard which requires immediate action to protect the public health he may without notice or hearing issue a written order reciting the existence of such an emergency and the conditions violating this ordinance which require corrective action to remove such health hazard. If such corrective action is not taken, the Commissioner of Sanitation may take the action including the abatement of any nuisance as may be necessary to protect the public health. Notwithstanding other provisions of this ordinance, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the City Council shall be afforded a hearing as soon as possible, but in any case not later than three (3) days after the petition was filed. After such hearing depending upon the findings of the City Council as to whether or not the provisions of this ordinance and of the regulations adopted pursuant thereto have been complied with the City Council shall continue such order in effect, or modify it or revoke it.~~

Section 10-416 Inspection

The Commissioner of Sanitation, after identifying himself, shall have the power to enter at reasonable times upon private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of the provisions of this ordinance and where necessary shall obtain a search warrant from a court having jurisdiction.

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Section 10-417 Storage Of Refuse And Preparation For Collection

- A. Bulky rubbish such as trees, weeds, and large cardboard boxes, may be bundled so as not to exceed four (4) feet in length nor fifty (50) pounds in weight.
- B. All other refuse shall be stored in durable, watertight, and easily washable containers which have close-fitting lids and adequate handles to facilitate collection or in two-ply fifty (50) pound, waterproof bags. Such containers shall be of not less than ten (10) gallons nor more than thirty (30) gallons in capacity for business, and shall not be filled in excess of one hundred (100) pounds of weight unless the collection vehicle is equipped to mechanically empty larger containers in which case the maximum size of containers shall be determined by the mechanical equipment on the vehicle.
- C. It shall be unlawful to permit refuse, except bulky rubbish, to accumulate on any premises except in containers which are approved by the Commissioner of Sanitation in accordance with the specification contained in this section.
- D. Ashes containing hot embers shall not be placed in containers for collection.

Section 10-418 Frequency of Collection

- A. All household refuse shall be collected by the responsible authority at least once per week.
- B. All institutional, business and industrial refuse shall be collected by the responsible authority at least once per week.
- C. Additional frequency of collection may be ordered by the Commissioner of Sanitation in order to avoid undue accumulations of refuse, to prevent nuisance and/or to control insect and/or rodent breeding and harborages.

Section 10-419 Time and Place of Collection

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- A. All household refuse to be collected shall be placed on the curb in front of the residency according to schedule as established at such time and place as shall be designated by the responsible authority.
- B. Garbage and refuse must not be set out upon the street for collection prior to the evening of the day before collection and must be set out on the day of collection before the hour of collection designated by the responsible authority.
- C. All empty receptacles must be removed from the street as soon as practicable after being emptied, and in every case, must be removed from the street the same day they are emptied. Receptacles shall not be permitted to remain on any street longer than may be necessary for the removal of the contents.

Section 10-420 Refuse Disposal

- A. All disposal of refuse shall be by method or methods in accordance with requirements of State and local law and shall include the maximum practicable rodent, insect, and nuisance control at the place or places of disposal.
- B. No garbage shall be fed to hogs, unless such garbage has been heat-treated to kill any disease agents therein by boiling for thirty (30) minutes or by other equally effective means.
- C. Animal offal and carcasses of dead animals shall be buried or cremated as directed by the Commissioner of Sanitation or shall be rendered at forty (40) pounds per square inch of steam pressure or higher or shall be heated by equivalent cooking.
- D. It shall be unlawful for any person intentionally or carelessly to throw, cast, put into, drop or permit to fall from a vehicle and remain in any street, gutter, sidewalk, public place any stones, gravel, sand, coal, dirt, manure, garbage, leaves, lawn or hedge clippings or rubbish of any kind or any other substance which shall render such highway unsafe or unsightly or shall interfere with travel thereon.

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- E. It shall be unlawful for any person to burn garbage, market waste, manure or other refuse in the open air or in any furnace or stove within the municipality, except by special permit.
- F. It shall be unlawful for any owner, occupant, or tenant of any premises abutting on alleyways, to fail to keep such part of said alleyway or said premises clean and free from refuse of all kinds.

Section 10-421 Equipment

- A. All public or private vehicles used for the collection or disposal of refuse shall have enclosed bodies or suitable provision for covering the body. Provision and use of tarpaulin or canvas cover to enclose open bodies of collection vehicles may be permitted when specifically approved by the Commissioner of Sanitation.
- B. Vehicles used for the collection or disposal of garbage, or of refuse containing garbage, shall have watertight, metal bodies of easily cleanable construction, shall be cleaned at sufficient frequency to prevent nuisance of insect-breeding and shall be maintained in good repair.

