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Section 13-100 Police

Section 13-110 Police Department

Section 13-111 Police Department – Established

There is hereby established a regularly constituted police force to be known as the police department which shall consist of a chief of police and such other police officers as shall be employed by the municipality.

Section 13-112 Marshal - Chief of Police

A. Powers. Cities see U.C.A. 10-6-65 through 10-6-68. Towns see U.C.A. 10-6-69 and 10-13-10 and 17-25-1 et. seq.

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- B. He shall organize, supervise, and be responsible for all the activities of the police department and shall define and assign the duties of the different police officers.
- C. He shall, when required, attend meetings of the governing body to consult with and advise them on matters of public safety. He shall execute all lawful orders of the mayor and governing body and see that all orders and judgments of the justice of the peace are carried into effect.

Section 13-113 Additional Powers and Duties of Policemen

The chief of police and all police officers of the municipality shall have the following powers and duties in addition to those that may be assigned to them as above provided:

- A. To suppress riots, disturbances, and breaches of the peace, and to apprehend all persons committing any offense against the laws of the state or ordinances of the municipality.
- B. To execute and serve all warrants, processes, commitments, and writs whatsoever issued by the justice of the peace.
- C. To preserve the public peace, prevent crime, detect and arrest offenders, protect persons and property, remove nuisances existing in the public streets, roads, highways and other public places, enforce every law relating to the suppression of offenses, render such assistance in the collection of licenses as may be required by the license collector and perform all duties enjoined upon them by law and ordinance.

Section 13-114 Register of Arrest

The chief of police shall provide and cause to be kept a register of arrest. Upon such register shall be entered a statement showing the date of such arrest, the name of the person arrested, the name of the arresting officer,

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the offense charged and a description of any property found upon the person arrested.

Section 13-115 Property Taken From the Person Arrested - Triplicate Receipts

When money or other property is taken from a person arrested upon a charge of a public offense, the officer taking it must at the time issue triplicate receipts therefore specifying particularly the amount of money or kind of property taken. One of the receipts he must deliver to the person arrested. Another he must forthwith file with the clerk of the court to which the complaint and other papers in the case are required by law to be sent. The third receipt must be sent at once to the office of the police department.

Section 13-116 Register of Property to Be Kept

The chief of police must enter or cause to be entered in a suitable book a description of every article of property alleged to be stolen or embezzled and brought into his office or taken from the person of the prisoner and must attach a number to each article and make a corresponding entry thereof.

Section 13-117 Stolen Property Disposition

It shall be the duty of the chief of police to keep all lost or stolen property that comes into the possession of the police department or any of its members. He shall make all reasonable efforts to discover the owners thereof.

Section 13-120 Jail

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Section 13-121 Governing Body to Provide

- A. The governing body shall provide for a place of incarceration which shall be the municipal jail.
- B. The governing body may contract with any person, county, municipality, or combination thereof for the purpose of providing suitable premises and facilities to be used by the municipality as the municipal jail.

Section 13-122 Jailer

- A. Until another person is appointed, the chief of police shall be *ex officio* jailer. The jailer shall:
 - B. Receive and safely keep all persons duly committed to his custody and file and preserve all commitments by which persons are committed.
 - C. Keep a record of each showing the date of arrest, offense charged, term of commitment, date of release and the name, age and place of birth and description of the person committed in a book kept for that purpose.

Section 13-123 Rules

The jailer shall formulate a system of prison rules and discipline and keep a record in which shall be entered a statement of every infraction thereof committed by any person confined therein.

Section 13-124 Duties of Jailer

The jailer shall receive all persons committed to jail by competent authority, and provide them with necessary food, clothing, and bedding. He shall cause the prison to be warmed and lighted, when necessary, and

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to be kept in a sanitary condition. He shall enforce all rules prescribed by the governing body for the government of the prison.

Section 13-125 Prisoners to Labor on Public Works

Any prisoner committed to the jail or other place of incarceration as a punishment or in default of the payment of a fine or fine and costs, arising from a violation of the ordinances of this municipality shall be required to work for the municipality at such labor on public works and ways as his strength will permit, not exceeding eight hours in each working day.

