

**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 27th, 2016

76 NORTH MAIN, KANAB, UTAH

**NOTICE** is hereby given that the Kanab City Council will hold its regular council meeting on the 27th 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**

**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. Public hearing proposing to dispose of the following city-owned parcels of land:
  - i) The vacated street on the north side of the Kanab Elementary building, between Main street and 100 West.
  - ii) 2.84 acres of improved land on the north side of the Ranchos Park.

In exchange for the above properties and other items of value, Kanab City will receive 1) the Kane County School District-owned 3 acres of unimproved land just west of the Ranchos Park, 2) the "Glazier Home" located at 28 N 100 E, and 3) the portion of the new Community Center which will house city offices, located at what is currently known as the Old Kanab Middle School.

7. Discuss – Vote, Ordinance 9-1-16 O "An Ordinance Amending Kanab City Land Use Ordinance concerning Chapter 20 and Chapter 4 Building Height regulations"
8. Discuss – Vote, Ordinance 9-2-16 O "An Ordinance Amending Kanab City General Ordinance Section 10"
  
9. Closed Session:
  - Discuss the purchase, exchange, or lease of real property
  - Discuss the character, professional competence, or physical or mental health of an individual.
  - Discuss pending or reasonably imminent litigation.

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

**KANAB CITY COUNCIL MEETING**  
**SEPTEMBER 13, 2016**  
**KANE COUNTY COMMISSION CHAMBERS**

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

**WORK MEETING:** Council Member Kershaw asked the Mayor and Council about the possibility of getting sewer service in the Kanab Creek Rancho Subdivision. He had residents asking him about how to go about getting on the sewer system. Attorney Stott informed them there were two ways to get the ball rolling. The City could instigate it, or one of the residents could get a petition together and have at least 10% of the residents in that area sign the petition. After that, the City would have to have an engineer figure the cost for each resident within the Special Improvement District. If the residents feel it is too expensive, they can back out at that time.

Chapter 10 of the General Ordinance was discussed. There were not any substantial changes, just cleaning. Section 10-138 was taken out. It was already addressed. Section 10-140 and 150 is already adopted in the State Code. Section 10-158 is already in the Land Use Ordinance. Section 10-241 needs to be in Chapter 9 (Business Licenses). Section 400 is already covered in the Nuisance Ordinance. Littering is a State Code offense. Chapter 16 General Ordinance was reviewed and discussed. Section 16-100 is moved to Chapter 10. Aviation has made changes and updated the airport to match with current airport ordinance. Appeals are in the Land Use Ordinance. Board of Adjustments was deleted since the City does not have an Airport Board or Board of Adjustments. There was a question about Section 16-130 amending the Design Standards. Eventually all of Section 16 will be removed from the General Ordinances.

Mayor Houston called the regularly scheduled meeting to order and roll call was taken. Prayer was offered by Jeff Yates and the pledge was led by Michael East.

**APPROVAL OF AGENDA:** A motion was made by Council Member Yates and 2<sup>nd</sup> by Council Member Kershaw to approve the agenda for September 13<sup>th</sup>. Motion passed unanimously. Council Members Chamberlain and Wright absent.

**APPROVAL OF MINUTES:** A motion was made by Council Member Yates and 2<sup>nd</sup> by Council Member Kershaw to approve the minutes of August 23<sup>rd</sup>. Motion passed unanimously. Council Member Chamberlain and Wright absent.

**APPROVAL OF ACCOUNTS PAYABLE VOUCHERS:** A motion was made by Council Member Kershaw and 2<sup>nd</sup> by Council Member East to approve the vouchers and check register

dated September 13, 2016 in the amount of \$222,009.32. Motion passed unanimously. Council Members Wright and Chamberlain absent.

**PUBLIC COMMENT PERIOD:** Don Sprecher addressed the Council. He updated the Council on the flooding near his property and the old irrigation ditch. He said that the City needs to re-establish the flow line. There is a catch basin on the north of his property. The silt really needs to be cleaned out before the next storm. There also needs to be a slow release from the Tom Canyon area. He said maintenance is everything. Mayor Houston explained that the City is working with NRCS, Civil Science and the BLM for the best options to slow releases. Mr. Decker said that 20,000 cubic yards of dirt have been taken out of the retention pond north of the ball fields. Hopefully the City might be able to receive emergency money. The overall plan is bigger retention, slower flow. Mr. Jeff Frey asked about the proposed survey in the Ranchos and the sewer system project. He thought there should be cost estimates on the petition, so the people will know what the costs are. Council Member East explained the petition process and the level of responsibility in the petition.

