



**Kanab City  
Planning Commission**  
26 N. 100 E. Kanab, Utah  
435-644-2534

**November 19, 2019 Meeting**  
**Kanab City Planning Commission**  
**Agenda**

**Facilitator:** Chairperson; Chris Heaton

6:30 PM Call to Order

- Approval of minutes of previous meeting  
Motion; Second; Vote on Minutes

6:35 PM **Public Comment Period**, Call to the Public

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**1. Action Item:** A public meeting to Discuss, Approve or Deny a business wall sign and window decals for World Finance, located in the C1 zone at 87 West Center St.

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**2. Public Hearing:** Continuation from the November 5, 2019 Planning Commission meeting; A Public Hearing to Discuss and Recommend or Deny revisions and amendments to the revisions or amendment to Kanab City Land Use Ordinance Chapter 18 re-setting the maximum height and eliminating the reference to 2 ½ stories. [Staff]

**Recommendation:** Motion; Second; Discussion; Vote to Recommend or Deny a recommendation to the Kanab City Council for the approval of an amendments or revision to Kanab City Land Use Ordinance Chapter 18 setting the maximum height, establishing three levels, and eliminating the reference to 2 ½ stories.

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**3. Public Hearing:** Continuation from the November 5, 2019 Planning Commission meeting; A Public Hearing to Discuss and Recommend or Deny revisions and amendments to the Kanab City Land Use Ordinance Chapter 20 setting maximum height and setback on new residential buildings and projects on commercial lots to comply with residential code in chapter 17 and 18 of the land use ordinances. [Staff]

**Recommendation:** Motion; Second; Discussion; Vote to Recommend or Deny a recommendation to the Kanab City Council for the approval of an amendments or revision to Kanab City Land Use Ordinance Chapter 20 requiring new residential buildings and projects on C2 and C3 commercial lots shall comply with residential code in chapter 17 and 18 of the land use ordinance based on its primary use.

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**4. Discussion:** A discussion item for Kanab City to consider and implement through ordinance, general plan, or resolution the Right to Farm.

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**5. Discussion:** A discussion of the General Plan and planning presentation for a public input meeting / forum.

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**Work Meeting.**

- Staff Report
- Commission Member Reports
- Council Member Liaison Report

Times listed for each item on the agenda may be accelerated as time permits, or may be taken out of order as moved upon by the commission. If you are planning to attend this public meeting and due to a disability need assistance in understanding or participating in the meeting, please notify the City eight or more hours in advance of the meeting, and we will try to provide whatever assistance may be required. Please contact the Kanab City Offices. **See entire packet online a minimum of 24 hours before the meeting at:**

<http://www.utah.gov/pmn/index.htm>

Mike Reynolds [Kanab Land Use Coordinator] 435-644-2534

1 Kanab City Planning and Zoning Commission Meeting  
2 November 5, 2019  
3 Kanab City Council Chambers  
4 26 North 100 East  
5 6:30 PM  
6

7 **Present:** Chair Chris Heaton; Chair Pro Tem Scott Colson; Commission Members Donna Huntsman, Kerry Glover, Ben  
8 Clarkson and Joan Thacher; Land Use Coordinator Mike Reynolds; City Council Liaison Arlon Chamberlain; Attorney  
9 Jeff Stott and Administrative Assistant Janae Chatterley.

10  
11 **Not in Attendance:** Commission Member Boyd Corry; City Planner Bob Nicholson  
12

13 **Approval of Minutes:** Corrections on line 35, 46 and 102. A motion was made by Kerry Glover to approve the  
14 minutes for November 5, 2019 with discussed amendments or corrections and 2<sup>nd</sup> by Donna Huntsman. Unanimous  
15 vote, motion passed.  
16

17 **Public Comment:** Mary Beth Kuntz commented that democracy does not take place alone, in the living room or in front  
18 of the computer. She wants to encourage community members to learn about the community by coming to Planning  
19 and Zoning. She believes people need to come and learn how these decisions are made so they can see how our  
20 democracy in action. Planning and Zoning as well as City Council has a public comment where people can share their  
21 views. She took the tour of the Community Center today, it is techno-friendly, she feels we should be proud of the  
22 community center and supportive. She is encouraging the community to be positive.

23 Glenn Parrent commends the Planning and Zoning for all the work they do. Statement have been made in different  
24 meetings that you are Christians and want to help people, he doesn't care what the party affiliation everyone has. It is  
25 good that the Commission wants to help people and encourages them to stick with that. He believes that with all of the  
26 stuff going on with the election this is being forgotten. He stated the Commission is the front lines and makes decision  
27 for the community and he appreciates the work that is done by all of them.

28 Charlie Saba commented that he does not think you have to be a Christian to be a good person. There are many  
29 people with other religions and with out religion that care about people just as much as Christians do.  
30

31 **A Public Hearing to discuss, recommend or deny revisions and amendments to the Kanab City Land Use**  
32 **Ordinance Chapter 18 maintaining 35 feet maximum height and eliminating the reference to 2 ½ stories.** [Staff]  
33 Mike Reynolds explained that the ordinance currently allows a maximum height of thirty-five feet or 2 ½ stories. The 2  
34 ½ stories seems to confuse everyone as to what that really is. Any amendments would only effect multi-family zones, if  
35 the Commission would like to also make changes to the Single-Family zones it can be discussed at a later date.

36 Scott Colson makes a motion to go in and out of public hearing at the Chair's discretion Joan Thacher seconds.

37 Unanimous vote

38 No Public Comment

39 Joan Thacher asked Arlon Chamberlain if he remembers when these requirements were added. Mr. Chamberlain  
40 responded that he believes the 2 ½ stories was already there and the maximum height requirement of thirty-five feet  
41 was what was added. Mr. Chamberlain agrees that it needs to be clarified in the ordinance.

42 Ben Clarkson seems to recall that the height requirement was added due to emergency vehicles not having the ability to  
43 reach higher than thirty-five feet at that time. He does not believe that is an issue any longer. Mr. Clarkson would  
44 prefer to see a maximum level which would allow pitched roofs. He believes with the current height requirement home  
45 owners that want three levels in their home have to make accommodations in the ceiling heights and have to have a flat  
46 roof to keep the three levels under thirty-five feet.

47 Discussion regarding what is the allowed height in a commercial zone and the controversy with the hotels that were built  
48 and the height of the building that was being requested. Currently the ordinance allows a maximum of 45-foot height  
49 with a 3-foot parapet wall.

50 Joan Thacher is worried that tall buildings block the neighbor's views and adds distress to our residents. She would  
51 prefer the maximum height is 25 foot.

52 Joan Thacher makes a motion to table this discussion to think about it some more. No second, motion dies.  
53 Mike Reynolds commented that the Commission take this opportunity to discuss what they would like to see in the  
54 ordinance whether that is a maximum level or maximum height of 35-45 feet with a pitched roof. He would just like a  
55 clear definition of what can be built.  
56 Jeff Stott agrees with Mr. Reynolds and commented that to avoid what happened with the commercial zones he strongly  
57 suggests that you have a measurable limit.  
58 Commission continued discussing the idea of adding a maximum level to allow for pitched roofs and other setbacks that  
59 they would like to see remain in the ordinance.  
60 Ben Clarkson asked if they could open the discussion and Public Hearing on the next agenda item since it is related to  
61 this. Jeff Stott confirmed that this could be done.  
62 Ben Clarkson makes a motion to go in and out of public hearing on the next agenda item and discuss both revisions or  
63 amendments, Scott Colson seconds. Unanimous vote.  
64 Mike Reynolds discussed the proposed changes to Chapter 20 setting a maximum height and setback on residential  
65 buildings and projects on commercial lots. Mr. Reynolds explained the proposed changes in the Chapter would require  
66 and residential project on a commercial lot comply with Chapter 17 and 18 of the Land Use Ordinance.  
67 Charlie Saba recommended that in the amendment for Chapter 18 that height requirements state "above grade".  
68 Commission discussed this recommendation to add "above grade". Commission does agree with this as they do not  
69 want to include a basement in the maximum levels or any height requirements. There was some concern that residents  
70 will add grade to their property and then build. Currently there is nothing in the ordinance that would restrict a property  
71 owner to add grade to their property.  
72 Ben Clarkson discussed requiring setbacks for multi-family and single-family residents in the commercial zone, currently  
73 there is not a setback requirement in the C-1 and C-2 zones. Requiring a setback for residential projects in the C-1 and  
74 C-2 would not fit in with the existing buildings and would be a disadvantage to property owners. Chris Heaton  
75 commented that he could see this being an issue in the C-1 zone but where C-2 extends further east and south of  
76 Kanab not having a setback would not fit in with those existing buildings as they are set back in some of the areas. He  
77 also pointed out that with the 72-unit project that was just approved the residents in Sedona Valley and to the north of  
78 the property would have been really upset if the buildings were allowed to be built right on the property line. He feels  
79 that the setback and parking lot around the apartment buildings provides a buffer for those residents. Jeff Stott  
80 commented that you could add a requirement that the setbacks do not apply to projects in the C-1 zone whose ground  
81 floor is commercial. Joan Thacher commented that this is commercial property being used as residential, I think we  
82 need to decide if it is going to be commercial or residential. She agrees with putting in the requirements for C-2 but  
83 should we be working towards finding more multi-family residential property. Mike Reynolds pointed out that developers  
84 are having a hard time finding multi-family residential zones and they do not want to go through a re-zoning process.  
85 Mr. Reynolds stated there are zoning issues, the developers are trying to find property that will allow them to build  
86 apartments and the only thing that will allow for apartments, other than RM zones, is commercial property.  
87 Commission would like to see proposed language that does not require multi-family to have a set back in the C-1 zone  
88 and any area required to follow the design standard for C-1 and to require a maximum level with an exception to the  
89 maximum height requirement to allow for pitched roofs.  
90 Chris Heaton continues both public hearings.