Section 13-126 Work to Be Performed Under the Direction of The Jailer

The labor on public works and ways shall be designated by and performed under the direction of the jailer, which labor may include, among other things, clerical, janitorial, car washing, common and menial labor performed in and upon any building, road, or property owned or maintained by the municipality. The labor required by this section shall be performed in addition to that labor required by jail regulations to be performed by all prisoners confined in the jail in cleaning and maintaining their cells.

Section 13-127 Time Off For Work Performed

For each month in which a prisoner confined or committed to the jail has actually and satisfactorily performed work as reported and recorded by the officer in charge, five days shall be deducted from his period of confinement. The reduction of sentence allowed pursuant to this part shall be in addition to the reduction allowed by section 13-129, but no prisoner shall be granted a total reduction of sentence under this part in excess of ten days for any single month. Proportionate reductions shall be made for the fractional period of a month included in any sentence.

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Section 13-128 Failure to Perform Work Made Breach of Rules

Failure to perform the specified labor, except when the strength of the prisoner will not permit, shall constitute a breach of the rules of the municipal jail, and no reduction of sentence shall be allowed under section 13-129.

Section 13-129 Time Off for Good Behavior

- A. Every person undergoing sentence for thirty days or more who has not been guilty of a breach of the rules of the prison shall be entitled to a reduction for the period of his sentence as follows: 1) From a term of one month, five days; 2) from the term of two months, ten days; 3) from a term of three months, fifteen days; 4) from a term of four months, twenty days; 5) from a term of five months, twenty-five days; 6) from a term of six months, thirty days.
- B. Proportionate reductions shall be made for the fractional parts of a month included in any sentence.

Section 13-200 Animal Control

Section 13-200.01 General Animal and Livestock Regulations

Section 13-200.01.010 Definitions

Definitions for the purpose of this title, unless it is plainly evident from the context that a different meaning is intended, the following definitions shall apply:

"Animal" means any live, vertebrate, domestic or wild.

"Animal at Large" means any animal whether or not licensed, not under restraint.

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"Animal Control Officer" means any person designated by the State of Utah, a municipal government or a humane society as a law enforcement officer who is qualified to perform such duties under the laws of this state.

"Animal Shelter" means any facility operated by a humane society or political subdivision of the State of Utah, for the purpose of impounding or caring for animals held under the authority of this Section or state law.

"Animal under Restraint" means an animal on a leash or lead which is held by a person or attached to a stationary object or confined within a vehicle or confined upon the real property of the owner or custodian.

"Attack" means any biting or attempted biting or other action by an animal which places a person or another animal in danger of imminent bodily harm. Actual physical contact shall not be required to constitute an attack. Attack may include jumping upon, chasing, nipping, or otherwise threatening.

"Bite" an actual puncture, tear or abrasion of the skin, inflicted by the teeth of an animal.

"Cat" means any age feline of the domesticated types.

"Custodian" means any person having the charge, care, custody or control of an animal which he/she does not own.

"Dog" means any age canis familiarize of the domesticated types.

"Domesticated Animal" means any animal accustomed to live in our about the habitation of humans, including, but not limited to, cats, dogs, fowl, horses, swine, cattle, sheep and goats.

"Euthanize" means humane killing of an animal.

"Grooming Parlor" means any establishment, not part of a kennel, where animals are bathed, clipped or combed for a valuable consideration for the purpose of enhancing their aesthetic value.

"Guard Dog" means a dog used for the purpose of deterring crime.

"Household Pet" means any animal or fowl ordinarily permitted in a house and kept for company or pleasure and not for profit, such as: dogs, cats,

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canaries, fish, hamsters, mice, and other animals associated with human environments. Household pets shall not include wildlife, livestock, poultry or any animals which are capable of inflicting harm or discomfort or endangering the health, safety or welfare of any person or property.

"Private Kennel" means any residential premises where more than two dogs and/or three cats are raised, kept, housed; or any residential premises wherein any person engages in the business of breeding, buying, letting for hire, training for a fee or selling dogs or cats.