Section 10-422 Penalties

Any person who shall violate any provision of this ordinance shall be guilty of a Class C misdemeanor and each day's failure to comply with any such provision shall constitute a separate violation.

Section 10-430 Litter – Handbills

Section 10-431 Definitions

For the purposes of this part:

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- A. "Authorized Receptacle" is a public or private litter storage and collection receptacle.
- B. "Commercial handbill" is any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter or literature:

~~C.i.~~ i. Which advertises for sale any merchandise, product, commodity, or thing~~±~~.

~~D.ii.~~ ii. Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest in sales thereof;

~~E.iii.~~ iii. Which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit. However, the terms of this clause shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition, or event of any kind, when either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order provided that nothing contained in this clause shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition, or event of any kind without a license, where such license is or may be required by any law of this state, or under any ordinance of this municipality; or

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F.iv. Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes or for the private benefit and gain of any person so engaged as advertiser or distribution.

G.C. "Garbage" means waste from the preparation, cooking, or consumption of food, condemned food products and all refuse and waste from the handling, storage, preparation and sale of produce. Garbage originates primarily in kitchens, stores, markets, restaurants, hotels and other places where food is handled, stored, sold, cooked or consumed.

H.D. "Litter" is "garbage", "refuse," and "rubbish" as defined herein and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety, welfare or appearance of the municipality.

I.E. "Newspaper" is any newspaper of general or local circulation or any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.

J.F. "Non-Commercial Handbill" is any printed or written matter, any sample, or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper.

K.G. "Park" is a park, reservation, playground, beach, recreation center or any other public area in the municipality, owned or used by the municipality.

H. "Refuse" is all putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, and solid market and industrial wastes.

L.H. "Rubbish" is nonputrescible solid wastes consisting of both combustible and non-combustible wastes, such as paper, wrapping, cigarettes, cardboard, tin

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cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

M.I. "Vehicle" is every device in, on, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively on stationary rails or tracks.

Section 10-432 Litter in Public Places

No person shall throw or deposit litter in or on any street, sidewalk or other public place except:

- A. In authorized receptacles for collection or in official municipal garbage dumps, or
- B. For collection as authorized by the governing body.

Section 10-433 Placement Of Litter In Receptacles So As To Prevent Scattering

Persons placing litter in authorized receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements on any street, sidewalk or other public place or on private property.

Section 10-434 Sweeping Litter into Gutters Prohibited except as Otherwise Authorized by the governing Body

No person shall sweep into or deposit in any gutter, street or other public place the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free from litter.

Section 10-435 Merchants' Duty To Keep Sidewalks Free From Litter

No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place the accumulation of litter from any building

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or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business shall keep the sidewalk in front of their business premises free of litter.

~~Section 10-436 Litter Thrown By Persons in Vehicles~~

~~No person, while a driver or passenger in a vehicle, shall throw or deposit litter on any street or other public place, or on private property.~~

Comment [j12]: Littering is a state code offense found in 76-10-2701

~~Section 10-437 Truck Loads Causing Litter~~

~~No person shall drive or move any truck or other vehicles unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited on any street, alley or other public place. Nor shall any person drive or move any vehicle or truck, the wheels or tires of which carry onto or deposit in any street, alley or other public place, mud dirt, sticky substances, litter or foreign matter of any kind.~~

~~Section 10-438 Litter in Parks~~

~~No person shall throw or deposit litter in any park except in authorized receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements on any part of the park or on any street or other public place. Where authorized receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein.~~

~~Section 10-439 Litter in Lakes and Fountains~~

~~No person shall throw or deposit litter in any fountain, pond, lake, stream, bay or other body of water in a park or elsewhere.~~

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Section 10-440 Throwing or Distributing Commercial Handbills in Public Places

No person shall throw or deposit any commercial or non-commercial handbill in or on any sidewalk, street or other public place. Unless otherwise authorized by the governing body, it is an infraction for any person to hand out, distribute or sell any commercial handbill in any public place, provided, however, that it shall not be unlawful on any sidewalk, street, or other public place for any person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill to any person willing to accept it.

Section 10-441 Placing Commercial and Non-commercial Handbills On Vehicles

Unless otherwise authorized by the governing body, no person shall throw or deposit any commercial or non-commercial handbill in or on any vehicle, provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof a non-commercial handbill to any occupant of a vehicle who is willing to accept it.