91

92 **A Public Hearing to discuss, recommend or deny revisions and amendments to the Kanab City Land Use**  
93 **Ordinance Chapter 20 setting maximum height and setback on new residential buildings and projects on**  
94 **commercial lots to comply with residential code in chapter 17 and 18 of the Land Use Ordinances. [Staff]**  
95 This agenda item was combined with the first agenda item.

96

97 **A Public Hearing to discuss, recommend or deny revisions and amendments to the Kanab City Land Use**  
98 **Ordinance Chapter allowing and permitting the growing / cultivation and dispensing of marijuana products in**  
99 **accordance with Utah State Law. [Staff]**

100 Jeff Stott explained that by Utah law, cities and counties are required by law to allow marijuana production and  
101 pharmacies for marijuana. At this point if we do not designate a zone for marijuana then it would be allowed in all  
102 agriculture zones and all manufacturing zones. If you want to put in some boundaries now would be the time. For

103 pharmacies we cannot restrict the zone other than to say it cannot be in residential, you can restrict time, place, and  
104 manner. Discussion regarding what State code allows or does not allow regarding pharmacies and production.  
105 Joan Thacher made a motion to go in and out of public hearing at the Chair's discretion, Donna Huntsman seconds.  
106 Unanimous vote.  
107 Scott Colson commented that he thinks that we let this be the least restrictive and let the State decide the restrictions.  
108 He believes this would be a great tax base for someone in the agriculture field and might actually keep some of  
109 agriculture farmers in the business. With the limitations the State code is putting on the licenses there is very little  
110 chance that one of these would come to Kanab. This could be reviewed again if regulations loosen up.  
111 Commission agrees that the State is highly regulating this and they do not see any need to add additional restrictions.  
112 Mary Beth Kuntz asked for clarification on number of licenses, she was under the assumption that the State has already  
113 provided all of the licenses and chosen the growers.  
114 Donna Huntsman recommends that we allow the growing, cultivation and dispensing of marijuana product in  
115 accordance with Utah State Law, Scott Colson seconds. Unanimous vote, motion carries.

116  
117 **Staff Report:** Janae Chatterley reported that she attended a Planning and Zoning 101 training in St. George. Mrs.  
118 Chatterley provided an overview of the training and discussed additional trainings in spring and fall of 2020 that the  
119 Commission may want to attend.

120  
121 **Commission Member Report:** Joan Thacher would like to have a discussion on the "Right to Farm" subject on the  
122 next agenda. Ben Clarkson asked for an update on some of the current projects around town. Mike Reynolds provided  
123 a report on Best Friend's Roadhouse, Peekaboo and Red Canyon Cabins. Best Friend's Roadhouse received a  
124 temporary permit until November 13<sup>th</sup> or 15<sup>th</sup> they had a few items to finish, there was an item with the fire inspection  
125 the trees on the north side along 100 North. They are still working on the front area along the sidewalk and the curb,  
126 Best Friends, UDOT and the City are working together to add a drain to this area. Peekaboo has removed the signs  
127 and truck and will be getting an inspection on the ADA parking. On the Red Canyon Cabins, the contractor paved the  
128 center area for parking and required it to be wide enough for emergency vehicles this was approved afterwards and not  
129 by the Commission. They have the split rail fence in the front and along the north side, there have been some trees  
130 added but they are not the correct size, the landscaper said this was the closest he could find to our requirements.  
131 Commission does not feel that the Red Canyon Cabins have complied with the site plan that was approved, they would  
132 like to see that Red Canyon Cabins plant the six canopy trees that were approved per the site plan. Access

133  
134 **Council Member Liaison Report:** None.

135  
136 Kerry Glover motions to adjourn the meeting.

137  
138  
139  
140  
141  
142

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Chairperson

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Date



# World Finance

LOAN & TAX SERVICE

Kanab, UT

<b>SIGN A</b>	World Finance
Type:	Wall Sign
Illumination:	Non-Illuminated
Square Footage:	14.00
To Grade:	Top of sign to grade = 16'-3 1/2" Bottom of sign to grade = 11'-7 1/2"



Client: World Finance  
 Site #: WFC-2301  
 Address: 87 West Center Street  
 Kanab, UT 84741

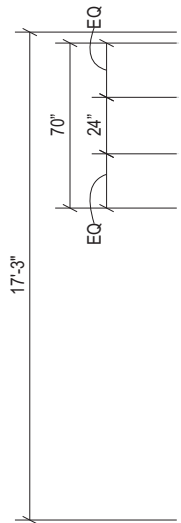
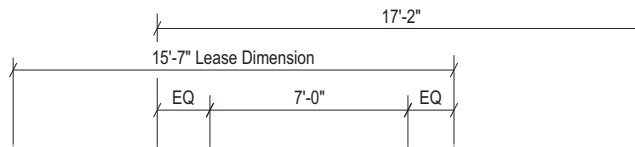
REVISION INFO	DATE	DESCRIPTION	STATUS
	11/27/2018	Original Renderings	GC
	12/13/2018	Updated Door Vinyl	LC
	12/20/2018	Updated Window Vinyl	LC
	12/27/2018	Updated Lease Dimensions	LC
	01/17/2019	Revised Sign A & Window Vinyl	LC
	06/27/2019	Replaced Sign A & Window Vinyl	BC
	08/12/2019	Updated Sign A & Window Vinyl	DP

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<b>SIGN A</b>	World Finance
Type:	Wall Sign
Illumination:	Non-Illuminated
Square Footage:	14.00
To Grade:	Top of sign to grade = 16'-3 1/2" Bottom of sign to grade = 11'-7 1/2"



**Front Elevation (North)**

Scale 3/16" = 1'-0"

Allowable Square Footage this Elevation:	33.43
Formula: 20% of the Facade	
Actual Square Footage this Elevation:	32.67



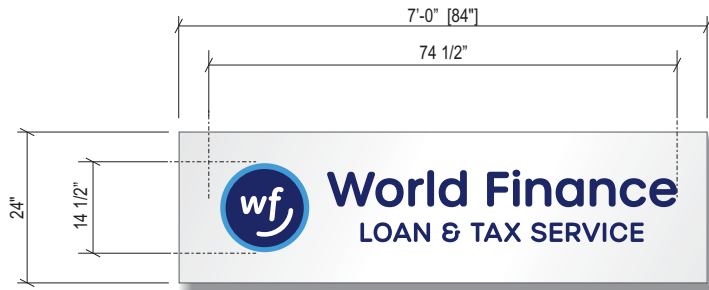
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 Address: 87 West Center Street  
 Kanab, UT 84741

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<b>SIGN A</b>	World Finance
Type:	Wall Sign
Illumination:	Non-Illuminated
Square Footage:	14.00
To Grade:	Top of sign to grade = 16'-3 1/2" Bottom of sign to grade = 11'-7 1/2"