"Public Kennel" means any commercial premises where any dogs and/or cats are raised, kept, housed, or boarded; or any commercial premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee or selling dogs or cats.

"Leash" or "Lead" means any chain, rope, or device used to restrain an animal."License" A properly completed and validated license and rabies certificate issued by the city or other city designated licensing agency.

"License and Rabies Control Certificate" The official license application form issued by the city.

"License Tag" A piece of metal or other durable material inscribed with {Kanab City} and a number that has been issued by city or other city designated licensing agency.

"Licensed Animal" An animal wearing its current license tag as required by this Section.

"Micro-chipping" is a tool that makes it easier to identify the owner of a lost or stray dog. The microchip is implanted in between the shoulder blades of the dogs (this is actually not very painful) and acts as an identity tag-when the dog is found, the information stored in the chip enables the city to clearly and quickly find out who the owner is.

"Neutered" is having had the testicles removed; a castrated animal.

"Owner" means any person, partnership or corporation owning, keeping or harboring one or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for three consecutive days or more.

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"Pets" a domesticated animal kept for pleasure rather than utility, including, but not limited to, birds, cats, dogs, fish, hamsters, mice and other animals associated with man's environment.

"Pet Shop" means any establishment, not part of a kennel, containing cages or exhibition pens wherein dogs, cats, birds, or other pets for sale are kept or displayed.

"Quarantine" means the isolation of an animal in a substantial enclosure so that the animal is not subject to contact with other animals or unauthorized persons.

"Spayed" Having had the ovaries and uterus removed or extirpated; an ovariectomy.

"Stray" any "animal at large".

"Vaccinated Animal" An animal inoculated with an approved, currently valid, antirabies vaccine, and wearing a current license tag indicating proof of such vaccination.

"Veterinary Clinic" means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis, or treatment of diseases and injuries of animals.

"Vicious Animal" is an animal

1. with a known propensity, tendency or disposition to attack unprovoked, to cause injury to, or to otherwise endanger the safety of humans or other domestic animals;
2. which attacks a human being or other domestic animal without provocation; or
3. which is trained or used to fight or to attack humans.

"Wild Animal" means all animals commonly accepted as being "wild" and includes, but is not limited to, the following, no matter how domesticated they may be:

- A. Alligators and crocodiles.

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- B. Bears (ursidae).
- C. Cat family (felidae), except the commonly accepted domesticated cats.
- D. Coyotes, foxes and wolves.
- E. porcupine (erchizontiade).
- F. Nonhuman primates (hominidae).
- G. Raccoon (prosynnidae).
- H. Skunks
- I. venomous snakes or venomous lizards.
- J. Weasels (mustelidae).
- K. Ferrets.

Section 13-200.01.011 Purpose

The city council finds that to adequately protect the residents of the City of Kanab from dangerous or potentially dangerous animals, from rabid animals or from animals causing a nuisance, it is necessary to provide a management and licensing structure, pound facilities, and care requirements for animals within the city limits. The city council further finds that regulations are necessary to ensure humane treatment for all animals within the city limits. The purpose of this Section is to establish standards for the keeping of animals and fowl, in a manner which will not endanger the health, peace and safety of the residents of the City of Kanab and which will assure that such animals and fowl are kept in clean and sanitary conditions and not subject to suffering, cruelty, or abuse.

The City Council further finds that Kanab is in a unique situation with the regards to sheltering animals. The Council desires to bring dog ownership into compliance with the two-dog limit of the ordinance, and the use of the amnesty and private kennel provisions in order to facilitate the transition.

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Section 13-200.01.020 Premises Confining Animals and Fowl-Neat and Sanitary Condition Required.

- A. Wherever animals, including fowl and pigeons, may be tethered, corralled, confined and sheltered or fed, the premises shall be maintained in a neat and sanitary condition so that no nuisance due to unsightliness, odor or pest breeding or harborage shall be caused by such animals or premises.
- B. All barns or stables intended for or presently used to shelter livestock which are now erected and maintained or may be erected, constructed, altered or repaired within the city shall conform to the requirements of the applicable zoning ordinance, the building code and all other applicable laws of the city.

