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Section 10-561 Fire, Health, Safety and Welfare

Section 10-561.1 Severability

Section 10-561.2 Effective Date

Section 10-100 Fires - Department – Code

Section 10-110 Department

Section 10-111 Creation

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

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.

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- 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.

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 his 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.

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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.

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

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making

inspections.

Section 10-138 Males Present At Fire Subject To Orders

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

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

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

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

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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 \$20.00 per hour with a \$25.00 minimum; however, this rate may be changed, from time to time, by resolution of the City Council of Kanab, Utah.

Section 10-150 Uniform Fire Code

Section 10-151 Uniform Fire Code Adopted

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

The City Council of Kanab City does ordain as follows:

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

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additions, insertions, deletions, and changes, if any, prescribed in Section 2 of this ordinance.

SECTION 2. The following sections are hereby revised:

Section 101.1: Kanab City.

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

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

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

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

Section 3404.2.9.5.1 The entire City, except where permitted by condition use permit. Such permits shall not be granted in areas zoned to be used solely for mercantile establishments, primarily retail in character and in the business district and the congested commercial areas.

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

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

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

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

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

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

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

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

Section 10-153 Definitions

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

- A. The limits referred to in Section 15.201 of the Uniform Fire Code in which storage of flammable or combustible liquids in outside above ground tanks is prohibited, are hereby established in an appendix to this code.
- B. The limits referred to in Section 15.601 of the Uniform Fire Code, in which new bulk plants for flammable or combustible liquids are prohibited, are hereby established in an appendix to this code.

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

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

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

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

Section 10-157 Amendments Made In the Uniform Fire Code

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

Section 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 to the governing body within 30 days from the date of such decision.

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

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

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permits in addition to those now enumerated in the fire code. The chief of the bureau of fire prevention shall post such list in a conspicuous place in his office and distribute copies thereof to interested persons.

Section 10-160 Penalties

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

Section 10-170 Standard Fire-Fighting Equipment

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

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

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

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

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Section 10-173 Prohibited Sales and Penalties

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

Section 10-200 Health

Section 10-210 Board Of and Health Officer

Section 10-211 Board of Health Established

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

Section 10-212 Duties and Powers of Board of Health

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

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Section 10-213 Permits

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

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

Section 10-220 Health Director

Section 10-221 Position Created

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

Section 10-222 Powers and Duties of Health Director

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

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

Section 10-223 Unwholesome Food

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

Section 10-224 Vacating Premises

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

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

Section 10-225 Discharge of Sewage Pollution

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

Section 10-226 Inadequate Plumbing

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

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Section 10-241 Commencement of Offensive Business

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

Section 10-242 Issuance Of Permits

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

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

Section 10-243 Existing Offensive Business and Facilities

- A. The governing body may require an investigation of any existing offensive business or facility to determine whether or not it should be permitted to remain in existence in or within one mile of the municipal limits. If the governing body determines that the continuation of the business or facility has become a nuisance to persons situated within the municipal limits or that ample control is not being exercised to minimize the creation of excessive odors, fumes, smoke, gases, and noise, it shall notify the owner or operator thereof that the governing body is considering revoking or modifying the operator's license.
- B. If the governing body decides to require a modification of the manner in which the business or facility is to be maintained, it shall specify the standards or specifications to which the enterprise must conform or otherwise lose its license to engage thereafter in the business or activity.

Section 10-244 Control of Animal And Fowl Facilities

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

Section 10-300 Nuisances

Section 10-310 Nuisances Generally

Section 10-311 Nuisances Defined

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Whatever is dangerous to human life or health and whatever renders soil, air, water, or food impure or unwholesome is declared to be a nuisance and unlawful. It shall be unlawful for any person either as an owner, agent, or occupant, to create, or aid in creating or contributing to or maintaining a nuisance.

Section 10-312 Author of Nuisance Defined

Where a nuisance exists upon property and is the outgrowth of the usual, natural, or necessary use of the property, the landlord or his agent, the tenant or his agent, and all other persons having control of the property on which such nuisance exists shall be deemed to be the authors thereof and shall be equally liable and responsible. Where any such nuisance shall arise from the unusual or unnecessary use of such property or from the business thereon conducted, then the occupants and all other persons contributing to the continuance of such nuisance shall be deemed the authors.

Section 10-313 Declaration of Nuisance

- A. Every act or condition made, permitted, allowed or continued in violation of section 10-311 above, is hereby declared to be a nuisance and may be abated and punished as hereinafter provided.
- B. Nuisances include but are not limited to:
 1. Befouling water in any spring, stream, well, or water source supplying water for culinary purposes.
 2. Allowing any privy, vault or cesspool or other individual waste water disposal system to become a menace to health or a source of odors to air or water.
 3. Permitting any garbage container to remain on premises when it has become unclean and offensive.
 4. Allowing vegetable waste, garbage, litter, filth, or refuse of any nature to accumulate within or upon any private alley, yard or area except when it is temporarily deposited for immediate removal.

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5. Permitting the accumulation of manure in any stable, stall, corral, feed yard, yard, or in any other building or area in which any animals are kept.
6. Permitting any slaughter house, market, meat shop, stable, feed yard, or other place or building wherein any animals are slaughtered, kept, fed, or sold to remain unclean or in any state or condition detrimental to health or creating a nuisance because of odors, or in which flies or rodents breed.
7. Discharging or placing any offensive water, liquid waste, or refuse of any kind into any street, alley, sidewalk, gutter, stream, wash, natural water course, ditch, canal, or any vacant lot or which as the result of continued discharge will render the place of discharge offensive or likely to become so.
8. Keeping or collecting any stale or putrid grease or other offensive matter.
9. Having or permitting upon any premises any fly or mosquito-producing condition.
10. Keeping any drinking vessel for public use without providing a method of decontamination between uses.
11. Permitting or performing any ablutions in or near any public drinking fountain.
12. Failing to furnish any dwelling house, boarding house, or factory or other place of employment with such privy vaults, water closets, sinks or other facilities as may be required to maintain the same in sanitary condition.
13. Neglecting or refusing to discontinue use of, clean out, disinfect, and fill up all privy vaults and cesspools or other individual waste water disposal systems within 20 days after notice from an enforcement officer or official of the municipality.
14. Permitting any lot or excavation to become the repository of stagnant water or any decaying or offensive substances.