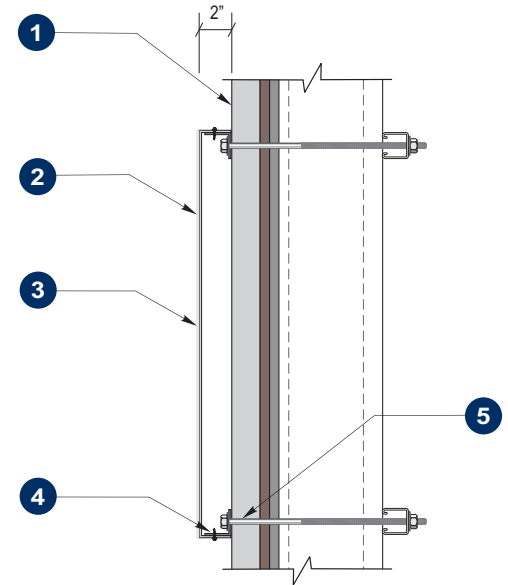


### Sign Layout Detail

Scale: 1/2" = 1'-0"

#### Specifications:

- Existing Facade: Faux Stone/Plywood/Wood Studs
- 0.080" Aluminum shoebox painted White
- First surface applied vinyl graphics to match:
  - Oracal Carabic Blue 8500-542
  - 3630-147 Light European Blue
- #12 TEC screws fastening shoe-box to 1 1/2" x 1 1/2" aluminum angle
- 3/8" Thru Bolts w/ 1 5/8" x 1 5/8" 12 gauge Uni-Strut backer



### Section @ Shoebox

Scale: N.T.S.



Client: World Finance  
Site #: WFC-2301  
Address: 87 West Center Street  
Kanab, UT 84741

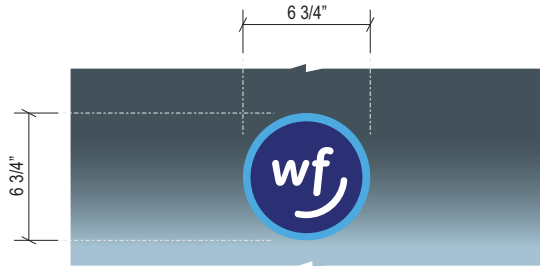
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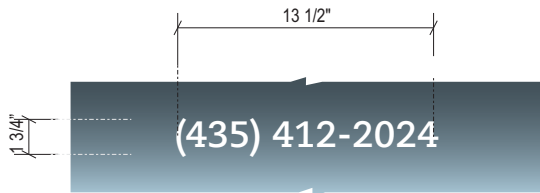




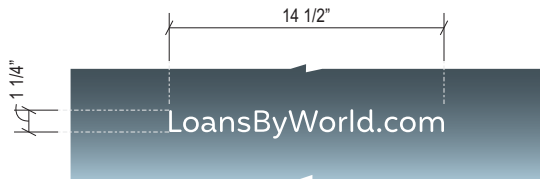
<b>Door Vinyl</b>	World Finance
Type:	Door Vinyl Graphics



**Logo Vinyl**  
Scale: 1 1/2" = 1'-0"



**Phone # Vinyl**  
Scale: 1 1/2" = 1'-0"



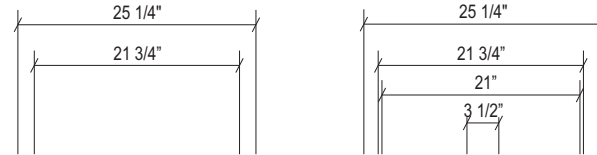
**Phone # Vinyl**  
Scale: 1 1/2" = 1'-0"

**Specifications: Door Vinyl**

1. 1st layer **plotted** vinyl
2. Suite number/address, store hours, and logos to be provided by client

**Colors**

- 3M 7725-10 White
- Oracal Carabic Blue 8500-542
- 3M 3630-147 Light European Blue



**Storefront S/Doors Elevation**

Scale: 3/4" = 1'-0"



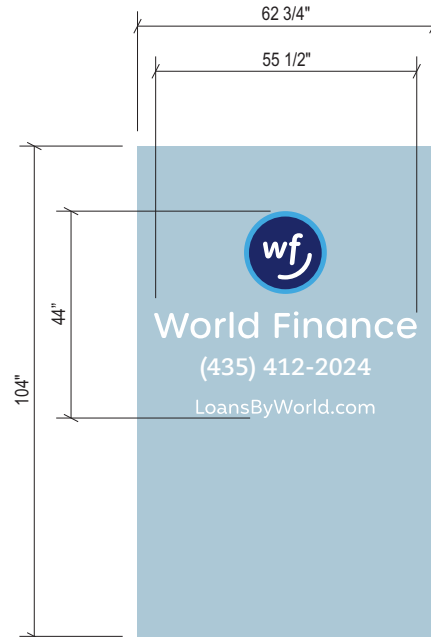
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<b>Window Vinyl</b>	World Finance
Type:	Window Vinyl Graphics



### Storefront Windows Elevation

Scale: 3/8" = 1'-0"

#### Specifications: Windows Vinyl

1. First surface digitally printed graphics (per color spec chart)
2. Suite number/address, store hours, and logos to be provided by client

#### Colors

- PMS 2745C ■



Existing Storefront Windows



Proposed Storefront Window Vinyl



Client: World Finance  
 Site #: WFC-2301  
 Address: 87 West Center Street  
 Kanab, UT 84741

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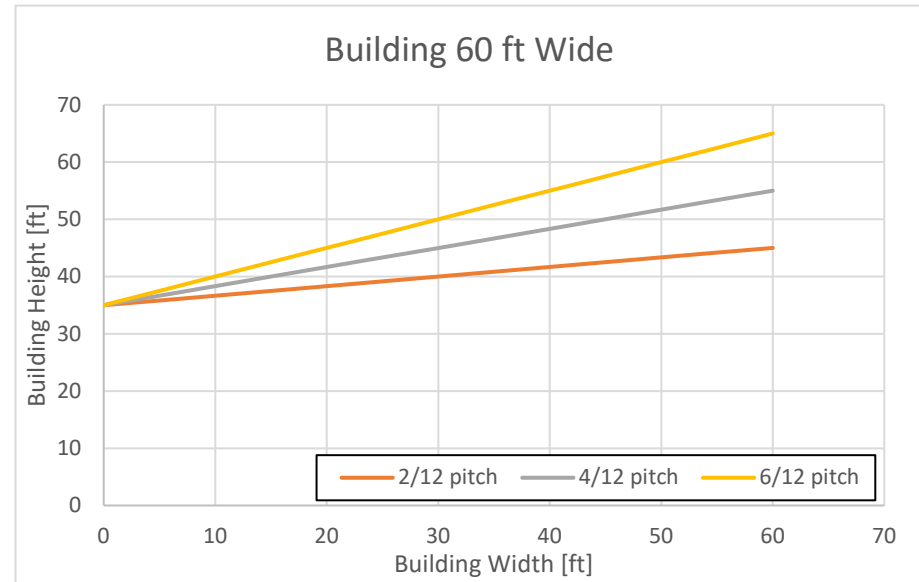


Building Width [ft] 60

Based Hieght [ft] 35

Pitch and hieght

X [ft]	2/12 pitch	4/12 pitch	6/12 pitch
0	35	35	35
6	36	37	38
12	37	39	41
18	38	41	44
24	39	43	47
30	40	45	50
36	41	47	53
42	42	49	56
48	43	51	59
54	44	53	62
60	45	55	65