Section 13-200.01.030 Abandoning Sick, Diseased, or Disabled Animals

It is unlawful for any person to abandon or to turn out at large any sick, diseased or disabled animal, but such animal shall, when rendered worthless by reason of sickness or other disability, be disposed of by the owner thereof in the manner as provided in section 13-200.01.040.

Section 13-200.01.040 Disposal of Animals

It is unlawful for the owner of any animal or fowl that die or are killed within the limits of this city, to fail to remove or bury the carcass of such animal within ten hours after its death; provided that no horse, cow, ox, pig, sheep, goat, ostrich, Llama, emu, any wildlife or other animal shall be buried within the limits of the City.

Section 13-200.01.050 Cruelty to Animals

- A. Except as authorized by law, it shall be unlawful for any person to willfully or maliciously kill, injure, maim, disfigure, torture, beat,

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mutilate, burn or scald, overdrive or otherwise cruelly set upon any animal. Each such act shall constitute a separate violation and shall be guilty of a class B misdemeanor.

- B. It shall be unlawful for any person to hobble livestock in such a way as to cause injury or damage to the animal.
- C. It shall be unlawful for any person to carry or to confine any animals in or upon any vehicle in a cruel or inhumane manner, including, but not limited to, carrying or confining such animal without adequate ventilation.
- D. Every operator of a motor vehicle or self-propelled vehicle within the city shall, immediately upon injuring, striking, maiming or running down any animal, fully comply with all requirements set forth in UCA Section 41-13-200-30.
- E. Fights. It is unlawful for any person within the limits of the city to, in any manner whatsoever encourage or urge any animal to fight or urge them on after they commence to fight.
- F. It shall be unlawful for any person to fail to provide any animal in his/her charge or custody with necessary sustenance, drink, and protection from the elements, or cause any of these acts to be done.

Section 13-200.01.060 Excessive Noise

It is unlawful to harbor or keep any animal which disturbs the peace by loud noises at any time of the day or night. It shall not be a violation of this section if the excessive noise is caused due to a person trespassing or threatening to trespass upon private property in or upon which the animal is situated.

Section 13-200.01.070 Animals Running at Large

It shall be unlawful for any animal to be at large at any time within the corporate limits of the city. The owner or custodian of any animal which is

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at large shall be in violation of this section, regardless of the precautions taken to prevent the escape of the animal and regardless of lack of knowledge of the offense at the time it occurs.

Section 13-200.01.080 Impound

- A. The animal control officer may apprehend and impound any animal found at large within the city. Any person apprehending any animal running at large on his/her property may deliver the same to any city police officer or animal control officer, which animal may then be impounded in the animal shelter. Any animal placed in the animal shelter shall be redeemed or euthanized.
- B. Any animal impounded at an animal shelter shall be held five working days if it has a current year's license tag. After five working days, if the animal is not claimed or adopted, it shall be euthanized.
- C. Any animal impounded at an animal shelter shall be held three working days if it has no current year's license tag. After three working days, if the animal is not claimed or adopted, it shall be euthanized.
- D. Any animal voluntarily relinquished to the animal control officer or an animal shelter by the owner or custodian thereof for destruction or other disposition need not be kept for the minimum holding period, but shall be euthanized immediately.
- E. The animal control officer or police officer shall have the sole discretion to determine serious injury or disease that will require euthanasia prior to three (3) working days.
- F. Any wild animal placed in the animal shelter may be disposed of immediately.

Section 13-200.01.090 Keeping Certain Animals Unlawful

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It shall be unlawful for any person to keep or harbor any animal which is prohibited to be kept or harbored by UCA 23-13-4, 23-20-3 or 23-20-4.

Section 13-200.01.100 Detention of Animals

It is unlawful for any person to detain or hold the animal of another without notifying the animal control officer or law enforcement agency within twenty four hours.