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15. Obstructing or tending to obstruct or interfere with or render dangerous for passage any street or sidewalks, lake, stream, drainage, canal or basin, or any public park without first obtaining the written permission of the governing body.
16. 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. (10-313B. Number 16 amended on August 13, 1984)

Section 10-314 The enumeration of Nuisances

The types of nuisances above stated shall be deemed in addition to and in no way a limitation of the nuisances subject to this chapter.

Section 10-315 Toilet or Sewer Facilities

All toilet or sewer facilities shall be constructed and maintained in accordance with the ordinances of the municipality. All such facilities that do not comply with such provisions are hereby declared to be a nuisance and are subject to abatement as herein prescribed.

Section 10-316 Restrictions on Blocking Water

- A. It shall be unlawful for any person or persons to permit any drainage system, canal, ditch, conduit or other water course of any kind or nature, natural or artificial, to become so obstructed as to cause the water to back up and overflow therefrom, or to become unsanitary.
- B. Maintenance of any such water course in such condition shall constitute a nuisance and the same shall be subject to abatement.

Section 10-317.010 Purpose

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- A. It is the purpose of this chapter to establish a means whereby the City may remove or abate or cause the removal or abatement of injurious and noxious weeds and of garbage, refuse or any unsightly or deleterious objects or structures pursuant to powers granted to it by chapter 11 of title 10, Utah Code Annotated 1953, as amended, and pursuant to its general power to abate nuisances.
- B. The following conditions shall constitute a nuisance subject to abatement under this Chapter:
1. Vegetation on private property which due to their proximity to any public property or right of way interferes with the public safety or lawful use of the public property or right of way.
 2. Weeds or noxious vegetable growth on any real property, alley abutting thereon or sidewalk area in the front thereof, which has grown to a height exceeding one foot (1').
 3. Vegetable waste, litter, garbage, filth or refuse of any nature, kind or description detrimental to health allowed to accumulate upon any private alley, yard or area.
 4. Any property which has been allowed to become a fire hazard due to the accumulation of garbage, refuse, litter waste products, dry or drying weeds or any combustible materials, objects or structures.
 5. Weeds, garbage, refuse, objects or structures that create a source of contamination or pollution of water, air property, a danger to health, a breeding place of habitation for insects, rodents or other forms of life deleterious to human habitation or that otherwise creates a condition deleterious to their surroundings.
 6. Noxious weeds determined to be especially injurious to public health, crops, livestock, land, or other property.
 7. Any property where the outside storage, keeping, accumulation, or abandonment of the following unsightly material or objects is clearly visible from a public street and is not a use of property permitted or allowed under the Uniform Zoning Ordinance of Kanab City:

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- ii. Uncontained garbage, refuse, litter or waste; or
 - iii. Auto parts, tires, scrap metal, machinery or parts thereof, or other scrap materials; or
 - iv. Any property owner or tenant to cause or permit any unlicensed, inoperable, unused or abandoned vehicles or vehicle part to be in or upon any premises unless the premises is licensed for such use. Open storage of the following materials shall also be prohibited in or upon any premises unless the premises is licensed for such use: junk, scrap metal, used or scrap lumber, wastepaper products, discarded building materials, machinery or machinery parts, interior household furniture, appliance, tree limbs and cuttings, landscape debris, garbage, refuse, trash, rubbish, hazardous waste, industrial waste, construction and demolition waste, sludge, liquid or semi-liquid waste; other spent, useless, worthless or discarded materials, or materials stored or accumulated for the purpose of discarding materials that have served their original purpose.
8. Vacant buildings or structures which have been secured against entry by placing secured coverings on openings and which buildings are not maintained in accordance with the maintenance requirements of the Kanab City Code for the "Abatement of Dangerous Buildings".

Section 10-317.020 Inspector; Office Created; Assistant Inspectors

The office of inspector is created for the purpose of administering the provisions of this Chapter and the powers delegated to the City by the statutes cited in §10-317.010, subject to such control and review as the Mayor may from time to time direct. The City Fire Chief and the Chief's assistant, the City Building Inspector, or the Building Inspector's duly authorized representatives, are authorized to perform the functions of inspector for the abatement of nuisances as defined under §10-317.010(B)(1) through B(8). The Public Works Director, or the Director's designee, is authorized to perform the functions of inspector for

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nuisance under §10-317.010(B)(1). The Mayor may assign primary responsibility in those areas of overlapping jurisdiction.

Section 10-317.030 Inspector; Powers and Duties

The inspector is authorized and directed to inspect and examine real property situated within the Municipality for the purpose of determining whether or not a nuisance exists as described in §10-317.010(B). All matters involving health shall be pursued in coordination with the Southwest Utah Public Health Department. Nuisances involving noxious weeds shall be pursued in coordination with the Kanab City Fire Department.

Section 10-317.040 Service of Notice; Right To Hearing

If the inspector concludes that the conditions described in §10-317.010 exist in whole or in part, he shall:

- A. Ascertain the names of the owners and descriptions of the premises where such objects and conditions exist;
- B. Serve notice in writing upon the owner and occupant of such land, either personally or by mailing notice first class, postage prepaid, addressed to the owner or occupant at their last known post office address, as disclosed by the records of the County Assessor, requiring such owner or occupant, as the case may be, to eradicate or destroy and remove the nuisance within such time and manner as the inspector may designate, which shall not be less than TEN (10) days from the date of service of such notice;
- C. Inform the owner or occupant by means of said notice or an attached document that in the event he disagrees with the determination of the inspector and does not wish to abate or remove said objects or objectionable conditions, he may request in writing a hearing before the Mayor or the Mayor's designee. A written application for a hearing together with a copy of the notice must be filed with the City Recorder ten (10) days from either the date of mailing or the date of personal service of the notice. Upon receipt of the application for appeal, the City Recorder shall notify the

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inspector. If a written request for hearing is not filed within the required ten (10) days, the notice of the inspector shall be final.

Section 10-317.050 One Notice per Season Sufficient; Proof Of Service

One notice shall be deemed sufficient on any lot or parcel of property for the entire season of weed growth during that year. The inspector shall make proof of service of such notice under oath and file the same in the office of the County Treasurer.

Section 10-317.060 Hearing; Time and Place

In the event the owner or occupant makes a request for a hearing, the Mayor or the Mayor's designee shall set the time and place for hearing his objections, and the City recorder shall notify the owner or occupant in writing of the time and place at which he may appear and be heard. Said hearing shall not be heard within less than five (5) days from the date of service or mailing of said notice.