**2/12 pitch**



**4/12 pitch**



**5/12 pitch**



**6/12 pitch**



**7/12 pitch**



**8/12 pitch**



**9/12 pitch**



**10/12 pitch**



**12/12 pitch**



# Kanab

## Land Use Ordinance

### Chapter 18 – Multi-Family Residential Zones

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#### Section 18-1 Purpose

#### Section 18-2 Permitted and Conditional Uses

#### Section 18-4 Density Flexibility

#### Section 18-5 Area, Width, and Yard Requirements

#### Section 18-6 Modifying Regulations

#### Section 18-7 Supplementary Regulations

#### Section 18-8 Sale of Individual Dwelling Units

#### Section 18-1 Purpose

- A. Multi-Family Zone: (RM-7, -9, -11, -13, and -15 will be simply referred to as RM) to provide and protect areas for medium to high density Multi-Family residential, through a flexible density formula, while permitting limited establishment of the public and quasi-public uses which serve the requirements of the neighborhood.
- B. Application Requirements: All applications for a zone change to the RM zone shall be accompanied by a conceptual site plan for the proposed development. The conceptual site plan does not have to be a complete site plan as required in Chapter 9, but it must generally identify the footprint and density of the proposed project, and have accompanied with it a written text that includes the following: the proposed use or uses of the land, proposed building heights, residential density, phasing plan, street access, and proposed landscaping. The City Council may use the conceptual site plan as a condition to the approval of the zone change. The City Council may also require changes to the conceptual site plan if such changes are to mitigate or counter the negative effects on nearby properties associated with changing the zone to RM. The approved conceptual site plan and text constitute the zone requirements in addition to the other requirements set forth in the Land Use Ordinance. Any significant change to the approved conceptual site plan shall be processed as an amendment to the zone and shall be subject to a new public hearing by the Planning Commission and approval by the City Council. A "significant change" includes, but is not limited to, changing the density, changing the layout of the buildings, streets, ingress or egress, common areas; or adding square footage that visibly alters the size of the building footprint or mass; changing the proposed uses of the property; or related changes to the site development plan. The Zoning Administrator is authorized to determine whether a proposed change is considered a "significant" change and therefore subject to a new public hearing and reconsideration by the Planning Commission and City Council. However, any change expressly listed above as a significant change is a significant change and is therefore subject to a new public hearing and reconsideration by the Planning Commission and City Council. In its recommendation to the City Council, the Planning Commission may include its



# Kanab

## Land Use Ordinance

### Chapter 18 – Multi-Family Residential Zones

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findings in regard to the conceptual site plan. If the zone change is granted by the City Council, then the Planning Commission shall ensure that the full site plan is substantially similar to any conditions, including the conceptual site plan, that accompanied the zone change.

#### Section 18-2 Permitted and Conditional Uses

Land Uses	Multi-Family Zones
Accessory uses and structures <sup>1</sup>	P
Bed and Breakfast Inn <sup>5</sup>	C
Day Care II	C
Church	C
Home Occupation – light <sup>3</sup>	P
Home Occupation – heavy <sup>4</sup>	C
Horticulture and Gardening <sup>2</sup>	P
Household Pets	P
Multi-Family Dwelling Units	P
Park or Playground	P
Private Recreation Grounds and Facilities	C
Public Utilities, essential services	P
School	P
Single Family Dwelling Units	P
Two-Family Dwelling Units	P

#### Footnotes:

1. Premises in the RM zones may be used for accessory uses, provided such uses are established after the existence of the primary residence and on the same lot or parcel of land as the primary residence; accessory uses should not substantially alter the character of any permitted principal use; accessory buildings or structures may include but not be limited to:
  - A. Housing or confinement of animals.
  - B. Private garages, carports and children's playhouses.
  - C. Tool houses and greenhouses.Refer also to Section 18-6-3
2. for personal use
3. Home Occupation, light does not include dangerous or objectionable objects. See definitions in Section 1-6 and additional regulations in Section 4-28.
4. Home Occupation, heavy potentially includes dangerous or objectionable objects. See definitions in Section 1-6 and additional regulations in Section 4-28.



# Kanab

## Land Use Ordinance

### Chapter 18 – Multi-Family Residential Zones

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5. Regulations in Section 4-22 shall apply to all Bed and Breakfast establishments

#### Section 18-3 Height Regulations

No ~~main~~ building shall exceed three (3) levels with a maximum height of 35 feet measured from grade level ~~two and one-half (2½) stories or thirty-five (35) feet in height~~. No dwelling structure shall be less than one (1) story.

BUILDING HEIGHT	RM
Maximum feet	35 *
Maximum stories Levels	3 2½
Minimum stories (dwellings)	1

\* Exceptions to maximum height;

a. 38 feet maximum height from grade shall be allowed for a 3 ft. parapet wall on a three-level structure.

b. 45 feet maximum height from grade shall be allowed for a pitched roof design on a three-level structure.

#### Section 18-4 Density Flexibility

The density is considered somewhat flexible and is subject to the approval of a site development plan by the City Council upon recommendation of the Planning Commission, per Chapter 9 Site Plan Review. The proposed project density must comply with the site development standards set forth in the Kanab Land Use Ordinance, and more specifically with the building height limitations set forth in section 18-3, and the building coverage and landscaping standards set forth in section 18-6.

#### Section 18-5 Area, Width, and Yard Requirements

RM Zone Chapter 18:  
18-5 Area, Width and Setback Requirements\*

	Single Family Dwelling	Two-Family Dwelling	Three + Dwelling Units per Building will
Minimum Lot Size	6,000 sqft.	8,000 sqft.	12,000 sqft.
Minimum Lot Width	60 feet	80 feet	100 feet
Front Setback	25 feet	25 feet	25 feet
Side and Rear Setback	10 feet	10 feet	10 feet

\*Must also meet requirements in section 18-6

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## Land Use Ordinance

### Chapter 18 – Multi-Family Residential Zones

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#### Section 18-6 Modifying Regulations

- A. The front yard setback area shall not be used for the parking of motor vehicle, except for tandem parking (behind another a vehicle) within the normal driveway area. Unless otherwise approved by the Planning Commission, the driveway area shall not exceed 50% of the front setback area.
- B. Side yard setback on a street side yard of a corner lot shall be the same as the front yard setback required for the district.
- C. All accessory buildings located at least ten (10) feet behind the main building may have a rear yard and side yard of two (2) feet except on the street side of a corner lot.
- D. The side and rear setbacks on interior lot boundary lines shall be twenty (20) feet along all boundaries for all two (2) story buildings. An additional ten (10) feet shall be added to the setback for each story over two (2) stories.
- E. In group dwellings, no two buildings may be located closer together than 10 feet and the front on any dwelling or to a side or a rear property line on interior lot boundary lines less than 25 feet.
- F. At least 25 percent of the land area of any parcel shall be Landscaped
  - 1. Except for the driveway area and walkways, the front yard setback area shall be landscaped.
  - 2. One half (1/2) of the landscaping must be in the front area.
- G. Land coverage of all buildings shall not exceed 50 percent of the lot or parcel acreage.
- H. A site plan meeting the requirements of section 9-3 is required for multi-family residential buildings in the Multi-Family Residential Zones.
- I. Two (2) parking spaces required for each unit.
- J. In conjunction with the table in 15-2, single and two-family dwellings (duplexes and twin homes) shall have a minimum of 720 square feet main floor area per unit. Any building with three or more units shall have a minimum of 500 square feet floor area per unit.

#### Section 18-7 Supplementary Regulations

Supplementary regulations are provided in Chapter 4 of this Ordinance.

#### Section 18-8 Sale of Individual Dwelling Units

##### Section 18-8 Sale of Individual dwelling units

- A. In the RM zone condominium or townhome projects with at least four (4) dwelling

# Kanab

## Land Use Ordinance

### Chapter 18 – Multi-Family Residential Zones

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units may be platted for the sale of individual dwelling units, subject to the following standards:

1. Rather than individual building lots, the project is platted with private building pads or ownership space for condominium projects, and land outside the private building pad or space is designated as common and/or limited common areas. A homeowners' association is established to maintain the common areas.
  2. Density shall not exceed the requirements of the Kanab Land Use Ordinance in terms of open space, parking, landscaping, building height, and maximum building coverage.
  3. The minimum lot size and width requirements set forth in Section 18-5 apply to the entire project rather than to individual platted dwelling units.
  4. Building separation shall be a minimum of 20' between buildings for 2-story or higher buildings, and a minimum separation of 10' between buildings for 1-story buildings where no lot lines exist between buildings, but rather the area is designated as common area. Setbacks from lot boundary lines for buildings shall be as set forth in Section 18-5 and 18-6.
- B. Each unit of a Side-By-Side two-family dwelling may be platted and sold separately, provided the units are attached and meet the building code requirements for separate ownership and each resulting lot area has a minimum of four thousand (4,000) square feet and minimum of forty (40) feet of frontage on a public road. Each unit shall have its own water and power meters, and separate sewer lateral.

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## Land Use Ordinance

### Chapter 20 – Commercial Zones

Adopted January 22, 2008; Revised October 9, 2018; Re-Formatted June 22, 2018

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#### Section 20-1 Purpose

#### Section 20-2 Commercial Zones

#### Section 20-3 Permitted and Conditional Uses

#### Section 20-4 Height Regulations

#### Section 20-5 Temporary Events on Public Right-of-Way

#### Section 20-6 Minimum Area, Width, and Yard Regulations

#### Section 20-7 Special Regulations

#### Section 20-8 Design Standards for the Commercial Zones (C-1, C-2, C-3)

#### Section 20-9 Other Regulations

#### Section 20-1 Purpose

The purpose is to provide various zones within the City of Kanab where a wide variety of goods and services can be provided.