Section 13-200.01.110 Intra-seizure of Animals

- A. Whenever a police officer or an animal control officer shall have probable cause to believe that an animal has been abandoned, although confined upon private property, that is in violation of any of the provisions of Section 13-200 of the Kanab Municipal Code, or is a vicious animal, the officer shall be authorized to immediately seize the animal and may impound the same in the animal shelter and such officer shall have the right to enter upon whatever premises the animal may be kept for such purpose.
- B. If an animal is summarily impounded without the knowledge of the owner or custodian, a notice that the animal has been impounded shall be given to the owner or custodian of the animal, if the same is known, by attaching the notice to the door at the residence thereof, or by mailing a notice to the last known address of the owner or custodian.
- C. If no response is received to the notice of summary impoundment within the time frames established by the rules and regulations of the animal shelter, such animal shall be adopted or euthanized as an abandoned animal.
- D. An animal summarily impounded as provided in this section may be recovered by the owner complying with the regulations of the animal shelter. If, in a subsequent court proceeding, the animal is

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determined not to be abandoned, vicious or a nuisance, the animal shall be released to the owner or custodian without any charge.

Section 13-200.01.120 Animal Bites

- A. It shall be unlawful for any animal to bite or attack any person or domestic animal. It is no defense that the animal is chained or confined if the chaining or confining is on public or private property where the public has access to be on such property. The owner or custodian of any animal is in violation of this section regardless of the precautions taken to prevent the bite or attack and regardless of the lack of knowledge of the offense at the time it occurs.
- B. It is unlawful for any person to keep, own, harbor, or have the control of any fierce or dangerous animal. It is prima facie evidence that an animal is a fierce or dangerous animal if it bites or attacks a person or domestic animal. Any police officer or animal control officer may apprehend such animal and may cause it to be impounded at the animal shelter.

Section 13-200.01.130 Defecation and Urination

It is unlawful to allow an animal to defecate or urinate upon private property not owned by the person owning or in control of such animal. The owner or custodian of any animal shall be responsible for the removal of any defecation deposited by such animal on public property, recreation areas, or private property not owned by the person owning or in control of such animal.

Section 13-200.01.140 Enforcement

In the enforcement of any provision of this Section, any police officer or animal control officer is authorized to enter the premises of any person to take possession of a fierce, dangerous, or vicious animal or animals

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running at large, when in fresh pursuit of such animal at the time the animal goes onto the private property.

Section 13-200.01.141 Revocation of License or Permits

A. The Chief of Police may revoke any permit or license of a person holding a permit or license if he/she refuses or fails to comply with any section of Section 13-200, the regulation promulgated by said authorities, or any law governing the protection and keeping of animals.

B. Any person whose permit or license is revoked shall, within ten days thereafter, humanely dispose of all animals owned, kept, or harbored by such person and no part of the permit or license fee shall be refunded.

C. It shall be a condition of the issuance of any permit or license that the licensing authorities, animal control officers, police officers, or humane officer, shall be permitted to inspect all animals and the premises where animals are kept at any time. If permission for an inspection is refused, the permit or license of the refusing owner or keeper shall be revoked.

D. If the applicant has withheld or falsified any information on the application, the licensing authorities shall refuse to issue a permit or license.

E. No person who has been convicted of cruelty to animals shall be issued a permit or license to operate a commercial animal establishment or kennel.13-200.02.141 Inspections

As a condition of licensing and pursuant to 13-200.01.141.C., all licensed dogs and the premises where they are kept are subject to inspection at any reasonable time.

Section 13-200.01.150 Interference with Officer

A. It shall be unlawful for any person to interfere with, molest, hinder or prevent any police officer or animal control officer in the discharge of their duties as herein prescribed.

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B. Any person who shall hinder, delay, interfere with or obstruct any police officer or animal control officer while engaged in capturing, securing or taking to the animal shelter any animal or animals liable to be impounded, or who shall break open or in any manner directly or indirectly aid, counsel or advise the breaking open of any animal control vehicle or other vehicle used for the collecting of any such animals shall be deemed guilty of a class B misdemeanor.

Section 13-200.01.160 Quarantine of Animals

Whenever any animal attacks or bites a person, the owner of the animal shall immediately notify the police department, which shall cause the animal to be impounded or otherwise quarantined for a period of ten days. At the end of the ten-day quarantine period, the animal may be released from quarantine, upon a veterinarian's examination that such animal is free from rabies. The expenses incurred in the inspection of such animal shall be paid by the owner or person in control of such animal, in addition to any other fines or charges due. Such expenses shall be paid prior to the release of the animal. If the animal dies within the ten-day quarantine period, its brain shall be sent to the State Department of Health for examination for rabies.