Section 10-317.070 Hearing; Procedure; Decision

At the written request of the owner or occupant ordered to remove or abate said weeds, objectionable conditions, or objects from his real property, the Mayor or Mayor's designee shall conduct an informal hearing (which need not be reported) wherein said owner or occupant may present such evidence and argument as is pertinent to the question of whether or not the removal or abatement of said objects or conditions is properly within the purview of this Chapter. The Mayor or Mayor's designee shall also permit the presentation of evidence and argument by the inspector and other interested parties. Thereafter, within not more than ten (10) days, The Mayor or the Mayor's designee shall, render its written decision, a copy of which shall be mailed to or served upon the owner or occupant by the inspector, either personally or by first class mail, postage prepaid.

Section 10-317.080 Decision; Notification; Compliance

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In the event the decision of the Mayor or the Mayor's designee upholds the determination of the inspector, the notice originally given by the inspector as provided in this Chapter shall be deemed to be sufficient to require the owner or occupant to remove or abate said objects or conditions and he shall conform thereto. In the event that the decision of the Mayor or the Mayor's designee either overrules or modifies the determination of the inspector, the written decision of the Mayor or the Mayor's designee shall appraise him of that fact and set forth the details and extent to which the owner or occupant must make removal or other abatement of the said objects or conditions, if any. The owner or occupant shall be required to conform to the decision of the Mayor or the Mayor's designee within ten (10) days after service or mailing of a copy of said decision and said decision shall be deemed to be the modified decision of the inspector.

Section 10-317.090 Decision; Failure to Comply; Filing of Copy with County Treasurer

In the event of the failure of such owner or occupant to comply with any notice or decision as described in §10-317.080 or a final order as described in §10-317.040(C), the inspector, shall file a copy of said notice or decision and proof of service thereof, made under oath, in the office of the County Treasurer, if the costs are to be recovered through inclusion in the tax notice.

Section 10-317.100 Decision; Failure to Comply; Inspector Action

If any owner or occupant of lands described in such notice or decision fails or neglects to conform to the requirements thereof relating to the eradication or destruction or removal of weeds, garbage, refuse, objects or structures, the inspector shall employ all necessary assistance to cause such weeds, garbage, refuse objects or structures to be removed or destroyed or otherwise abated at the expense of the City to the extent that such public funds are available.

Section 10-317.110 Itemized Statement; Preparation and Delivery

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The inspector shall prepare an itemized statement of all expenses incurred in the abatement of the conditions described in this Chapter which may include a reasonable charge for the administrative costs of abatement, and shall mail a copy thereof to the owner demanding payment within twenty (20) days of the date of mailing. Said notice shall be deemed delivered when mailed by registered mail addressed to the property owner's last known address.

Section 10-317.120 Failure to Make Payment; Procedure

In the event the owner or occupant fails to make payment of the amount set forth in the statement described in §10-317.110 to the City Treasurer within said twenty (20) days, the inspector either may cause suit to be brought in appropriate court of law or may refer the matter to the County Treasurer as provided in this Chapter.

Section 10-317.130 Expenses; Collection by Lawsuit

In the event collection of expenses of destruction and removal are pursued through the courts, the City shall sue for and receive judgment for all of said expenses of destruction and removal, together with reasonable attorney's fees, interest and court costs, and shall execute upon such judgment in the manner provided by law.

Section 10-317.140 Expenses; Collection through Taxes

In the event that the inspector elects to refer the expenses to the County Treasurer for inclusion in the tax notice of the property owner, he shall make in triplicate an itemized statement of all expenses incurred in the destruction and removal of the same and shall deliver the three (3) copies of said statement to the County treasurer within ten (10) days after the completion of the work. Completion of work shall occur when the inspector has received a billing for the work and has verified completion in accordance with the notice. Thereupon the costs of said work shall be pursued by the County Treasurer in accordance with

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the provisions of section 10-11-14, Utah Code annotated 1953, as amended, and the recalcitrant owner shall have such rights and shall be subject to such powers as are thereby granted.

Section 10-317.150 Chapter procedure Not Exclusive

The procedure and authority granted by this Chapter shall be in addition to and not in lieu of procedures provided in other ordinances of the City which have heretofore been or may hereafter be enacted to accomplish the same or related purposes, and no ordinances are repealed by this Chapter.

Section 10-317.160 Prohibited Activities-Penalties

- A. It shall be unlawful for any owner or occupant of any lot, tract or parcel of land to cause or permit any nuisance as defined in Section 10-317.010, to be created or to remain upon such premises; and it shall be the duty of such owner or occupant to abate and remove any such nuisance from such premises.
- B. It shall be unlawful for any owner or occupant to fail to abate, within the required time period, any nuisance as defined in Section 10-317.010, after service of notice pursuant to Section 10-317.040.
- C. Any Person, firm or corporation violating the provisions of this Chapter shall be guilty of a class B Misdemeanor. Every day that a violation continues shall be considered a separate offense.

Section 10-317.161 Complaints Regarding Violations

The Zoning administrators or designee may investigate any complaints alleging a violation of this title and take such action as is warranted in accordance with the procedures set forth in this chapter.

Section 10-317.162 Persons Liable

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The owner, owner's agent, tenant or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person who participates in, assists, directs or creates any situation that is contrary to the requirements of this title may be held responsible for the violation, suffer the penalties, and be subject to the remedies herein provided.

Section 10-317.163 Procedures upon Discovery Of Violations

- A. If the zoning administrator finds that any provision of this title is being violated, the zoning administrator may provide a written warning to the property owner and any other person determined to be responsible for such violation. The written warning shall indicate the nature of the violation and order the action necessary to correct it. Additional written notices may be provided at the zoning administrator's discretion.
- B. The written notice shall state what action the zoning administrator intends to take if the violation is not corrected. The written notice shall include information regarding the established warning period for the indicated violations and shall serve to start any warning periods provided in this chapter.
- C. In cases when delay in enforcement would seriously threaten the effective enforcement of this title, or pose a danger to the public health, safety or welfare, the zoning administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in Section 10-317.164.
- D. If the violation remains uncured within five days of the expiration of the warning period, a second notice of violation shall be delivered in the same manner as the first notice. The second notice shall serve to start the civil penalties.

Section 10-317.164 Penalties and Remedies for Violations

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- A. Violations of the provisions of this title or failure to comply with any of its requirements shall be punishable as a Class B misdemeanor upon the conviction.
- B. This title may also be enforced by injunction, mandamus, abatement, civil penalties or any other appropriate action in law or equity.
- C. Each day that any violation continues after notification by the zoning administrator that such violation exists shall be considered a separate offense for purposes of the penalties and remedies available to the city.
- D. Accumulation of penalties for violations, but not the obligation for payment of penalties already accrued, shall stop on correction of the violation.
- E. Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce this title.