#### Section 20-2 Commercial Zones

##### A. C-1 Commercial Zone

1. The C-1 Zone has been established to distinguish the historic downtown commercial area of Kanab. This zone is characterized by a variety of types of goods and services that complement one another and is intended to facilitate a high density of economic activity in a walkable atmosphere. The C-1 Zone encourages a mix of store front commercial retail, restaurants, hotels, mixed residential/commercial, and office space.

##### B. C-2 Commercial Zone

1. The objective of the commercial zone is to provide space within the city where nearly all types of commercial goods and services may be provided. Since the zone permits such a wide variety of uses, the protective features which zoning normally affords to adjacent properties are mostly nonexistent. Owners should develop and maintain their property in recognition thereof.
2. The C-2 commercial zone is located principally along major roadways for maximum visibility to the public. To maximize traffic safety, property owners should work together to provide access, parking, etc., to adjacent parcels and access should be provided in a manner that will minimize the hazard of traffic leaving and entering major roadways.

##### C. C-3 Commercial Zone

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## Land Use Ordinance

### Chapter 20 – Commercial Zones

Adopted January 22, 2008; Revised October 9, 2018; Re-Formatted June 22, 2018

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1. The principal objective in establishing the C-3 commercial zone is to provide space within the city where facilities that serve the traveling public can be most appropriately located. Other purposes for establishing the C-3 commercial zone is to promote safety on the highways, to promote the convenience of the traveling public, to promote beauty in the appearance of roadsides and interchanges leading into the city and to prohibit uses which will tend to be contrary to the use of the land for its primary purposes or which would be unsightly to the traveling public.

#### Section 20-3 Permitted and Conditional Uses

(See Land Use Chart at the end of this chapter)

#### 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.

#### Section 20-5 Temporary Events on Public Right-of-Way

In no case shall business be conducted on public right-of-ways except as allowed by a special events permit.

#### Section 20-6 Minimum Area, Width, and Yard Regulations

Zone	Area	Width	Yard Setbacks in Feet		
			Front	Side	Rear
C-1	5,000 sq ft	0	0	0	2
C-2	5,000 sq ft	0	0	0	2
C-3	12,0000 sq ft	0	20	20	2

Where a commercial zone abuts a residential district, building setbacks will be as follows:

Building Height	Yard Setbacks in Feet		
	Front	Side	Rear
Greater than 16 feet	0	20	20
Less than 16 feet	0	10	10

#### Section 20-7 Special Regulations

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## Land Use Ordinance

### Chapter 20 – Commercial Zones

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- A. All used materials and used merchandise that are not for decorative purpose, except vehicles in running order, shall be stored in an enclosed building or within an enclosure surrounded by a sight-obscuring fence or wall of not less than six (6) feet in height and no material or merchandise shall be stored to a height of more than the height of the enclosing fence or wall.
- B. No trash, rubbish, weeds or other combustible material shall be allowed to remain on any lot outside of approved containers in any Commercial District. No junk, debris, abandoned or dismantled automobile or automobile parts or similar material shall be stored or allowed to remain on any lot in any Commercial District.
- C. All solid waste storage facilities shall be located at the rear of the main building or else behind a sight-obscuring fence or wall which will prevent the facility from being seen from a public street.

#### Section 20-8 Design Standards for the Commercial Zones (C-1, C-2, C-3)

- A. The purpose of the Design Standards is to maintain the character of Kanab City as a destination community with breathtaking scenery, to preserve the city's corridors, preserve and enhance the rural western character of the downtown area, provide a significant landscaped buffer between development and highway uses, minimize curb cuts and access points to highways, and enhance Kanab's walkable downtown atmosphere.
- B. In this section, "building surface" refers to any outside portion of the building that is viewable from an adjacent street or walkway, not including the roof.
- C. Any design or landscape requirements that apply to C-1 in this chapter or in any other Land Use Ordinance, shall also apply to any lots that:
  - 1) have any frontage to the continuous section of street that starts as 300 W, then Center Street, and continuing into 100 E; and
  - 2) are between the northern city entrance (approximately one block north of 300 N) and approximately one block south of 400 South (the furthest southern point of the La Quinta property).
- D. Lot and Site Requirements are subject to the following:
  - a. A façade improvement that requires a building permit within the Commercial zones needs approval from the Planning Commission. A façade improvement that does not require a building permit needs approval from the Zoning Administrator.
  - b. When possible, driveways shall be shared between adjoining properties. Driveways



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### Chapter 20 – Commercial Zones

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must be placed where they create the least interference with traffic on highways. Driveways and drive-thrus shall be located away from adjoining residentially zoned areas when feasible and provide privacy walls and landscape buffers along common boundaries with residences in residential zones.

- c. The Planning Commission shall review all proposals for pedestrian, bicycle paths and trails through the commercial zones.
- d. Street trees shall be planted in the right of way as part of the site landscaping requirements and shall be maintained according to City landscape requirements.
- e. Businesses proposing outdoor street front seating/dining should consider an adequate front setback in their site plan to accommodate such front area use.
- f. Parking Lots: Some established and new businesses in the downtown area do not have adequate parking. With new construction and/or when a change of use occurs, parking standards for these businesses shall be considered by the Planning Commission as specified in Chapter 6, (6-4.3 Commercial properties fronting on Highways 89/89A). Parking for new buildings in the C-1 zone shall be located in the rear, unless access to the rear is not feasible.
- g. Buildings in the C-1 zone shall be located near the sidewalk with setbacks used for pedestrians, plazas, benches, landscaping and outdoor eating areas but not for parking (unless requiring parking to the side or back is unfeasible). Diagonal parking on side streets is permitted within the Downtown Parking District in order to create additional downtown parking. See exhibit F for diagonal parking layout.
- h. Trails and sidewalks shall be provided in all new development within the C-1 zone in accordance with the Kanab City Trails Master Plan. Trails and sidewalks may be located within the setback areas.
- i. Outdoor Display of Art, or Public Park Facilities: The permanent installation of an outdoor art display, or outdoor recreational equipment such as bike racks that require a fixed location on or above the ground and is within 30' of a UDOT right-of-way may be allowed as a Conditional Use.
- j. Building Front Design: In conjunction with a required site plan, architectural designs for new construction and refurbishing the exterior of an existing commercial building are required, addressing the design standards in this section. Site plans or facade improvements in the Commercial zones that require a building permit need approval from the Kanab City Planning Commission. All other construction or refurbishments that do not require a building permit need approval from the Zoning Administrator.
- k. The following guidelines apply to new construction or changes to the exterior of an existing commercial building in the Commercial zones.
  - 1. No high gloss or mirrored metal products shall be permitted on the building

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### Chapter 20 – Commercial Zones

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surface, unless for trim or decorative purpose that consists of less than 10 percent of the building surface. The building surface shall consist of at least two City approved materials, the predominant material not surpassing 85% of the building surface. The ground floor front façade area shall consist of a minimum of 25% window area. City approved materials must be high quality and durable, and include window glass, stucco, rock, stone, metal, brick, and any other material that is substantially similar to these. The following shall not make up more than 50% of the building surface: concrete block, un-textured tilt-up concrete panels, or pre-fabricated steel panels..

2. Awnings: Awnings shall not be vinyl, aluminum, nor have a shiny or glossy appearance. Corrugated metal awnings are allowed.
3. Colors: No fluorescent colors are allowed on building surface or roof. Black cannot be the predominant color of any building surface. Earthtone colors in accordance with Section 20-10 Exhibits A & B are encouraged.
4. The primary pedestrian entry of the building shall face the street and be identified, defined and reinforced by significant architectural elements of mass. The appearance of the building front shall present a three dimensional effect through the utilization of such architectural features as pop outs, vertical relief overbuilds, recesses, canopies or porticos supported by columns or protrusions, significant variations in the roof or parapet, etc.
5. The design standards for building fronts described above shall wrap around the building sides adjacent to the primary front, for at least ten feet, unless the Planning Commission finds that it would be impractical.
6. Building surface shall be broken into smaller elements. Building surface shall be reduced by using a combination of the following techniques: variation in roof lines, variations in wall plane with projections and recessed areas, use of windows on elevations facing a street, and use of vertical accents.
7. Kanab City's goal is to maintain a "western theme" in the commercial areas, particularly the C-1 zone. While not required, applicants are encouraged to incorporate western features into the design scheme. These western features may include hitching posts, sculptures, public art, covered canopies, benches, and similar features that promote a western feel.