Mayor Houston recognized Adam Snow who is Congressman Christ Stewart's Southern Utah Representative in the audience. He is going on Mayor Houston's Red Rock Trail Ride.

**DISCUSSION/APPROVAL OF TEMPORARY BEER EVENT PERMIT FOR ULTRA ADVENTURES/VACATION RACES INC FOR THE GRAND CIRCLE TRAILFEST:**

This Trail Fest will bring approximately 400 participants and their family and friends to this area. Council Member Yates didn't like having a beer fest at the park. He was concerned with the City's liability since it will be held on City property. Chief Cram said that the AA meetings being held in that vicinity should be changed to a different location. A motion was made by Council Member East to allow the temporary beer event permit for Ultra Adventures to locate on the Senior Citizen's parking lot as long as they provide a certificate of insurance post liquor liability listing Kanab City as an additional liability. Motion 2<sup>nd</sup> by Council Member Yates. Motion passed unanimously. Council Member Chamberlain and Wright absent.

A motion to adjourn was made by Council Member Kershaw and 2<sup>nd</sup> by Council Member Yates. Motion passed unanimously. Council Member Chamberlain and Wright absent.

---

MAYOR                      ROBERT D. HOUSTON

---

RECORDER              JOE DECKER

**ORDINANCE NO. 9-1-16 O**

**AN ORDINANCE AMENDING KANAB CITY LAND USE ORDINANCE CONCERNING  
CHAPTER 20 and CHAPTER 4 “Building Height Regulations”**

**WHEREAS**, the Kanab City Planning Commission and staff have evaluated current land use requirements and procedures and has found a need for clarification; and

**WHEREAS**, The Kanab City Planning Commission conducted the required Public Hearing on September 20<sup>th</sup> 2016 and recommended to the City Council that the Land Use Ordinance be amended;

**NOW, THEREFORE, BE IT ORDAINED** by the Kanab City Council that the Kanab City Land Use Ordinance is hereby amended as reflected in the following Chapter 4 section 4-12, Chapter 20 section 20-4

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

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

This ordinance shall be effective upon the required posting.

**PASSED AND ORDERED POSTED** this 27th day of, September 2016.

KANAB CITY

---

MAYOR

ATTEST:

---

RECORDER

---

## Chapter 20-4

~~Old~~ New

### Section 20-4

~~Height Regulations No building shall be erected to a height greater than 45 feet, unless a conditional use permit is approved for a greater height, as per section 4-12. No building shall be erected to a height lower than twelve (12) feet.~~

New

### Section 20-4 Height Regulations

No building shall be erected to a height greater than forty five (45) feet or lower than twelve (12) feet, except that a building may be erected to a height of forty eight (48) feet if the additional top three (3) feet is a parapet wall.

---

## Chapter 4-12

~~Old~~ New

### Section 4-12 Exceptions to Building Height Limitations

~~Commercial Zones; Penthouse or roof structures for the housing of elevators, stairways, tanks, ventilating fans, fire or parapet walls, skylights, towers, steeples, flagpoles, chimneys, water tanks, wireless or television masts *communication antennas, steeples on noncommercial buildings, and FAA required lighting* may be erected above the height limits herein prescribed, but no space above the height limit shall be allowed for purposes of providing additional floor space.~~

Noncommercial Zones; *steeples, flagpoles and wireless communication and chimneys*

All height exceptions listed in this section are subject to a conditional use permit.

New

### Section 4-12 Exceptions to Building Height Limitations

Commercial Zones; communication antennas, steeples on noncommercial buildings, and FAA required lighting

Noncommercial Zones; steeples, flagpoles, wireless communication, and chimneys

\*All height exceptions listed in this section are subject to a conditional use permit.



**KANAB**  
— UTAH —

# Kanab City

76 N Main, Kanab, Utah 84741

435-644-2534

## Land Use Coordinator

435-616-0784

**Date:** June 24, 2016  
**To:** Joe Decker, City Manager  
**From:** Mike Reynolds, Land Use Coordinator  
**Subject:** Staff Report; revisions to Kanab City Land Use Ordinance Chapter 18

On September 20, 2016, the planning commission conducted a public hearing and discussion on a proposed change to the Kanab Land Use Ordinance 20-4; amending the maximum building height to 45 feet for commercial buildings and allow an additional 3 foot parapet wall. This change would result in a maximum building height limit of 48 feet, and amend Chapter 4-12 when applying a conditional use permit to exceed building heights.

The commission felt a recognized standard of 48 feet maximum height has been unofficially established by the acceptance of the two recently built hotels. After conducting discussions for two meetings, the general consensus of the Commission was to create a precise maximum height and the elimination of any additional building height through a conditional use permit in Chapter 4-12.