Section 10-317.165 Civil Penalties

- A. Civil Penalties. Violations of this title and City of Kanab Uniform Zoning Ordinance, shall carry civil penalties pursuant to the following schedule:

| Classification of Violation | Reference | (Maximum) Warning Period | Fine per Day (After Warning Period) |
|-----------------------------|------------------------------|--------------------------|--------------------------------------|
| Land Use Violations | Chapter 5 Specific Districts | | |
| Residential | | 28 Days | \$50.00 |
| Non-Residential | | 28 Days | \$200.00 |
| Noncompliance with board | Chapter 3 | | |
| Adjustment Orders | | 28 Days | \$50.00 |
| Residential Districts | | 28 Days | \$50.00 |

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| | | | |
|-----------------------------|--|---------|----------|
| Non-Residential Districts | | 28 Days | \$200.00 |
| Nuisances & Junk | | | |
| Residential Districts | Code of Revised Ordinances of Kanab – Chapter 10 | 28 Days | \$50.00 |
| Non-Residential Districts | | 28 Days | \$200.00 |
| Parking | | | |
| Residential Districts | Chapter 6 | 28 Days | \$25.00 |
| Non-Residential Districts | | 28 Days | \$50.00 |
| Public Way | | | |
| Residential Districts | Chapter 6 | 28 Days | \$10.00 |
| Non-Residential Districts | | 28 Days | \$50.00 |
| Dimensions/Encroachments | | | |
| Residential Districts | Chapter 14-22 Specific Districts | 28 Days | \$10.00 |
| Non-Residential Districts | | 28 Days | \$50.00 |
| Fences | | | |
| Residential Districts | Chapter 4 | 28 Days | \$5.00 |
| Non-Resident non-razor wire | | 28 Days | \$10.00 |
| Non-Resident razor wire | | 28 Days | \$50.00 |
| Signs | | | |
| Residential Districts | Chapter 6A | 10 Days | \$50.00 |
| Non-Residential Districts | | 28 Days | \$50.00 |

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- B. Daily Violations. Each day a violation is maintained after receipt of notice shall give rise to a separate civil penalty. Receipt of notice shall mean three days after notice is mailed to the property owner as shown on the records of Kane County recorder or delivered to the occupant or posted on the property. The city may combine any action to recover daily penalties with any other civil penalty regarding the same property.
- C. Abatement for Correction and Payment.
1. Civil penalties shall be partially abated after the violation is cured and in the discretion of a hearing officer considering the following guidelines and other factors:
 - a. Prompt Cure. Reductions are generally appropriate for promptly curing the violations pursuant to the following schedule but the hearing officer may grant greater or lesser abatements depending on the facts of the case:
 2. Cured within fourteen days after second notice, seventy-five percent reduction;
 3. Cured within twenty-eight days after second notice, fifty percent reduction; or
 4. Cured within fifty-six days after second notice, twenty five percent reduction.
 - a. If strict compliance with the notice and order would have caused an imminent and irreparable injury to persons or property.
 - b. If the violation and inability to cure were both caused by a force majeure event such as war, act of nature, strike or civil disturbance.
 - c. Such other mitigating circumstances as may be approved by the city attorney or designee.
 - d. If a change in the actual ownership of the property was recorded with the Kane County recorder's office after the first or second notice was

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issued and new owner is not related by blood, marriage or common ownership to the prior owner.

- i. If the hearing officer finds that the noticed violation occurred and no applicable defense applies, the hearing officer may, in the interest of justice and on behalf of the city, enter into an agreement for the delayed or periodic payment of the applicable penalty.

D. Violation of this Title Appeal Procedures.

1. The Mayor shall appoint such hearing officers as the Mayor deems appropriate to consider matters relating to the violation of this title.
2. Any person having received notice of such violation, or the owner of any affected property, may appear before a hearing officer and present and contest such alleged violation of this title.
3. The burden to prove any defense shall be upon the person raising such defense.
4. If the hearing officer finds that no violation occurred and/or a violation occurred but one or more of the defenses set forth in this section is applicable, the hearing officer may dismiss the notice violation. Such defenses are:
 - a. At the time of the receipt of the notice of violation, compliance would have violated the criminal laws of the state of Utah;
 - b. Compliance with the subject ordinances would present an imminent and irreparable injury to persons or property.
5. If the hearing officer finds that a violation of this title occurred and applicable defense exists, the hearing officer may, in the interest of justice and on behalf of the city, enter into an agreement for the timely or periodic payment of the applicable penalty.
6. No action by a hearing officer shall relieve the violator from complying with any of the provisions of this title.

E.

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1. If the penalty imposed pursuant to this chapter remains unsatisfied after forty days or when the penalty amounts to five thousand dollars from the receipt of notice, or ten days from such date as may have been agreed to by the hearing officer, the city may use such lawful means as are available to collect such penalty, including costs and attorney's fees.
2. Commencement of any action to remove penalties shall not relieve the responsibility of any penalty to cure the violation or make payment of subsequently accrued civil penalties or shall it require the city to reissue any of the notices required by this chapter.

Kanab City Corporation
Department of Building Inspector
140 E. 100 S.
Kanab, Utah 84741
(435) 616-0784

DATE _____

ZONING CITATION CERTIFICATE OF CORRECTION AND COMPLIANCE

The property located within City of Kanab, State of Utah, known by the street address of _____, No.

_____ has been inspected and the conditioned which caused the property to be declared in noncompliance with Title 10 of Kanab City Code have been corrected as of _____, 19__.

Citation No. _____

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Zoning Compliance Assistant

Description of violation: _____

Fines for period of noncompliance are as follows:

Fines per day: \$ _____ Number of days: _____

Total amount due after reduction: \$ _____, to be paid by _____
(Minus 75% if corrected with 44 days, 50% if corrected within 58 days,
and 25% if corrected within 86 days from the date of the Notice & Order.)
To avoid court action, payment must be received by

_____.

Send payment to: Kanab City Office
76 North Main St. -DO NOT MAIL CASH-
Kanab, Utah 84741

A COPY OF THIS COMPLIANCE FORM MUST ACCOMPANY YOUR PAYMENT

If you need additional time to pay the penalty or if you wish to dispute the violation, you must appear in person before a hearing officer. Please call 644-2534 for an APPOINTMENT.