#### E. Design Standards unique to the C-3 Zone:

1. Minimum setback on the east side of SR-89A shall be forty five feet (45') per UDOT.
2. Berms and Earthwork Screening must be graded and planted in such a manner so as to permit views of primary uses on the site from adjacent entry corridor roadway. Additionally, berm crests shall be contoured and varied in height to avoid a straight-line barrier effect.

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3. Fencing: All fences in the C-3 zone must be one of the following styles; wooden rail, vinyl fencing, architecturally compatible solid wood or natural stone, stock fences that do not front on State Highway, and various forms of steel fencing as determined by the Planning Commission. Chain link fencing is not allowed except behind front of structure.

#### Section 20-9 Other Regulations

1. Other relevant standards and requirements are found in other sections of this code, including Landscape Requirements in section 9-8, Parking Requirements in chapter 6, Signs in chapter 7, and Site Plan Review in chapter 9.
2. Except those lots or area in commercial zones that have been designated or adopted to meet the design standards of the C1 zone, all new residential buildings and developments on C2 and C3 commercial lots shall comply with chapter 18 (multifamily residential zone) or chapter 17 (single family) in the event of a single-family residential structure.

#### Section 20-10 Exhibit's A & B



(color purposes only)



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#### Permitted and Conditional Uses

LAND USE CHART COMMERCIAL	ZONES			
	C1	C2	C3	CPD
Agricultural Crop Sales (Farm Only)	-	-	P	-
Airport Support Facility	-	-	P	P
Antique / Secondhand Store	P	P	P	P
Apparel / Accessory Store	P	P	P	P
Apartment(s)	-	P	P	C
Arcade (Games/Food)	P	P	P	P
Art Gallery	P	P	P	P
Auto / Boat Dealer	-	P	P	-
Auto Rental / Sales	-	C	P	C
Auto Service Station	-	P	P	C
Auto Supply Store	P	P	P	P
Beauty Salon	P	P	P	P
Bed and Breakfast / Guesthouse	P	P	P	-
Cemetery	-	-	C	-
Church	P	P	P	P
College / University	P	P	P	P
Commercial Marine Supply	-	P	P	C
Commercial / Residential Mix*	P	P	P	C
Communications Facility	-	-	P	C
Computer/Office Equipment	P	P	P	P
Conference / Convention Center	P	P	P	P
Construction / Trade	-	-	C	-
Convalescent Center / Nursing Home	P	-	P	-
Convenience Store	P	P	P	C
Day Care I (under 6 children)	-	P	P	C
Day Care II (over 6 children)	-	P	P	C
Department / Variety Store	P	P	P	P
Dry Cleaner	P	P	P	P
Drug Store	P	P	P	P



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#### Per Permitted and Conditional Uses

LAND USE CHART COMMERCIAL	ZONES			
	C1	C2	C3	CPD
Elementary – Jr. High	-	-	P	-
Espresso Stand	P	P	P	P
Fabric Store	P	P	P	P
Financial Institution	P	P	P	P
Florist Shop	P	P	P	P
Funeral Home/Crematory	-	P	P	-
Furniture/Fixtures	P	P	P	P
Garage/Vehicle Repair	-	P	P	C
Gas Station	-	P	P	C
Grocery Store	P	P	P	C
Group Home	-	P	P	C
Halfway House	-	C	P	C
Hardware / Garden Material	-	P	P	C
Health Club	P	P	P	P
High School	-	-	P	-
Hobby / Toy Store	P	P	P	P
Hospital	-	-	P	-
Hotel / Motel / Extended-Stay	P	P	P	C
Jewelry Store	P	P	P	P
Kennel / Public	-	-	P	-
Landscaping Business	-	-	P	-
Laundromat	P	P	P	P
Library	P	P	P	P
Liquor Store	P	P	P	C
Live or amplified music	P	P	P	P
Media Material	P	P	P	P
Medical / Dental Lab	-	P	P	P
Misc. Equipment Rental Facility	-	P	P	-

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#### PePermitted and Conditional Uses

LAND USE CHART COMMERCIAL	ZONES			
	C1	C2	C3	CPD
Mobile / Park Model Home Park	-	-	P	-
Multi-family dwelling units*	-	P	P	P
Museum	P	P	P	P
Office Supply	P	P	P	P
Park	P	P	P	P
Pet Store	P	P	P	P
Photographic and Electronic Store	P	P	P	P
Police / Fire Facility	P	P	P	P
Preschool	-	P	P	P
Printing / Publishing	P	P	P	P
Professional Office	P	P	P	P
Public / Private Parking	P	P	P	P
Recreational Center	P	P	P	P
Restaurant	P	P	P	P
RV / Camp Park	P	P	P	-
Self-Service Storage	-	-	P	-
Single Detached Dwelling Unit	-	P	P	-
Single Attached Dwelling Unit	-	P	P	-
Social / Public Agency offices	P	P	P	P
Sporting Goods and Related Stores	P	P	P	P
Tavern	C	-	-	-
Theater	P	P	P	P
Towing Operation	-	P	P	-
Truck Stop	-	-	P	-
Two-family dwelling units	-	P	P	-
Veterinary Clinic large animal	-	-	P	-
Veterinary Clinic small animal	-	P	P	C
Vocational School	-	P	P	C

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#### Permitted and Conditional Uses

Youth Home

Wholesale/Bulk Store

Wireless Telecommunications Retail

Wood Products

Zip Lines

#### See also Chapter 4 Supplementary Regulations

C\*Commercial uses allowed for in “Commercial / Residential Mix” include those allowed in the specified zone. Residential uses for “Commercial / Residential Mix” may include one or more units. In the C1 zone, the main ground floor for any street front property along Highway 89, where pedestrian or vehicular access can be made from Highway 89, must only be used as commercial use.

**PLEASE NOTE: This draft is for information only. Each community considering adopting a Right to Farm ordinance should consult with its municipal attorney regarding ordinance language and process for adoption.**

**Items in red may or may not apply and will require Utah and City regulations as reference**

## **RIGHT TO FARM ORDINANCE**

Kanab, Utah

### **Section 1. Legislative Purpose and Intent**

The purpose and intent of this Ordinance is to state with emphasis the Right to Farm accorded to all citizens of the **State of Maine under the Constitution, and all state statutes and regulations including but not limited to M.R.S.A. 7 §151 et seq.**

**We the citizens of Kanab restate and republish these rights pursuant to the Town's Home Rule authority conferred by Article 8 of the Maine Constitution.**

This Ordinance encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town by allowing agricultural uses and related activities to function with minimal conflict with abutters and municipal officials. This Ordinance shall apply to all jurisdictional areas within the Town where agricultural activities are permitted.

### **Section 2. Definitions**

The following terms have the following meanings.

1. "Agricultural composting operation" means composting that takes place on a farm. "Agricultural composting operation" does not include an operation that involves nonorganic municipal solid waste or that composts municipal sludge, septage, industrial solid waste or industrial sludge. "Agricultural composting operation" does not include an operation that composts materials with a moderate or high risk of contamination from heavy metals, volatile and semi volatile organic compounds, polychlorinated biphenyls or dioxin.
2. "Agricultural products" means those plants and animals and their products that are useful to humans and includes, but is not limited to, forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, bees and bees' products, livestock and livestock products and fruits, berries, vegetables, flowers, seeds, grasses and other similar products, or any other plant, animal or plant or animal products that supply humans with food, feed, fiber or fur. "Agricultural products" does not include trees grown and harvested for forest products.
3. "Agricultural support services" means the aerial or surface application of seed, fertilizer, pesticides or soil amendments and custom harvesting.
4. "Composting" means the controlled aerobic decomposition of organic materials to produce a soil-like product beneficial to plant growth and suitable for agronomic use.
5. "Farm" means the land, plants, animals, buildings, structures, ponds and machinery

used in the commercial production of agricultural products.

6. "Farm operation" means a condition or activity that occurs on a farm in connection with the commercial production of agricultural products and includes, but is not limited to, operations giving rise to noise, odors, dust, insects and fumes; operation of machinery and irrigation pumps; disposal of manure; agricultural support services; and the employment and use of labor. The word "farm" shall include any parcel or contiguous parcels of land, or water bodies used for the primary purpose of commercial agriculture, or accessory thereto.