Public Notices were posted in the local news paper and on the State Public Notice website for two consecutive weeks. The public notices were also window posted at City Hall and the Building Department Office for two weeks. During that time and during the Commission's public hearing no opposition or concerns were voiced regarding the suggested amendments to Kanab land use ordinance 20-4 and chapter 4-12.

Melvin Watson made the motion to Recommend revisions to Kanab City Land Use Ordinance Chapter 20-4 [Height Regulations] to read; *"No building shall be erected to a height greater than forty five (45) feet or lower than twelve (12) feet, except that a building may be erected to a height of forty eight (48) feet if the additional top three (3) feet is a parapet wall."* Mike Downward 2nd the motion and a roll call vote carried the motion.

Melvin Watson made the motion to Recommend revisions to Kanab City Land Use Ordinance Chapter 4-12 [Exceptions to Building Height Limitations] to read; *"Building height exceptions applies to commercial zones, communication antennas, steeples on noncommercial buildings, FAA required lighting. Then the building exceptions that apply to noncommercial zones, steeples, flagpoles and wireless communication and chimneys."* Mike Downward 2nd the motion and a roll call vote carried the motion.

Mike Reynolds, Land Use Coordinator

**ORDINANCE NO. 9-2-16 O**

AN ORDINANCE AMENDING KANAB CITY GENERAL ORDINANCE SECTION 10

**WHEREAS**, the City Council of Kanab desires to amend and clarify section 10 of the Kanab City General Ordinance.

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

**NOW, THEREFORE, BE IT ORDAINED** by the Kanab City Council that the Kanab City General Ordinance is hereby amended as reflected in the following 49 pages.

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

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

This ordinance shall be effective upon the required posting.

**PASSED AND ORDERED POSTED** this 27th day of, September 2016.

KANAB CITY

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
RECORDER

# KANAB

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

<b>Section 10-100</b>	<b>Fires - Department - Code</b>
<b>Section 10-110</b>	<b>Department</b>
<b>Section 10-111</b>	<b>Creation</b>
<b>Section 10-120</b>	<b>Personnel and Duties</b>
<b>Section 10-121</b>	<b>Creation of Position of Chief</b>
<b>Section 10-122</b>	<b>Powers and Duties of Chief</b>
<b>Section 10-123</b>	<b>Employees</b>
<b>Section 10-130</b>	<b>Powers of Fire Department</b>
<b>Section 10-131</b>	<b>Emergency Vehicles</b>
<b>Section 10-132</b>	<b>Removal of Obstructions at Fire</b>
<b>Section 10-133</b>	<b>Control of Persons</b>
<b>Section 10-134</b>	<b>Interference with Firemen in Discharge of Duties</b>
<b>Section 10-135</b>	<b>Unlawful Interference With Officers, Apparatus, Water, etc.</b>
<b>Section 10-136</b>	<b>Investigation after Fire Report</b>
<b>Section 10-137</b>	<b>Right to Enter Upon and Inspect Premises</b>
<b>Section 10-138</b>	<b>Males Present At Fire Subject To Orders</b>
<b>Section 10-139</b>	<b>False Alarm</b>
<b>Section 10-140</b>	<b>Burning Ordinance</b>
<b>Section 10-141</b>	<b>Fee For Inspection</b>
<b>Section 10-150</b>	<b>Uniform Fire Code</b>
<b>Section 10-151</b>	<b>Uniform Fire Code Adopted</b>
<b>Section 10-152</b>	<b>Establishment and Duties of Bureau of Fire Prevention</b>
<b>Section 10-153</b>	<b>Definitions</b>
<b>Section 10-154</b>	<b>Establishment of Limits of Districts in Which Storage Of Flammable Or Combustible Liquids In Outside Above Ground Tanks Is To Be Prohibited</b>
<b>Section 10-155</b>	<b>Establishment of Limits in Which Bulk Storage Of Liquefied Petroleum Gases Is To Be Restricted</b>
<b>Section 10-156</b>	<b>Establishment of Limits of Districts In Which Storage Of Explosives And Blasting Agents Is Prohibited</b>
<b>Section 10-157</b>	<b>Amendments Made In the Uniform Fire Code</b>