KANAB CITY CORPORATION
140 E. 100 S.
KANAB, UTAH 84741
(435) 616-0784

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TO: _____

Date Issued: _____

Cert. Mail No. _____

NOTICE AND ORDER - CIVIL

RE: Property located at _____, Kanab City, Utah

Number _____ Citation No. _____

NOTICE: Notice is hereby given that the subject property was found to be in violation of Title 10-317 of the Kanab City Code which was enacted to maintain the life, health, safety and general welfare of the inhabitants of Kanab City. This Notice is pursuant to an inspection which was conducted on _____, 2006, which discovered the following violations:

| Ordinance reference | Description of Violation | Daily Fine |
|---------------------|--------------------------|------------|
|---------------------|--------------------------|------------|

ORDER: You are hereby ordered to correct the zoning violations within thirty calendar (30) days from the date of this Notice and Order.

IF YOU FAIL TO OBEY THIS ORDER WITHIN THE ALLOTTED TIME, THIS DEPARTMENT WILL TAKE THE FOLLOWING ACTIONS:

- File a Certificate of Noncompliance to be recorded against the property.

- Initiates Kanab City Ordinance Title 10-317.10 civil penalties provision for violation of zoning regulations.

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APPEAL PROCESS: Any person having any record, title, or legal interest in this building may appeal this Notice and Order.

Obtain forms from Kanab city Office and appeal in writing to the Board of Adjustment within thirty (30) days from the date of service of this Notice an Order. Failure to appeal within the time specified will constitute a waiver of all rights to an administrative hearing in this matter.

CIVIL ACTION: If the penalties imposed remain unsatisfied after seventy days (70) from the receipt of this notice, or when the penalty amounts to Five Thousand Dollars (\$5,000), the City may use such lawful means as are available, such as the Small Claims Court, to collect such penalty, including court costs and attorney' s fees. Commencement of any action to correct the violation shall not relieve the owner of the responsibility to make payment of subsequent accrued civil penalties, nor shall it require the City to reissue any of the Notices requires by Title 10-317.

TIME EXTENSIONS MAY BE GRANTED BY THE HOUSING OFFICER. ALL REQUESTS FOR TIME EXTENSIONS MUST BE IN WRITING AND MUST BE RECEIVED PRIOR TO THE 30 DAY DEADLINE. PLEASE CALL TO SCHEDULE AN INSPECTION IMMEDIATELY WHEN THE REQUIRED WORK IS COMPLETE. THIS WILL STOP ACCRUAL OF ANY FINES.

IN COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT(ADA), THE FOLLOWING INFORMATION IS PROVIDED: FAX NUMBER (435)-616-0784.

Return to:
Building Inspector
140 E. 100 S.
Kanab, Utah 84741
Attn: _____
Return by: _____
Date: _____

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REQUEST FOR TIME EXTENSION

From Notice and Order-Civil

Date: _____

From: _____

Owner' s Authorized
Representative: _____

Address Authorized Representative: _____

I/We hereby apply for an extension of time to correct all zoning violations,
as directed in the Notice and Order at the above reference address.

DELAYS ARE DUE TO:

ZONING VIOLATIONS WILL BE CORRECTED ON OR BEFORE:

It is understood that failure to correct all violations noted in the Notice and
Order will cause fines to be levied from the original penalty dated referred
to the Notice and Order.

Signature of Applicant

Telephone Number

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OFFICE USE ONLY

Time Extended to: _____

Date _____

Time Extension Denied ()

BEFORE THE ZONING CITATION APPEAL HEARING OFFICER OF KANAB CITY

76 North Main St.
Kanab, Utah 84741

Subject property address

Appellant Name _____

Phone Number _____

Appellant mailing address _____

Appellant relationship to the property: (Please mark one)

_____ Owner _____ Manager _____ Owner Representative

_____ Other

If Appellant is not the owner of the property, please supply owner information:

Name _____

Phone Number _____

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Mailing Address _____

Additional appellants: (Please include official mailing addresses)

List the order or cited violation(s) being protested _____

Give a brief statement why the order or cited violation(s) should be reversed, modified, or otherwise set aside. Attach any materials facts to support your statement. _____

Give a brief statement why the order or cited violation(s) should be reversed, modified, or otherwise set side. Attach any material facts to support your statement. _____

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Name the Zoning Compliance Assistant working on this case

I declare by declaration under penalty of perjury that the matters stated in this appeal are true according to my knowledge and belief.

Signature

Date

Section 10-320 Abatement of Weeds and Deleterious Objects

Section 10-321 Real Property to Be Kept Clean

It shall be an infraction for any person owning or occupying real property to allow weeds to grow higher on such property than is permitted by this part or not to remove from such property any cuttings of such weeds or any refuse, unsightly or deleterious objects after having been given notice from the health director as hereinafter provided.

Section 10-322 Weeds – Defined

Weeds shall include any vegetation commonly referred to as a weed, or which shall have been designated a noxious weed by the Utah commissioner of agriculture.

Section 10-323 Standards of Weed Control

- A. It is hereby declared that the above stated weeds constitute a nuisance when they:

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1. Create a fire hazard, a source of contamination, or pollution of the water, air or property, a danger to health, a breeding place or habitation for insects or rodents or other forms of life deleterious to humans or are unsightly or deleterious to their surroundings.
- B. The cut weeds shall be removed from the premises within 72 hours after cutting.

Section 10-330 Nuisances on Property

Section 10-331 Definition of Nuisance

For the purpose of this part the term "nuisance" is defined to mean any condition of use of premises or of building exteriors which are deleterious or injurious, noxious or unsightly which includes, but is not limited to keeping or depositing on, or scattering over the premises any of the following:

- A. Lumber, junk, trash, or debris.
- B. Abandoned, discarded or unused objects or equipment such as furniture, stoves, refrigerators, freezers, cans or containers.

Section 10-332 Duty of Maintenance Of Private Property

No person owning, leasing, occupying or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such premises in a manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located.

Section 10-333 Storage of Personal Property

Unsheltered storage of old, unused, stripped and junked machinery, implements, equipment or personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, for a period of 30 days or more

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(except in licensed junk yards) within this municipality, is hereby declared to be a nuisance and dangerous to the public safety.

Section 10-334 Abatement of Nuisance By Owners

The owner, owners, tenants, lessees or occupants of any lot within this municipality on which such storage as defined in the foregoing section 10-333 is made, and also the owner, owners of lessees of the above described personal property involved in such storage shall jointly and severally abate such nuisance by its prompt removal into completely enclosed and secured buildings to be used for such purposes, or otherwise to remove such property from the municipality.