Section 10-442 Depositing Commercial and Non-Commercial Handbills on Uninhabited or Vacant Premises

No person shall throw or deposit any commercial or non-commercial handbill in or on any private premises which are temporarily or continuously uninhabited or vacant.

Section 10-443 Prohibiting Distribution of Handbills Where Properly Posted

No person shall throw, deposit or distribute any commercial or non-commercial handbill on any private premises, if requested by anyone thereon not to do so or if there is placed on said premises in a conspicuous position near the entrance thereof a sign bearing the words : "No Trespassing," "No Peddlers or Agents," "No Advertisement," or any similar notice, indicating in any manner that the occupants of the premises do not desire to be molested or have their right of privacy disturbed or to have any such handbills left on such premises.

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Section 10-444 Distributing Commercial And Non-Commercial Handbills At Inhabited Private Premises

No person shall throw, deposit or distribute any commercial or non-commercial handbill in or on private premises which are inhabited, except by handling or transmitting any such handbill directly to the owner, occupant, or other person then present in or on such private premises. However, in case of inhabited private premises which are not posted, as provided in this part, such person, unless requested by anyone on such premises not to do so, may place or deposit any such handbill in or on such inhabited private premises if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets, or other public places, and except that mailboxes may not be so used when prohibited by federal postal law or regulations.

Section 10-445 Exemption for Mail And Newspapers

The provisions of this part shall not apply to the distribution of mail by the United States, nor to the newspapers except that newspapers shall be placed on private property in such a manner so as to prevent their being carried or deposited by the elements on any street, sidewalk, or other public place or on private property.

Section 10-446 Posting Notice Prohibited

No person shall post or affix any notice, poster or other paper or device, calculated to attract the attention of the public, to any lamp post, public utility pole or shade tree, or on any public structure or building, except as may be authorized or required by law.

Section 10-447 Litter on Occupied Private Property

~~No person shall throw or deposit litter on any occupied private property, whether owned by such person or not, except that the owner or person in control of private~~

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~~property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements on any street, sidewalk or other public place or on any private property.~~

~~Section 10-448 Litter on Vacant Lots~~

~~No person shall throw or deposit litter on any open or vacant private property whether or not owned by such person.~~

Comment [j13]: Covered in state littering code.

Section 10-449 Handbills and Posters

- A. No person or business shall post, stick, stamp, paint or otherwise fix, or cause the same to be done by any person, any notice, placard, bill, card, poster, advertisement or other paper or device calculated to attract the attention of the public, or upon any sidewalk, curb, or any other portion or part of any public way or public place or any lap post, electric light, telegraph, telephone or railway structure, hydrant, shade tree or tree-box, or upon the columns, trusses, girders, railings, gates or other parts of any bridge or other public structure or building, or upon any pole, box or fixture of the fire alarm or police telegraph system, except such as may be authorized or required by the laws of the United States, or state, and the ordinances of this municipality.
- B. It shall be unlawful to distribute indiscriminately to the public by leaving at houses or residences in the municipality any cards, circulars, handbills, samples of merchandise, or any advertising matter whatsoever without having first secured a permit therefor. This section shall not be construed to apply to the sale of articles by licensed peddlers.
- ~~C. Applications for such permit shall be made to the recorder/clerk and shall contain a statement of the nature of the article, cards or advertisement to be distributed, the name of the applicant and the name of the manufacturer or distributor of such article or service advertised.~~

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~~D. Licenses shall be issued only to persons of good character. The chief of police shall make or cause to be made an investigation into the character of each applicant and shall report the results thereof to the recorder/clerk before any such license is issued.~~

Comment [j14]: Covered in business license section.

~~Section 10-500 Flood Management~~

~~See Chapter 11 in the Zoning Ordinance.~~

Section 10-560 Fire, Health, Safety and Welfare

Section 10-560.1 as used in this Section:

Definitions

For the purpose of this Ordinance, the following terms, phrases, and words shall have the following meaning:

- a. "Hazardous Materials Emergency" means a sudden and unexpected release of any substances that, because of its quantity, concentration, or physical, chemical or infectious characteristics presents a direct and immediate threat to public safety or the environment, and requires immediate action to mitigate the threat.
- b. "Expenses" means all costs incurred for the response, containment and/or removal and disposal of hazardous materials on initial remedial action. It includes, but is not necessarily limited to, the actual labor costs of government and other personnel including workers compensation benefits, fringe benefits, administrative overhead and any costs of equipment, equipment operations, materials, disposal and any contract labor or materials.