Last Updated 9.14.2015



# KANAB

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

<b>Section 10-158</b>	<b>Appeals</b>
<b>Section 10-159</b>	<b>New Materials, Processes or Occupancies Which May Require Permits</b>
<b>Section 10-160</b>	<b>Penalties</b>
<b>Section 10-170</b>	<b>Standard Fire-Fighting Equipment</b>
<b>Section 10-171</b>	<b>Equipment for New Fire Protection Systems - Standard Equipment</b>
<b>Section 10-172</b>	<b>Duty of Local Governing Body To Maintain And Comply</b>
<b>Section 10-173</b>	<b>Prohibited Sales and Penalties</b>
<b>Section 10-200</b>	<b>Health</b>
<b>Section 10-210</b>	<b>Board Of and Health Officer</b>
<b>Section 10-211</b>	<b>Board of Health Established</b>
<b>Section 10-212</b>	<b>Duties and Powers of Board Of Health</b>
<b>Section 10-213</b>	<b>Permits</b>
<b>Section 10-220</b>	<b>Health Director</b>
<b>Section 10-221</b>	<b>Position Created</b>
<b>Section 10-222</b>	<b>Powers and Duties of Health Director</b>
<b>Section 10-223</b>	<b>Unwholesome Food</b>
<b>Section 10-224</b>	<b>Vacating Premises</b>
<b>Section 10-225</b>	<b>Discharge of Sewage Pollution</b>
<b>Section 10-226</b>	<b>Inadequate Plumbing</b>
<b>Section 10-240</b>	<b>Offensive Business and Facilities</b>
<b>Section 10-241</b>	<b>Commencement of Offensive Business</b>
<b>Section 10-242</b>	<b>Issuance of Permits</b>
<b>Section 10-243</b>	<b>Existing Offensive Business and Facilities</b>
<b>Section 10-244</b>	<b>Control of Animal And Fowl Facilities</b>
<b>Section 10-300</b>	<b>Nuisances</b>
<b>Section 10-301</b>	<b>Purpose</b>
<b>Section 10-302</b>	<b>Definitions</b>
<b>Section 10-305</b>	<b>Nuisance - Definition</b>
<b>Section 10-310</b>	<b>Exceptions</b>
<b>Section 10-312</b>	<b>Responsibility For Nuisances</b>
<b>Section 10-316</b>	<b>Finding a Nuisance - Responsibility</b>

Last Updated 9.14.2015

# KANAB

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

<b>Section 10-318</b>	<b>Voluntary Correction</b>
<b>Section 10-320</b>	<b>Administrative Citation</b>
<b>Section 10-322</b>	<b>Other Remedies</b>
<b>Section 10-324</b>	<b>Appeals</b>
<b>Section 10-400</b>	<b>Garbage and Litter</b>
<b>Section 10-410</b>	<b>Garbage Regulations</b>
<b>Section 10-411</b>	<b>Definitions</b>
<b>Section 10-412</b>	<b>Functions of Commissioner of Sanitation</b>
<b>Section 10-413</b>	<b>Permits</b>
<b>Section 10-414</b>	<b>No Accumulation of Garbage</b>
<b>Section 10-415</b>	<b>Enforcement, Service of Notices and Orders, Hearings</b>
<b>Section 10-416</b>	<b>Inspection</b>
<b>Section 10-417</b>	<b>Storage Of Refuse And Preparation For Collection</b>
<b>Section 10-418</b>	<b>Frequency of Collection</b>
<b>Section 10-419</b>	<b>Time and Place of Collection</b>
<b>Section 10-420</b>	<b>Refuse Disposal</b>
<b>Section 10-421</b>	<b>Equipment</b>
<b>Section 10-422</b>	<b>Penalties</b>
<b>Section 10-430</b>	<b>Litter – Handbills</b>
<b>Section 10-431</b>	<b>Definitions</b>
<b>Section 10-432</b>	<b>Litter in Public Places</b>
<b>Section 10-433</b>	<b>Placement of Litter In Receptacles So As To Prevent Scattering</b>
<b>Section 10-434</b>	<b>Sweeping Litter into Gutters Prohibited except as Otherwise Authorized by the governing Body</b>
<b>Section 10-435</b>	<b>Merchants' Duty to Keep Sidewalks Free From Litter</b>
<b>Section 10-436</b>	<b>Litter Thrown By Persons in Vehicles</b>
<b>Section 10-437</b>	<b>Truck Loads Causing Litter</b>
<b>Section 10-438</b>	<b>Litter in Parks</b>
<b>Section 10-439</b>	<b>Litter in Lakes and Fountains</b>
<b>Section 10-440</b>	<b>Throwing or Distributing Commercial Handbills in Public Places</b>

Last Updated 9.14.2015

# KANAB

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

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

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.

Last Updated 9.14.2015

Page - 4 - of 49

# KANAB

---

## General Ordinances

### 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.

Last Updated 9.14.2015

Page - 5 - of 49

# KANAB

---

## General Ordinances

### 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.

Last Updated 9.14.2015

# KANAB

---

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

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 10-139 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 system.