Section 10-340 Dangerous Buildings

Section 10-341 Adoption of A Code For The Abatement Of Dangerous Buildings

The "Uniform Code for the Abatement of Dangerous Buildings," 1976 edition, printed as a code in book form by the International Conference of Building Officials (providing for a just, equitable and practicable method whereby buildings or structures which from any cause endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants, may be required to be repaired, vacated, or demolished), three copies of which have been filed for use and examination by the public in the office of the clerk of this municipality, is hereby approved and adopted as the Abatement of Dangerous Buildings Code of this municipality.

Section 10-342 Application

The provisions of the Abatement of Dangerous Buildings Code shall apply to all dangerous buildings as therein defined, which now exist or which may exist or hereafter be constructed in this municipality.

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Section 10-343 Alterations, Additions And Repairs

All buildings or structures which are required to be repaired under the provisions of the Abatement of Dangerous Buildings Code shall be subject to the provisions of subsections (a), (b), (c), (d), (e), and (i) of Section 104 of the Uniform Building Code.

Section 10-344 Abatement Of Dangerous Buildings

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 Section 401 of the Abatement of Dangerous Buildings Code.

Section 10-345 Establishment Of A Board Of Appeals

In order to interpret provisions of the Abatement of Dangerous Buildings Code and to hear appeals provided for thereunder, there is hereby established an abatement of dangerous building board of appeals consisting of five members who shall not be employees of the municipality. The building official shall be an ex officio member of and shall act as secretary to the board. The board may adopt reasonable rules and regulations for conducting its business and shall render all decisions and findings in writing to the applicant with a copy to the building official. Appeals to the board shall be processed in accordance with the provisions contained in the adopted codes. Copies of all rules and regulations adopted by the board shall be delivered to the building official who shall make them accessible to the public without cost.

Section 10-346 Dangerous Buildings – Nuisances

All dangerous buildings within the terms of this part are hereby declared to be public nuisances and shall be vacated or demolished as hereinbefore and hereinafter provided.

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Section 10-350 Administrative Notice - Hearings - Disposal Of Nuisance - Lien - Penalty For Violation

Section 10-351 Appointment and duties of Inspector

- A. There is hereby established the position of nuisance inspector whose duties it shall be to enforce the provisions of this chapter. Until another person is designated, the chief of police shall enforce the provisions of this chapter. More than one person may be appointed to act as inspector under this section.
- B. The nuisance inspector is authorized to:
 - 1. Perform all functions necessary to enforce the provisions of the chapter.
 - 2. Inspect or cause to be inspected, as often as needed, all buildings, structures, lots or places for the purpose of determining whether such are in compliance with the provisions of this chapter.
- C. If he concludes there exists an objectionable condition in violation of this chapter, the inspector shall:
 - 1. Ascertain the names of the owners and occupants and descriptions of the premises where such objects and conditions exist.
 - 2. Serve notice in writing upon the owner and occupant of such premises, either personally or by mailing notice, postage prepaid, addressed to the owner and occupant at their last known post office addresses as disclosed by the records of the county assessor or as otherwise ascertained, requiring such owner or occupant, or both, as the case may be, to eradicate or destroy and remove the same within such time as the inspector may designate, provided that any person notified pursuant to this subsection shall be given at least ten but not more than 20 days, as determined by the inspector following the date of service of such notice, to correct the objectionable condition. The notice shall:

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- a. Contain a specific statement of the nature of the violation and generally describe the premises on which the violation exists.
 - b. Inform the owner, occupant or other person that in the event he disregards with the determination of the inspector and does not wish to comply with the provisions of the notice or that he objects to the factual or legal basis of the notice, he may request in writing a hearing before the governing body. A written application for a hearing shall stay the time within which the person must conform to the provisions of the notice.
 - c. Inform the person that in the event he fails or neglects to correct the objectionable condition, the municipality will correct the objectionable condition and will collect the costs of so correcting the objectionable condition by either a court action, in which case he will be assessed such costs together with reasonable attorneys' fees and court costs, or will charge the cost of correcting the violation against the property as a tax.
3. In the event the owner or occupant makes such request for a hearing, the governing body shall set the time and place for hearing objections and the recorder/clerk shall notify the owner, occupant, or other persons in writing of the time and place at which they may appear and be heard. The hearing shall not be heard within less than five days from the date of service or mailing of the notice of hearing.

Section 10-352 Hearing

- A. At the written request of an owner, occupant or other person having an interest in property which is the subject of a notice to remove or abate weeds, objectionable conditions, or objects from the property, the governing body shall conduct an informal hearing (which need not be reported) wherein such persons may present such evidence and argument as is pertinent to the question of whether or not the removal or abatement of the objects or conditions is properly within the preview of this chapter. The governing body shall also permit the presentation of evidence and

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argument by the inspector and other interested parties. Thereafter within not less than five nor more than ten days, the governing body shall over the signature of the mayor or such other member of the governing body as it may designate render its written decision, a copy of which shall be mailed to or served upon the owner or other person to whom the original notice was given by the inspector.

- B. In the event the decision of the governing body upholds the determination of the inspector, the notice originally given by the inspector as above provided shall be deemed to be sufficient to require the owner or occupant to remove or abate the objectionable objects or conditions, and he shall have up to ten days from the date of notice of the decision within which to conform thereto, unless additional time, not to exceed 30 days, is authorized by the inspector.
- C. In the event that the decision of the governing body either overrules or modifies the determination of the inspector, the written decision of the governing body shall apprise the owner or occupant of that fact and set forth the details and extent to which the owner or occupant must make removal or other abatement of the objectionable objects or conditions, of any decision of the governing body within ten days after service or mailing of a copy of the decision, and the decision shall be deemed to be the modified decision of the inspector unless additional time is authorized by the governing body.
- D. The inspector shall file an amended notice and proof of service of notice and file the same in the office of the county treasurer.

Section 10-353 Failure to Comply

If any owner, occupant or other person having an interest in land described in such notice or decision to whom the notice was given shall fail or neglect to conform to the requirements thereof relating to the eradication, destruction or removal of such weeds, garbage, refuse, objects, or structures, the inspector shall employ all necessary assistance to cause such objectionable objects or conditions to be removed or destroyed at the expense of the municipality.

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Section 10-354 Itemized Statement

The inspector shall prepare an itemized statement of all expenses incurred in the removal and destruction of nuisances, and shall mail a copy thereof to the owner or occupant or both or to persons having an interest in the property, demanding payment within twenty days of the date of mailing. The notice shall be deemed delivered when mailed by registered mail addressed to the last known address of the property owner, occupant, or persons having an interest in the property.