Section 10-560.2 Recovery of Expenses

- A. Those persons or entities whose negligent or intentional actions cause or create, in whole or in part, a hazardous materials emergency within the boundaries of the City is liable to the City for all costs and expenses

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incurred in or arising from response to such hazardous materials emergency by the City and any other political subdivision, agency or cooperative entity. The City shall recover all such costs and expenses including reasonable attorneys fees, litigation expenses and court costs incurred in, related to or arising out of, all cost recovery efforts and enforcement of the terms of this Ordinance.

- B. All costs and expenses shall be billed at the current rate established and approved by resolution of the Executive Committee of the Inter-local Agreement for Cooperative Hazardous Materials Protection and Services.
- C. The payment of expenses under this section does not constitute an admission of liability or negligence in any legal action for damages.

Section 10-560.3 Cost Recovery Procedure

Section 10-560.4 Action to

- A. The City shall investigate and determine the person or entity responsible for causing or creating the hazardous materials emergency and shall notify the responsible party in writing of said determination of responsibility and the amount of costs and expenses incurred by the City in responding to the hazardous materials emergency.

~~B. The notice required above by subsection 3.1 shall specify that the party determined to be responsible for causing or creating the hazardous materials emergency has the right to appeal the decision. Such appeal shall be in accordance with Chapter 3 of the Land Use Ordinance, determining responsibility to the governing body of the City and shall specify a deadline for filing the notice of appeal and the person or office in which it must be filed. The deadline for filing the notice of appeal shall not be less than fifteen days from the date of the notice.~~

~~C. In the event a notice of appeal is filed, the hearing before the governing body shall be an informal public hearing, and the parties shall not be~~

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~~required to adhere to the Utah rules of Civil Procedures or evidence. The appealing party and the City shall each be entitled to present evidence and argument in support of their respective positions, in accordance with procedures established at the hearing by the governing body.~~

~~D. The decision of the governing body shall be final.~~

~~E. Recover Costs~~

In the event the responsible party fails or refuses to pay all of the costs and expenses determined by the City related to or arising out of the City's response to the hazardous materials emergency within thirty days after assessment or after the governing body's decision on an appeal, the City may initiate a legal action to recover such costs, including reasonable attorney's fees and costs.

Section 10-560.5 Expenses of Other Responding entities

- A. In the event that personnel and equipment from other political subdivisions, agencies or cooperative entities shall respond to assist with the hazardous materials emergency, then the City shall recover costs and expenses incurred by such other political subdivisions, agencies or cooperative entities as part of City's cost recovery efforts.
- B. Upon recovery of costs and expenses from the responsible party, the City is authorized to reimburse such other political subdivisions, agencies or cooperative entities from their actual costs incurred in responding to the hazardous materials emergency.

Section 10-561 Fire, Health, Safety and Welfare

1. As used in this Section:
 - a) "Accident and extrication Emergency" means to aide in the removal of an injured person or fatality from a vehicular accident, where damage to the vehicle is such that it requires the use of Rescue 1 in the removal of the person.

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b) "Expenses" means actual labor costs of government and volunteer personnel including workers compensation benefits, fringe benefits, administrative overhead, cost of equipment, cost of equipment operations, cost of materials, and a cost of any contract labor and materials.

2.

a) Upon certification of costs by the Fire Chief to Kanab City, the City Council may authorize the City Attorney to recover from those persons or entities whose operations or actions caused the accident and extrication emergency expenses incurred by ~~the~~ Kanab City that are directly associated with a response to an accident and extrication emergency.

b) Those persons or entities ~~responsible~~ reasonable for said expenses as set forth in paragraph 1(a) above shall be liable to Kanab City for all such expenses incurred by the City.

c) The payment of expenses under this subsection does not constitute an admission of liability or negligence in any legal action for damages.

d) The City is hereby authorized to collect its expenses in enforcing this ordinance from the persons or entities that cause the accident and extrication expenses and those expenses may include reasonable attorney's fees and litigation costs.