#### Section 10-140 Burning Ordinance

- 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

Last Updated 9.14.2015

# KANAB

---

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

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.

#### 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 10-152 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.

Last Updated 9.14.2015

# KANAB

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

#### Section 10-153 Definitions

- 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 [j1]:** 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.

Last Updated 9.14.2015



# KANAB

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

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 16-110.2 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

Last Updated 9.14.2015

# KANAB

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

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

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.

# KANAB

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

#### 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.

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.

Last Updated 9.14.2015

# KANAB

---

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

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

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 certificate 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 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 10-200 Health

Last Updated 9.14.2015

# KANAB

---

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

#### 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.
- 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.

Last Updated 9.14.2015

# KANAB

---

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

- 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:
  - 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.

Last Updated 9.14.2015

# KANAB

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

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, 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

Last Updated 9.14.2015

# KANAB

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

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 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

Last Updated 9.14.2015



# KANAB

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

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 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

Last Updated 9.14.2015

# KANAB

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

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 [j2]:** Upon approval, this section will be placed in Chapter 9 Business regulations, subsection 10.

#### 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 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

Last Updated 9.14.2015

# KANAB

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

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.

**“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.

Last Updated 9.14.2015

Page - 20 - of 49

# KANAB

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

“**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.

- 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.

Last Updated 9.14.2015

# KANAB

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

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 below, 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.
  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.

Last Updated 9.14.2015

# KANAB

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

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 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

Last Updated 9.14.2015

# KANAB

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

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.
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:

Last Updated 9.14.2015

# KANAB

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

- 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 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.

Last Updated 9.14.2015



# KANAB

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

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

#### 10-310 Exceptions

Last Updated 9.14.2015

# KANAB

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

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 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.

Last Updated 9.14.2015

# KANAB

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

- 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:
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;

Last Updated 9.14.2015

# KANAB

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

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:
1. When an emergency exists;
  2. When the Code Enforcement Officer is unable to locate or determine the identity of the Responsible Person; or

Last Updated 9.14.2015

# KANAB

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

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 and/or substantial progress in correcting or abating the nuisance but unforeseen circumstances render abatement under the original conditions unattainable. The Code

Last Updated 9.14.2015

# KANAB

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

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 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:

Last Updated 9.14.2015

# KANAB

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

- 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 under the specific provision of City Code or State law, even if a Code

Last Updated 9.14.2015

# KANAB

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

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.

#### 10-324 Appeals

- 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:

Last Updated 9.14.2015



# KANAB

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

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 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

Last Updated 9.14.2015

# KANAB

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

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 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

Last Updated 9.14.2015

# KANAB

---

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

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.
- 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.

Last Updated 9.14.2015

# KANAB

---

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

#### 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 10-416 Inspection

Last Updated 9.14.2015

Page - 37 - of 49

# KANAB

---

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

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.

#### 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.

Last Updated 9.14.2015

# KANAB

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

- 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

- 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.

Last Updated 9.14.2015

# KANAB

---

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

- 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.
- 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

Last Updated 9.14.2015

# KANAB

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

#### Section 10-431 Definitions

For the purposes of this part:

- 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:
  - i. Which advertises for sale any merchandise, product, commodity, or thing;
  - 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;
  - 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

Last Updated 9.14.2015



# KANAB

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

a license, where such license is or may be required by any law of this state, or under any ordinance of this municipality; or

- 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.

- 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.
- 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.
- 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.
- 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.
- 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

Last Updated 9.14.2015

# KANAB

---

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

wastes), including garbage, rubbish, ashes, street cleanings, dead animals, and solid market and industrial wastes.

- H. "Rubbish" is nonputrescible solid wastes consisting of both combustible and non-combustible wastes, such as paper, wrapping, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.
- 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.

Last Updated 9.14.2015

# KANAB

---

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

#### 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 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 10-440 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

Last Updated 9.14.2015

Page - 44 - of 49

# KANAB

---

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

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.

#### 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 handing 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

Last Updated 9.14.2015

Page - 45 - of 49

# KANAB

---

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

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 10-449 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 lamp 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.

#### Section 10-560 Fire, Health, Safety and Welfare

Last Updated 9.14.2015

# KANAB

## General Ordinances

### Section 10: 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 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.

Last Updated 9.14.2015

# KANAB

---

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

- 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.

The notice required above 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. 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

# KANAB

## General Ordinances

### Section 10: FIRE, HEALTH, SAFETY AND WELFARE

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.
  - 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 Kanab City that are directly associated with a response to an accident and extrication emergency.
  - b) Those persons or entities responsible 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.

Last Updated 9.14.2015