Section 10-355 Failure to Make Payment

In the event the owner, occupant or person having an interest in the property, fails to make payment of the amount set forth in the statement to the municipal treasurer within the 20 days, the inspector either may cause suit to be brought in an appropriate court of law or may refer the matter to the county treasurer as provided in this chapter.

Section 10-356 Collection By Law Suit

In the event collection of expenses of destruction and removal are pursued through the courts, the municipality shall sue for and receive judgment for all of said expenses of destruction and removal, together with reasonable attorneys' fees, interest and court costs, and shall execute upon such judgment in the manner provided by law.

Section 10-357 Collection through Taxes

In the event that the inspector elects to refer the expenses of destruction or removal to the county treasurer for inclusion in the tax notice of the property owner, he shall make in triplicate an itemized statement of all expenses incurred in the destruction and removal of the same, and shall deliver the three copies of the statement to the county treasurer within ten days after completion of the work of destroying or removing such weeds, refuse, garbage, objects or structures.

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Thereupon, the costs of the work shall be pursued by the county treasurer in accordance with the provisions of section 10-11-1 et. seq., Utah Code Annotated 1953, as amended, and the recalcitrant owner shall have such rights and shall be subject to which powers as are thereby granted.

Section 10-358 Criminal Proceeding

The commencement of criminal proceedings for the purpose of imposing penalties for violations of this chapter shall not be conditioned upon prior issuance of a notice or the granting to the defendant of an opportunity to abate or remove the nuisance. The provisions of this chapter relating to notice and abatement shall be deemed merely alternative and additional methods of securing conformity to the provisions of this chapter.

Section 10-359 Penalties for Failure to Comply

- A. Any owner, occupant or person having an interest in the property subject to this chapter who shall fail to comply with the notice or order given pursuant to this chapter shall be guilty of a class B misdemeanor for each offense and further sum of \$100.00 for each and every day such failure to comply continues beyond the date fixed for compliance.
- B. Compliance by any owner, occupant or person to whom a notice has been given as provided in this chapter shall not be admissible in any criminal proceeding brought pursuant to this section.

Section 10-400 Garbage and Litter

Section 10-410 Garbage Regulations

Section 10-411 Definitions

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- 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.

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

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approved for such purposes as the governing body may from time to time by regulation provide.

Section 10-414 No Accumulation of Garbage

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

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

- A. Wherever the Commissioner of Sanitation has determined that there are reasonable grounds to believe that there has been a violation of any provision of this ordinance, he shall give notice of such alleged violation to the person or persons responsible therefore. Such notice shall:
1. Be written.
 2. Include a statement of the reasons why it is being issued;
 - b. Allow a reasonable time for the performance of any act it requires;
 - c. Be served upon the holder of a permit issued under this ordinance, or upon the owner or his agent or the occupant of any premises within the City. Notice shall be deemed to have been properly served when a copy thereof has been served personally or in accordance with any other method authorized or required under the laws of this state for commencement of civil actions.

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- B. Such notice may:
1. Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this chapter.
 2. State that unless conditions or practices described in such notice which violate this chapter are corrected within the reasonable time specified in such notice, the violator may be punished in accordance with the provisions of this chapter, or a permit which has been issued pursuant to this chapter may be suspended or revoked.
- C. Any person who is affected by any notice issued in connection with the enforcement of any provision of this chapter shall be granted a hearing on the matter before the Commissioner of Sanitation, after having first filed, in the office of the Commissioner of Sanitation a written petition requesting such hearing and setting forth a brief statement of the ground therefore, within ten (10) days after the date the notice was served. Upon receipt of such petition, the Commissioner of Sanitation shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing the petitioner shall be given an opportunity to be heard. The hearing shall be commenced not later than ten (10) days after the day on which the petition was filed. Upon application of the petitioner, the Commissioner of Sanitation may postpone the date of the hearing for a reasonable time beyond such ten-day period when in his judgment, the petitioner has submitted a good and sufficient reason for such postponement.
- D. After such hearing, the Commissioner of Sanitation shall sustain, modify, or withdraw the notice, depending upon his findings as to whether or not the provisions of this chapter and of the regulations adopted pursuant thereto have been complied with. If the Commissioner of Sanitation sustains or modifies such notice, it shall be deemed to be an order. Any notice shall automatically become an order if a written petition for a hearing has not been filed in the office of the Commissioner of Sanitation within ten (10) days after such notice was served. In the case of any notice which states that a permit required by this ordinance may be suspended or revoked, the

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Commissioner of Sanitation may suspend or revoke such permit if an order is issued and corrective action has not been taken within the time specified in the notice.

- E. The proceedings at such hearing, including the findings and decision of the Commissioner of Sanitation, shall be summarized, reduced to writing, and entered as a matter of public record in the office of the Commissioner of Sanitation. Such record shall include a copy of every notice or order issued in connection with the matter.
- F. If the corrective action ordered by the Commissioner of Sanitation under this chapter has not been taken within five (5) days after such decision or order thereof, the Commissioner of Sanitation shall deliver the order and accompanying file to the City Council for a hearing on the matter. The City Council shall give notice of the hearing (1) by personal place of business of the person not complying with anyone at such address who is over the age of fourteen (14) years of (2) by mailing a copy of the notice to the last known address of the person not complying with the order.
- G. At the time set for the hearing the City Council shall hear the matter and receive evidence and determine what corrective action is required, if any. The decision of the City Council shall be in writing and a copy mailed to the person not complying.
- H. Any person who does not comply with the decision of the City Council shall be guilty of a misdemeanor and punished as provided in 10-426. The City Council may order the Commissioner of Sanitation to take the corrective action required if the person who does not comply fails to do so. A court action may be commenced against such person for any costs incurred by the City.
- I. Wherever the Commissioner of Sanitation finds that an emergency exists involving a serious health hazard which requires immediate action to protect the public health he may without notice or hearing issue a written order reciting the existence of such an emergency and the conditions violating this ordinance which require corrective action to remove such health hazard. If such corrective action is not taken, the Commissioner of

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Sanitation may take the action including the abatement of any nuisance as may be necessary to protect the public health. Notwithstanding other provisions of this ordinance, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the City Council shall be afforded a hearing as soon as possible, but in any case not later than three (3) days after the petition was filed. After such hearing depending upon the findings of the City Council as to whether or not the provisions of this ordinance and of the regulations adopted pursuant thereto have been complied with the City Council shall continue such order in effect, or modify it or revoke it.