~~Section 10-561.1 Severability~~

~~If any provision of this ordinance is declared invalid by a court of competent jurisdiction, the remainder shall not be affected thereby.~~

~~Section 10-561.2 Effective Date~~

~~This Ordinance shall become effective immediately after passage and posting as required by law.~~

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~~Section 16-100 Appendix A Describing Fire Districts or Zones~~

~~Section 16-100.1 Fire Districts or Zones Referenced~~

~~This is the Appendix referenced in Section 9-533 of this Code of Revised Ordinances of this municipality in which the fire districts or zones are described.~~

~~Section 16-100.2 Entire Municipality Designated Fire District~~

~~The entire municipality is declared to be and hereby is designated a fire zone for the purposes of the Uniform Building Code and any ordinances of the municipality relating to building and fire prevention.~~

~~Section 16-100.3 Fire District Number One~~

~~Fire district number one shall include the following described areas:~~

~~A.—None~~

~~B.—B.~~

~~C.—C.~~

~~Fire district number one is heavily concentrated buildings in large downtown cities. Examples include downtown Salt Lake City, Provo, Logan, St. George, Cedar City, Price, and Brigham City. Most towns and small cities would not have a fire district number one. Only limited areas of most downtown small cities would be designated to this classification. In this district the opportunity for fire spreading to other buildings is great.~~

~~Section 16-100.4 Fire District Number Two~~

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~~Fire district number two shall include all of those areas of the municipality located in areas zoned commercial or industrial by the zoning ordinances of the municipality, except the areas above described in Section 16A.3.~~

~~Fire district number two is less concentrated commercial and industrial areas. Fire district number two is characterized by commercial and industrial buildings having minimum setbacks of 20 feet from side (sometimes front) property lines.~~

~~Section 16-100.5 Fire District Number Three~~

~~Fire district number three shall include all areas of the municipality not included in fire districts one or two.~~

~~Fire district number three is characterized by residential zoning and buildings. Generally, in district three, there is little risk of fire spreading to adjacent buildings.~~

~~Section 16-110 Appendix B Establishing Limits of Districts in which Storage of Flammable or Combustible Liquids~~

~~Appendix B Establishing limits of Districts in which storage of flammable or combustible liquids in outside above ground tanks and explosives are prohibited, and in which bulk storage of liquefied petroleum gas is restricted, and amendments to the fire code~~

~~Section 16-110.1 Appendix Identified~~

~~This Appendix is the Appendix referred to in Sections 10-154, 10-155, 10-156, and 10-157 of the Codes of Revised Ordinances of this municipality which relate to the Uniform Fire Code.~~

~~Section 16-110.2 Prohibited Storage above Ground~~

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~~The limits referred to in Sections 79.501 and 79.1001 of the Uniform Fire code in which storage of flammable or combustible liquids in outside above ground tanks are prohibited are as follows:~~

~~The entire City, except where permitted by conditional use permit. Such permits shall not be granted in areas zoned to be used solely for mercantile establishments, primarily retail in character and in the business district and the congested commercial areas.~~

- ~~A. Existing above ground tanks may remain in use subject to the provisions of this code, the Uniform Fire Code and any other bylaws, ordinances and statutes;~~
- ~~B. Above ground tanks for the storage of flammable liquids may be installed in permitted areas as follows:
 - ~~1. Above ground tanks for the storage of flammable liquids may not be larger than two thousand gallons.~~
 - ~~2. Above ground tanks must provide double containment, protect against damage to any surrounding structures and vehicles, and shall provide protection from vehicular damage, and meet all specifications provided by the manufacturer and other applicable codes, laws, ordinances and statutes.~~
 - ~~3. All above ground storage tanks must be located at least one hundred (100) feet from a residential unit.~~
 - ~~4. Liquid stored in any above ground storage tank constructed pursuant to these provisions may not be sold.~~
 - ~~5. The total number of gallons of flammable liquids stored on each business property shall be limited to two thousand (2,000) gallons.~~~~

~~Section 16-110.3 Bulk Plants for Flammable or Combustible Restricted~~

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~~The limits referred to in Section 79.1401 of the Uniform Fire Code in which bulk plants for flammable or combustible liquids are prohibited is as follows:~~

~~The entire City, except where permitted by conditional use permit. Such permit shall not be granted in areas zoned to be used solely for residential occupancies and for mercantile establishments, primarily retail in character and in the business district and the congested commercial areas.~~

~~In all areas where such an installation is approved, the installation shall be no closer than 100 feet from the nearest structure of any kind, and shall be surrounded by a berm or barrier which shall be sufficient to contain the entire contents of the storage facility should it leak.~~

~~Section 16-110.4 Bulk Storage of Liquefied Petroleum Gases~~

~~The limits referred to in Section 10-155 of the Code of Revised Ordinances—Section 82.104(b) of the Uniform Fire Code in which the storage of liquefied petroleum gas is prohibited are:~~

~~A.—The entire City.~~

~~Section 16-110.5 Explosives Restricted~~

~~The limits referred to in Section 77.107 of the Uniform Fire Code in which the storage of explosives and blasting agents is prohibited are as follows:~~