### **Section 3. Right to Farm Declaration**

The Right to Farm is hereby recognized to exist within the Town of Kanab.

Agricultural activities may occur on holidays, weekdays, and weekends by night or day and shall include the attendant incidental noise, odors, dust and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the neighborhood, community, and society in general.

The benefits and protections of this Ordinance are intended to apply to those commercial agricultural and farming operations and activities conducted in accordance with and in compliance with applicable state and federal laws, rules and regulations. A method of operation used by a farm or farm operation located in an area where agricultural activities are permitted may not be considered a violation of a municipal ordinance if the method of operation and the farm, farm operation or agricultural composting operation conforms to best management practices, **as determined by the Commissioner of the Maine Department of Agriculture, Food, and Rural Resources in accordance with Title 5, chapter 375.**

Moreover, nothing in this Right to Farm Ordinance shall be deemed as acquiring any interest in land, or as imposing any land use regulation, which is properly the subject of state statute, regulation, or local ordinance.

### **Section 4. Disclosure Notification**

Not later than 21 days after a purchase and sale contract is entered into, or prior to the sale or exchange of real property (if no purchase or sale agreement exists), for the purchase or exchange of real property, or prior to the acquisition of a leasehold interest or other possessory interest in real property, located within the Town of Kanab, the current landowner shall present the buyer or occupant with a disclosure notification which states the following:

"It is the policy of this community to conserve, protect and encourage the maintenance and improvement of agricultural land for the production of food, and other agricultural products, and also for its natural and ecological value. This disclosure notification is to inform buyers or occupants that the property they are about to acquire or occupy lies within a town where farming activities occur. Such farming activities may include, but are not limited to, activities that cause noise, dust and odors. Buyers or occupants are also informed that the location of property within the Town may be impacted by commercial and other agricultural operations."



A copy of the disclosure notification shall be given on a form prepared by the Town and shall be signed by the landowner prior to the sale, purchase, exchange or occupancy of such real property. A copy of the disclosure notification must be filed with the Board of Selectmen or its designee prior to the sale, purchase, exchange or occupancy of such real property.

In addition to the above, a copy of this disclosure notification shall be provided by the Town to landowners each fiscal year by mail.

### **Section 5. Resolution of Disputes**

Any person who seeks to complain about the operation of a farm may, notwithstanding pursuing any other available remedy, file a grievance with the appropriate Town Authority (such as the Select Board, the Code Enforcement Officer, Local Health Officer, or others) depending upon the nature of the grievance. Notice of any such grievance shall be forwarded to the Commissioner of Agriculture, Food, and Rural Resources within two (2) business days of receipt by the municipal official.

The filing of the grievance does not suspend the time within which to pursue any other available remedies that the aggrieved may have. Except in cases of imminent danger or public health risk, all such grievances shall be reviewed by the Select Board and the Select Board shall facilitate the resolution of the grievance. The Select Board shall give the findings of the initial investigation and subsequent investigations and any determination of compliance to the complainant and person responsible.

**The Maine Rules of Civil Procedure, Rule 11** applies in any private action filed against the owner or operator of a farm, farm operation or agricultural composting operation in which it is alleged that the farm, farm operation or agricultural composting operation constitutes a nuisance if it is determined that the action was not brought in good faith and was frivolous or intended for harassment only.

### **Section 6. Severability Clause**

If any part of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this Ordinance. The Town of Kanab hereby declares the provisions of this Ordinance to be severable.

### **Section 7. Notice to State**

**The Town Clerk shall submit a copy of any proposed amendments to this ordinance to the Commissioner of Agriculture, Food and Rural Resources at least 90 days prior to the meeting of the legislative body or public hearing at which amendment of the ordinance will be considered. This Ordinance does not affect the application of state and federal laws.**

## Other notes: Possible use

The purpose and intent of the Right-to-Farm Ordinance (Butte County Code Chapter 35 – Protection of Agricultural Land) is to protect agricultural operations by limiting the circumstances under which a properly conducted agricultural operation may be considered a nuisance. This ordinance promotes a good-neighbor policy by requiring notification of owners, purchasers, residents, and users of property adjacent to or near agricultural operations of the inherent potential problems associated with being located near agricultural operations, including, noise, odors, fumes, dust, smoke, insects, operation of machinery during any time of day or night, storage and disposal of manure, and ground or aerial application of fertilizers, soil amendments, seeds and pesticides. Through the disclosure requirements of the Right-to-Farm Ordinance, it is intended that residents will better understand the impacts of living or working near agricultural operations and be prepared to accept attendant conditions from properly conducted agricultural operations as a normal and necessary aspect of living in a county with a strong rural character and an active agricultural sector.



University of Arkansas Division of Agriculture

An Agricultural Law Research Project

## **States' Right-To-Farm Statutes**

**State of Utah**

[www.NationalAgLawCenter.org](http://www.NationalAgLawCenter.org)



## States' Right-to-Farm Statutes

### STATE OF UTAH

Utah Code Ann. §§ 17-41-401 to 17-41-406

*Statutes current through the 2019 General Session*

#### **§ 17-41-401. Farmland Assessment Act benefits not affected**

- (1) Creation of an agriculture protection area may not impair the ability of land within the area to obtain the benefits of Title 59, Chapter 2, Part 5, Farmland Assessment Act.
- (2) The eligibility of land for the benefits of Title 59, Chapter 2, Part 5, Farmland Assessment Act, shall be determined exclusively by the provisions of that act, notwithstanding the land's location within an agriculture protection area.

#### **§ 17-41-402. Limitations on local regulations**

- (1) A political subdivision within which an agriculture protection area, industrial protection area, or critical infrastructure materials protection area is created or with a mining protection area within its boundary shall encourage the continuity, development, and viability of agriculture use, industrial use, critical infrastructure materials operations, or mining use, within the relevant protection area by not enacting a local law, ordinance, or regulation that, unless the law, ordinance, or regulation bears a direct relationship to public health or safety, would unreasonably restrict:
  - (a) in the case of an agriculture protection area, a farm structure or farm practice;
  - (b) in the case of an industrial protection area, an industrial use of the land within the area;
  - (c) in the case of a critical infrastructure materials protection area, critical infrastructure materials operations; or
  - (d) in the case of a mining protection area, a mining use within the protection area.
- (2) A political subdivision may not change the zoning designation of or a zoning regulation affecting land within an agriculture protection area unless the political subdivision receives written approval for the change from all the landowners within the agriculture protection area affected by the change.

(3) Except as provided by Section 19-4-113, a political subdivision may not change the zoning designation of or a zoning regulation affecting land within an industrial protection area unless the political subdivision receives written approval for the change from all the landowners within the industrial protection area affected by the change.

(4) A political subdivision may not change the zoning designation of or a zoning regulation affecting land within a critical infrastructure materials protection area unless the political subdivision receives written approval for the change from each critical infrastructure materials operator within the relevant area.

(5) A political subdivision may not change the zoning designation of or a zoning regulation affecting land within a mining protection area unless the political subdivision receives written approval for the change from each mine operator within the area.

(6) A county, city, or town may not:

(a) adopt, enact, or amend an existing land use regulation, ordinance, or regulation that would prohibit, restrict, regulate, or otherwise limit critical infrastructure materials operations, including vested critical infrastructure materials operations as defined in Section 10-9a-901 or 17-27a-1001; or

(b) initiate proceedings to amend the county's, city's, or town's land use ordinances as described in Subsection 10-9a-509(1)(a)(ii) or 17-27a-508(1)(a)(ii).

#### **§ 17-41-402.5. Limits on political subdivisions with respect to a vested mining use-- Exception**

(1) A political subdivision may not:

(a) terminate a vested mining use, whether by amortization, the exercise of police power, or otherwise;

(b) prohibit, restrict, or otherwise limit a mine operator with a vested mining use from exercising the rights permitted under this chapter;

(c) require, for a vested mining use:

(i) a variance;

(ii) a conditional use permit;

(iii) a special exception;

(iv) the establishment or determination of a nonconforming use right; or

(v) any other type of zoning or land use permit; or

(d) prohibit, restrict, limit, or otherwise regulate a vested mining use under a variance, conditional use permit, special exception, or other zoning or land use permit issued before May 12, 2009.