Section 10-416 Inspection

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

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.

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- C. It shall be unlawful to permit refuse, except bulky rubbish, to accumulate on any premises except in containers which are approved by the Commissioner of Sanitation in accordance with the specification contained in this section.
- D. Ashes containing hot embers shall not be placed in containers for collection.

Section 10-418 Frequency of Collection

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

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.

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Section 10-420 Refuse Disposal

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

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collection vehicles may be permitted when specifically approved by the Commissioner of Sanitation.

- B. Vehicles used for the collection or disposal of garbage, or of refuse containing garbage, shall have watertight, metal bodies of easily cleanable construction, shall be cleaned at sufficient frequency to prevent nuisance of insect-breeding and shall be maintained in good repair.

Section 10-422 Penalties

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

Section 10-430 Litter – Handbills

Section 10-431 Definitions

For the purposes of this part:

- A. "Authorized Receptacle" is a public or private litter storage and collection receptacle.
- B. "Commercial handbill" is any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter or literature:
- C. Which advertises for sale any merchandise, product, commodity, or thing:
- D. Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest in sales thereof;
- E. Which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is

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

- F. Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes or for the private benefit and gain of any person so engaged as advertiser or distribution.
- G. "Garbage" means waste from the preparation, cooking, or consumption of food, condemned food products and all refuse and waste from the handling, storage, preparation and sale of produce. Garbage originates primarily in kitchens, stores, markets, restaurants, hotels and other places where food is handled, stored, sold, cooked or consumed.
- H. "Litter" is "garbage", "refuse," and "rubbish" as defined herein and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety, welfare or appearance of the municipality.
- I. "Newspaper" is any newspaper of general or local circulation or any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.
- J. "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

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any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper.

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

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

L. "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.

M. "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.

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

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

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

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

Section 10-436 Litter Thrown By Persons in Vehicles

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

Section 10-437 Truck Loads Causing Litter

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

Section 10-438 Litter in Parks

No person shall throw or deposit litter in any park except in authorized receptacles and in such a manner that the litter will be prevented from being carried or

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deposited by the elements on any part of the park or on any street or other public place. Where authorized receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein.

Section 10-439 Litter in Lakes and Fountains

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

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

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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

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property in such a manner so as to prevent their being carried or deposited by the elements on any street, sidewalk, or other public place or on private property.

Section 10-446 Posting Notice Prohibited

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

Section 10-447 Litter on Occupied Private Property

No person shall throw or deposit litter on any occupied private property, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements on any street, sidewalk or other public place or on any private property.

Section 10-448 Litter on Vacant Lots

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

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

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of the fire alarm or police telegraph system, except such as may be authorized or required by the laws of the United States, or state, and the ordinances of this municipality.

- B. It shall be unlawful to distribute indiscriminately to the public by leaving at houses or residences in the municipality any cards, circulars, handbills, samples of merchandise, or any advertising matter whatsoever without having first secured a permit therefor. This section shall not be construed to apply to the sale of articles by licensed peddlers.
- C. Applications for such permit shall be made to the recorder/clerk and shall contain a statement of the nature of the article, cards or advertisement to be distributed, the name of the applicant and the name of the manufacturer or distributor of such article or service advertised.
- D. Licenses shall be issued only to persons of good character. The chief of police shall make or cause to be made an investigation into the character of each applicant and shall report the results thereof to the recorder/clerk before any such license is issued.

Section 10-500 Flood Management

See Chapter 11 in the Zoning Ordinance.

Section 10-560 Fire, Health, Safety and Welfare

Section 10-560.1 as used in this Section:

Definitions

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

- a. "Hazardous Materials Emergency" means a sudden and unexpected release of any substances that, because of its quantity, concentration, or physical, chemical

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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.
- 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

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responsible party in writing of said determination of responsibility and the amount of costs and expenses incurred by the City in responding to the hazardous materials emergency.

- B. The notice required by subsection 3.1 shall specify that the party determined to be responsible for causing or creating the hazardous materials emergency has the right to appeal the decision determining responsibility to the governing body of the City and shall specify a deadline for filing the notice of appeal and the person or office in which it must be filed. The deadline for filing the notice of appeal shall not be less than fifteen days from the date of the notice.
- C. In the event a notice of appeal is filed, the hearing before the governing body shall be an informal public hearing, and the parties shall not be required to adhere to the Utah rules of Civil Procedures or evidence. The appealing party and the City shall each be entitled to present evidence and argument in support of their respective positions, in accordance with procedures established at the hearing by the governing body.
- D. The decision of the governing body shall be final.
- E. Recover Costs

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

Section 10-560.5 Expenses of Other Responding entities

- A. In the event that personnel and equipment from other political subdivisions, agencies or cooperative entities shall respond to assist with the hazardous materials emergency, then the City shall recover costs and expenses incurred by such other political subdivisions, agencies or cooperative entities as part of City's cost recovery efforts.

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- B. Upon recovery of costs and expenses from the responsible party, the City is authorized to reimburse such other political subdivisions, agencies or cooperative entities from their actual costs incurred in responding to the hazardous materials emergency.

Section 10-561 Fire, Health, Safety and Welfare

1. As used in this Section:
 - a) "Accident and extrication Emergency" means to aide in the removal of an injured person or fatality from a vehicular accident, where damage to the vehicle is such that it requires the use of Rescue 1 in the removal of the person.
 - b) "Expenses" means actual labor costs of government and volunteer personnel including workers compensation benefits, fringe benefits, administrative overhead, cost of equipment, cost of equipment operations, cost of materials, and a cost of any contract labor and materials.
2.
 - a) Upon certification of costs by the Fire Chief to Kanab City, the City Council may authorize the City Attorney to recover from those persons or entities whose operations or actions caused the accident and extrication emergency expenses incurred by the Kanab City that are directly associated with a response to an accident and extrication emergency.
 - b) Those persons or entities reasonable for said expenses as set forth in paragraph 1(a) above shall be liable to Kanab City for all such expenses incurred by the City.
 - c) The payment of expenses under this subsection does not constitute an admission of liability or negligence in any legal action for damages.
 - d) The City is hereby authorized to collect its expenses in enforcing this ordinance from the persons or entities that cause the accident and

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extrication expenses and those expenses may include reasonable attorney's fees and litigation costs.

Section 10-561.1 Severability

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

Section 10-561.2 Effective Date

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