~~A.—The entire city.~~

~~Section 16-110.6 Amendments~~

~~The amendments to the Uniform Fire Code referred to in Section 10-157 of the Code of Revised Ordinances as follows:~~

~~None~~

~~Note of Explanation to this Appendix:~~

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- ~~A.—STORAGE OF FLAMMABLE OR COMBUSTIBLE LIQUIDS—In outside above ground tanks (Section 10-154(A) of the Code of Revised Ordinances—Sections 79.501 and 79.1001 of the Uniform Fire Code) should be prohibited in the mercantile and other congested areas.~~
- ~~B.—NEW BULK PLANTS FOR FLAMMABLE OR COMBUSTIBLE LIQUIDS—(Section 10-154(B) of the Code of Revised Ordinances—Section 79.1401 of the Uniform Fire Code) should be prohibited in areas zoned to be used solely for mercantile establishments, primarily retail in character.~~
- ~~C.—BULK STORAGE OF LIQUIFIED PETROLEUM GASES—(Section 10-155 of the Code of Revised Ordinances—Section 82.104(b) of the Uniform Fire Code) should be restricted in areas of heavy population and in the congested commercial areas.~~
- ~~D.—STORAGE OF EXPLOSIVES AND BLASTING AGENTS—(Section 10-155 of the Code of Revised Ordinances—Section 77.107 of the Uniform Fire Code) should be prohibited in the business district, closely built commercial areas and heavily populated areas.~~

Section 16-120 Appendix C Zoning [at-on and adjacent to Airport](#) to Restrict Height of Objects and Structures

Section 16-120.1 Short Title

This Ordinance shall be known and may be cited as the City of Kanab Airports Zoning Ordinance.

Section 16-120.2 Definitions

Airport - Kanab Municipal Airport

Airport Elevation - The highest point of an airport's usable landing area measured in feet from mean sea level. This elevation is 4,8644,868 feet MSL as of the date of this ordinance.

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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.

~~Board of Adjustment - A Board consisting of (5) members appointed by the Kanab City Council.~~

Comment [j1]: Does not exist.

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.

~~Heliport Primary Surface - The primary surface coincides in size and shape with the designated takeoff and landing area of a heliport. This surface is a horizontal plane at the elevation of the established heliport elevation.~~

Comment [SCR2]: There is no existing or planned heliport on KNB. This does not mean that helicopters can't land at the airport, but a heliport is an airport dedicated only to helicopters.

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~~the perimeter of the horizontal zone.~~

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

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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.

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 ~~an a precision~~ Instrument Landing System (ILS) [certified by the Federal Aviation Administration](#) ~~or a Precision Approach Radar (PAR)~~. 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; ~~for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway.~~ The width of the primary surface is [500'](#) ~~set forth in Section 16-120.3 of this Ordinance.~~ The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

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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.

Transitional Surfaces - ~~These~~ An imaginary surfaces that extends outward at 90 degree angles from the side edge of the primary and approach surfaces, to the runway centerline and the runway centerline extended 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 ~~propeller driven~~ 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 16-120.3 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 ~~Part '77'~~ Airspace Drawing consisting of 1 sheet, prepared by Armstrong Consultants, and dated September, 1994 which is attached to this Ordinance and made a

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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 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).~~
- ~~A. Runway Precision Instrument Approach Zone (Heavy Aircraft) — The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach surface expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. The centerline of the approach zone is the continuation of the centerline of the runway.~~
- ~~1. Runway Non-precision Instrument Approach Zone (Heavy Aircraft) — The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 4,000 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.~~
- ~~2. Runway Non-precision Instrument Approach Zone (Small aircraft with visibility minimums more than 3/4 mile) — The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 2,000 feet at a horizontal~~

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~~distance 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.~~

~~3. Visual Runway Approach Zone (Heavy Aircraft) - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach surface expands uniformly to a width of 1,500 feet at a horizontal distance of 5,000 feet from the primary surface. The centerline of the approach zone is a continuation of the centerline of the runway. This is the existing condition as of the date of this ordinance.~~

~~4. Visual Runway Approach Zone (Small Aircraft) - The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach surface expands uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. The centerline of the approach zone is a continuation of the centerline of the runway.~~

~~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'.~~

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~~5-C. Transitional Zones - The transitional zones are the areas beneath the transitional surfaces.~~

~~B-D. Horizontal Zones - The horizontal zone is established by swinging arcs of 10,000 feet radii from the center of ~~each end of~~ the primary surface of Runway 1, and an arc of 5,000' radii from center of the primary surface to Runway 19, the primary runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.~~

~~5-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.~~

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Section 16-120.4 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 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

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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 5,0145,018 feet (existing conditions) above mean sea level (MSL).
- 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 (5,0144,868 ft. MSL) and extending to a height of 350 (5,2145,218 ft. MSL) feet above the airport elevation.