(2) Subsection (1) does not prohibit a political subdivision from requiring a vested mining use to comply with the generally applicable, reasonable health and safety regulations and building code adopted by the political subdivision including a drinking water protection zone as defined and limited to Subsection 19-4-113(4)(a) and (b).

### **§ 17-41-403. Nuisances**

(1) A political subdivision shall ensure that any of the political subdivision's laws or ordinances that define or prohibit a public nuisance exclude from the definition or prohibition:

(a) for an agriculture protection area, any agricultural activity or operation within an agriculture protection area conducted using sound agricultural practices unless that activity or operation bears a direct relationship to public health or safety;

(b) for an industrial protection area, any industrial use of the land within the industrial protection area that is consistent with sound practices applicable to the industrial use, unless that use bears a direct relationship to public health or safety; or

(c) for a critical infrastructure materials protection area, any critical infrastructure materials operations on the land within the critical infrastructure materials protection area that is consistent with sound practices applicable to the critical infrastructure materials operations, unless that use bears a direct relationship to public health or safety.

(2) In a civil action for nuisance or a criminal action for public nuisance under Section 76-10-803, it is a complete defense if the action involves agricultural activities and:

(a) those agricultural activities were:

(i) conducted within an agriculture protection area; and

(ii) not in violation of any federal, state, or local law or regulation relating to the alleged nuisance or were conducted according to sound agricultural practices; or

(b) a defense under Section 4-44-201 applies.

(3)

(a) A vested mining use undertaken in conformity with applicable federal and

state law and regulations is presumed to be operating within sound mining practices.

(b) A vested mining use that is consistent with sound mining practices:

(i) is presumed to be reasonable; and

(ii) may not constitute a private or public nuisance under Section 76-10-803.

(c) A vested mining use in operation for more than three years may not be considered to have become a private or public nuisance because of a subsequent change in the condition of land within the vicinity of the vested mining use.

(4)

(a) For any new subdivision development located in whole or in part within 300 feet of the boundary of an agriculture protection area, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:

“Agriculture Protection Area

This property is located in the vicinity of an established agriculture protection area in which normal agricultural uses and activities have been afforded the highest priority use status. It can be anticipated that such agricultural uses and activities may now or in the future be conducted on property included in the agriculture protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal agricultural uses and activities.”

(b) For any new subdivision development located in whole or in part within 1,000 feet of the boundary of an industrial protection area, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:

“Industrial Protection Area

This property is located in the vicinity of an established industrial protection area in which normal industrial uses and activities have been afforded the highest priority use status. It can be anticipated that such industrial uses and activities may now or in the future be conducted on property included in the industrial protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal industrial uses and activities.”



(c) For any new subdivision development located in whole or in part within 1,000 feet of the boundary of a critical infrastructure materials protection area, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:

**“Critical Infrastructure Materials Protection Area**

This property is located in the vicinity of an established critical infrastructure materials protection area in which critical infrastructure materials operations have been afforded the highest priority use status. It can be anticipated that such operations may now or in the future be conducted on property included in the critical infrastructure materials protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal critical infrastructure materials operations.”

(d) For any new subdivision development located in whole or in part within 1,000 feet of the boundary of a mining protection area, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:

“This property is located within the vicinity of an established mining protection area in which normal mining uses and activities have been afforded the highest priority use status. It can be anticipated that the mining uses and activities may now or in the future be conducted on property included in the mining protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience that may result from the normal mining uses and activities.”

**§ 17-41-404. Policy of state agencies**

A state agency shall encourage the continuity, development, and viability of agriculture within agriculture protection areas, industrial uses within industrial protection areas, and critical infrastructure materials operations within critical infrastructure protection areas by:

(1) not enacting rules that would impose unreasonable restrictions on farm structures or farm practices within the agriculture protection area, on industrial uses and practices within the industrial protection area, or on critical infrastructure materials operations within a critical infrastructure materials protection area, unless those laws, ordinances, or regulations bear a direct relationship to public health or safety or are required by federal law; and

(2) modifying existing rules that would impose unreasonable restrictions on farm structures or farm practices within the agriculture protection area, on industrial

uses and activities within the industrial protection area, or on critical infrastructure materials operations within a critical infrastructure materials protection area, unless those laws, ordinances, or regulations bear a direct relationship to public health or safety or are required by federal law.

#### **§ 17-41-405. Eminent domain restrictions**

(1) A political subdivision having or exercising eminent domain powers may not condemn for any purpose any land within an agriculture protection area that is being used for agricultural production, land within an industrial protection area that is being put to an industrial use, or land within a critical infrastructure materials protection area, unless the political subdivision obtains approval, according to the procedures and requirements of this section, from the applicable legislative body and the advisory board.

(2) Any condemnor wishing to condemn property within an agriculture protection area, industrial protection area, or critical infrastructure materials protection area shall file a notice of condemnation with the applicable legislative body and the relevant protection area's advisory board at least 30 days before filing an eminent domain complaint.

(3) The applicable legislative body and the advisory board shall:

(a) hold a joint public hearing on the proposed condemnation at a location within the county in which the relevant protection area is located;

(b) publish notice of the time, date, place, and purpose of the public hearing:

(i) in a newspaper of general circulation within the relevant protection area; and

(ii) on the Utah Public Notice Website created in Section 63F-1-701; and

(c) post notice of the time, date, place, and purpose of the public hearing in five conspicuous public places, designated by the applicable legislative body, within or near the relevant protection area.

(4)

(a) If the condemnation is for highway purposes or for the disposal of solid or liquid waste materials, the applicable legislative body and the advisory board may approve the condemnation only if there is no reasonable and prudent alternative to the use of the land within the agriculture protection area, industrial protection area, or critical infrastructure materials protection area for the project.

(b) If the condemnation is for any other purpose, the applicable legislative body and the advisory board may approve the condemnation only if:

(i) the proposed condemnation would not have an unreasonably adverse effect upon the preservation and enhancement of:

(A) agriculture within the agriculture protection area;

(B) the industrial use within the industrial protection area; or

(C) critical infrastructure materials operations within the critical infrastructure materials protection area; or

(ii) there is no reasonable and prudent alternative to the use of the land within the the relevant protection area for the project.

(5)

(a) Within 60 days after receipt of the notice of condemnation, the applicable legislative body and the advisory board shall approve or reject the proposed condemnation.

(b) If the applicable legislative body and the advisory board fail to act within the 60 days or such further time as the applicable legislative body establishes, the condemnation shall be considered rejected.

(6) The applicable legislative body or the advisory board may request the county or municipal attorney to bring an action to enjoin any condemnor from violating any provisions of this section.

#### **§ 17-41-406. Restrictions on state development projects**

(1) A state agency that plans any development project that might affect land within an agriculture protection area, industrial protection area, or critical infrastructure materials protection area, shall submit the state agency's development plan to:

(a) the advisory board of the relevant protection area; and

(b) in the case of an agriculture protection area, the commissioner of agriculture and food.

(2) The commissioner of agriculture and food, in the case of an agriculture protection area, and the advisory board shall:

(a) review the state agency's proposed development plan; and

(b) recommend any modifications to the development project that would protect the integrity of the agriculture protection area, industrial protection area, or critical infrastructure materials protection area, as the case may be, or that would protect the agriculture protection area from nonfarm encroachment, the

industrial protection area from nonindustrial encroachment, or the critical infrastructure materials protection area from encroachment of uses unrelated to critical infrastructure materials operations.

(3) A state agency and political subdivision of the state that designates or proposes to designate a transportation corridor shall:

(a) consider:

(i) whether the transportation corridor would:

(A) be located on land that is included within an agriculture protection area; or

(B) interfere with agriculture production activities on land within an agriculture protection area; and

(ii) each other reasonably comparable alternative to the placement of the corridor on land within an agriculture protection area; and

(b) make reasonable efforts to minimize or eliminate any detrimental impact on agriculture that may result from the designation of a transportation corridor.



# LITTLE VALLEY

A RIGHT TO FARM  
AGRICULTURAL AREA

*City of  
St. George*

## **RIGHT TO FARM**

BECAUSE ranching and farming are of significant historical and cultural value to the City of Kanab, it is declared that:

All irrigated fields and all grazing land currently in use for farming and ranching within Kanab City limits as of December 1, 2019 shall be protected from:

- 1) Undue or unreasonable restrictions, regulations, or harassment from government entities and/or public and private sectors
  
- 2) Undue liability and nuisance ordinances, suits and harassments by public or private sectors when conducting normal production practices