G.F.

Section 16-120.5 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.

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Section 16-120.6 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 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 16-120.7 Permits

- A. Future Uses - Except as specifically provided in a, b, and c hereunder, no material change-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.

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- 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~~the runway~~, 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.
- 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.
- ~~D.~~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

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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 Ordinance, may apply to the Kanab City Planning Commission~~Board of Adjustment~~ 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 ~~by the Board of Adjustment~~ 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~~Board of Adjustment~~ may act on its own to grant or deny said application.

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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 16-120.8 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 considered and granted or denied. Application for action by the Board of Adjustment shall be forthwith transmitted by the City of Kanab.

Section 16-120.9 Board of Adjustment

- A. ~~There is hereby created a Board of Adjustment to have and exercise the following powers: (1) to hear and decide appeals from any order, requirements, decision, or determination made by the City of Kanab in the enforcement of this Ordinance; (2) to hear and decide special exceptions to the terms of this Ordinance upon which such Board of Adjustment under such regulations may be required to pass; and (3) to hear and decide specific variances.~~
- B. ~~The Board of Adjustment shall consist of members appointed by the legislative body and each shall serve for a term of (5) years until a successor is duly appointed and qualified. Members shall be removable by the appointing authority for cause, upon written charges, after a public hearing.~~

Comment [j3]: Does not exist

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- ~~C.—The Board of Adjustment shall adopt rules for its governance and in harmony with the provisions of this Ordinance. Meetings of the Board of adjustment shall be held at the call of the Chairperson and at such other times as the Board of Adjustment may determine. The Chairperson or, in the absence of the Chairperson, the Acting Chairperson may administer oaths and compel the attendance of witnesses. All hearings of the Board of Adjustment shall be made public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question; or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions all of which shall immediately be filed in the office of the City of Kanab Planner and on due cause shown.~~
- ~~D.—The Board of Adjustment shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order requirement, decision, or determination which comes before it under the provisions of this Ordinance.~~
- ~~E.—The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision, or determination of the Kanab Municipal Airport or decide in favor of the application on any matter upon which it is required to pass under this Ordinance or to effect variation to this Ordinance.~~

Section 16-120.10 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 ~~to the Board of Adjustment.~~
- ~~B.—All appeals hereunder must be taken within a reasonable time as provided by the rules of the Board of Adjustment, by filing with the City of Kanab a notice of appeal specifying the grounds thereof. The~~

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~~City of Kanab shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.~~

~~C.—An appeal shall stay all proceedings in furtherance of the action appealed from unless the City of Kanab certifies to the Board of Adjustment, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would in the opinion of the City of Kanab cause imminent peril to life or property. In such case, proceedings shall not be stayed except by the order of the Board of Adjustment on notice to the City of Kanab and on due cause shown.~~

~~D.—The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.~~

~~E.—The Board of Adjustment may, in conformity with the provisions of this Ordinance, reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as may be appropriate under the circumstances.~~

Section 16-120.11 Judicial Review

~~Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment, may appeal to the District Court as provided in Section 3-9, of Chapter 3, of the Uniform Zoning Ordinance of Kanab City.~~

Section 16-120.12 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

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for not more than (90) days or both; and each day a violation continues to exist shall constitute a separate offense.

Section 16-120.13 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 16-130 Appendix D Amending Design Standards

AN ORDINANCE AMENDING THE DESIGN AND CONSTRUCTION STANDARDS FOR THE CITY OF KANAB SECTION II, DESIGN STANDARDS, 2-5.2 MINIMUM SIZE AND DEPTH, (#3)

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KANAB, UTAH: The Kanab City Design and Construction Standards, Section II, Design Standards, 2-5.2 Minimum Size and Depth, (#3).

2-5.2 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.⁷ 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.

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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.

This ordinance shall be effective immediately upon publication.

KANAB CITY COUNCIL MEETING
AUGUST 23, 2016
KANE COUNTY COMMISSION CHAMBERS

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

WORK MEETING: Mr. Decker gave an update on the airport. He said the terminal should be finished in about four more days. There will be an open house in October. Mayor Houston said they want to invite a group of vintage planes to come to the open house.

The rain and flooding were discussed. Mr. Decker has been working with the engineers to see if they can come up with a solution that could help the flooding during these heavy storms. The new drainage system is working, but it wasn't designed to hold that much water. There are four priorities that the City is looking at. 1. To build a riser system in Tom's Canyon to slow the flow, so the flood water doesn't come all at once. 2. Work on the detention basin north of the baseball fields and redesign it, so the water comes down the east side of the ball fields instead of the west. City wants to build a concrete spillway and bring the dam up a foot or two. 3. The box culvert down by Escobar's needs to be extended. 4. The culvert on 200 north needs to be fixed, so more water can get to the 48 foot pipe. Mayor Houston said that the money in our Capital Projects Fund should help. The one near Escobar's and 200 north will be the most expensive. NRCS will only help with infrastructure. Council Member Chamberlain said that we owe it to the citizens to actively work on a solution and see how much it will cost.

Mayor Houston opened the regularly scheduled meeting and roll call was taken. Prayer was offered by Council Member Chamberlain and the pledge was led by Council Member Yates.

APPROVAL OF AGENDA: A motion was made by Council Member Wright and 2nd by Council Member Chamberlain to approve the agenda for August 23rd. Motion passed unanimously. Council Member East absent.

APPROVAL OF MINUTES: A motion was made by Council Member Yates and 2nd by Council Member Wright to approve the minutes of the July 26th meeting. Motion passed unanimously. Council Member East absent. A motion was made by Council Member Wright and 2nd by Council Member Chamberlain to approve the minutes of August 9th as amended. Motion passed unanimously. Council Member East absent.

APPROVAL OF VOUCHERS: A motion was made by Council Member Wright and 2nd by Council Member Chamberlain to approve the vouchers and check register dated August 9th in the

amount of \$179,569.04. Motion passed unanimously. Council Member East absent. A motion was made by Council Member Wright and 2nd by Council Member Chamberlain to approve the vouchers and check register dated August 23rd in the amount of \$126,234.93. Motion passed unanimously. Council Member East absent.

PUBLIC COMMENT PERIOD: Jeff Frey asked the Council if they were planning on a place to hold meetings when the crowd is too large for the commission chambers. Mayor said the new council chambers will be able to seat 150. Kathy Gibson addressed the Council. She asked how many public works employees there are and do they do a regular maintenance program. Mr. Decker told her there are six employees, and the whole water and sewer system is completely maintained every three years, but the City has bought new equipment which should help the maintenance to be done yearly.

APPROVAL OF AIRPORT GROUND LEASE: A motion was made by Council Member Yates and 2nd by Council Member Wright to approve the airport ground lease for Paul Fritz with spelling change of alternations with alterations effective September 1, 2016. The lease term shall be for a period of 30 years with the option to release the property at the end of the term for an additional 10 years. This lease follows the guidelines of the new Airport Master Plan. Motion passed unanimously. Council Member East absent.

APPROVAL OF SKATE PARK AND PUMP TRACK CONSTRUCTION CONTRACT: City agrees to pay contractor the sum of \$270,000 subject to additions or deduction for changes which will go back before the Council. A motion was made by Council Member Wright and 2nd by Council Member Yates to approve the skate park and pump track construction contract as presented. Motion passed unanimously. Council Member East absent.

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

MAYOR

ROBERT D. HOUSTON

RECORDER

JOE DECKER

TEMPORARY BEER EVENT PERMIT
Local Consent

PURPOSE: Local business licensing authority provides written consent to the Alcoholic Beverage Control Commission to issue an event permit to an applicant for the purposes of storage, sale, offer for sale, furnish, or allow the consumption of beer on the event premises

AUTHORITY: Utah Code 32B-9-201

Kanab

Local business license authority

, City [] Town [] County

hereby grants its consent to the issuance of a temporary single event permit license to:

Applicant Entity/Organization: Ultra Adventures / Vacation Races, Inc

Event Name: Grand Circle Trailfest

Event location address: 400 N. 100 E Kanab UT 84741
street city state zip

On the 12th - 15th day(s) of October, 2016
dates month year

during the hours of 2:00 pm - 10:00 pm, pursuant to the provision of Utah Code 32B-9.
defined hours from - to

Authorized Signature

Name/Title

Date

This is a suggested format. A locally produced city, town, or county form is acceptable.
AS OF SEPTEMBER 1, 2015, LOCAL CONSENT MUST BE SUBMITTED TO THE DABC BY THE APPLICANT.