Section 13-200.01.170 Licensing - Registration of Animals {EXCEPT DOGS} Shall be Voluntary.

Any person owning an animal within the city limits may license such animal by following the provisions of this Section.

A. Licensing, Fees, and Registration.

1. All licenses and late fees required by this Section shall be in amounts established by city council resolution.
2. It shall be the duty of the animal control officer to register any animal on application of the owner or keeper and to issue a registration receipt and metallic registration tag on payment by the owner or keeper. Such

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registration receipt and metallic registration tag shall be valid and in force from the date issued until the expiration date.

B. Information Required for Registration. Before receiving a registration receipt and metallic registration tag, each owner must state at the time of application for such a permit, the name and address of the owner and sex, breed, age and color of each animal to be registered. The owner must also present a certificate from a veterinarian stating that the animal has been vaccinated for the prevention of rabies. Such certificate must give the last date of vaccination and the number of the vaccination tag used by the veterinarian at the time of vaccination.

C. Collar-Tag Attachment. It shall be the duty of the owner or keeper of any animal so registered to provide a suitable collar for such animal to wear and to attach thereto the metallic registration tag having a number corresponding with the certificate of registry inscribed thereon.

D. Removal of Collar and Registration Tag. It is unlawful for any person other than the owner to remove the collar from any animal to which collar has been attached the metallic registration tag herein required, or to remove said metallic registration tag from the collar to which it has been attached.

Section 13-200.01.180 Revocation of License - Animals

If the owner of any animal is convicted of a violation of this Section on two or more different occasions during any twelve (12) month period involving the same animal, the license of the animal involved shall be revoked. The animal control officer or other police officer shall be authorized to immediately impound and pick up any animal whose license has been revoked. Any animal impounded following revocation of its license shall be dealt with in accordance with the provisions of city ordinances for impounded animals. Under no conditions shall the animal be allowed to be brought back into the city.

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Section 13-200.01.190 Female Cats in Heat/Season Running at Large

Females in Heat/Season Running at Large. The owners or custodians of female cats shall cause such cats, when in heat/season, to be penned or enclosed in such a manner as to preclude other cats from attacking such female cat or from being attracted to such female cat. It shall be unlawful for the owner or custodian of any female cat to cause, permit, or allow such cat to be at large, or to enter upon a street or sidewalk while such female cat is in copulating heat/season regardless of lack of knowledge of the offense at the time it occurs. If the female cat cannot be controlled by the owner during the copulating heat/season, such cat may be impounded by the animal control officer.

Section 13-200.01.200 Threatening Passers-By

It shall be unlawful for any animal to threaten passers-by by nipping, chasing, jumping upon, or attacking. The owner or custodian of such animal shall be guilty of a class C misdemeanor.13-200-01-210 Penalties

Unless otherwise specifically provided, every person whose animal violates any provision of this Section is guilty of a Class C misdemeanor.13-200.02.010 Licensing

Any person owning a dog within the city limits shall license the dog pursuant to the following provisions:

- A. Licensing, Fees, and Registration.
 1. Registration--Required--Dogs only. It is unlawful for any person to own, keep or harbor a dog over the age of three months within the limits of this city without making application to the city for that purpose and paying to the city an annual registration fee.
 2. A late fee shall be imposed unless a new license is purchased prior to the expiration of the current license. Licenses for the following year may be purchased within ninety (90) days prior to the expiration date.

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3. All licenses and late fees required by this Section shall be in the amounts established by city council resolution.
 4. It shall be the duty of the animal control officer to register any dog on application of the owner or keeper and to issue a registration receipt and metallic registration tag on payment by the owner or keeper. Such registration receipt and metallic registration tag shall be valid and in force from the date issued until the expiration date.
 5. The provisions of this section shall not apply to dogs whose owners are nonresidents temporarily within the city for thirty (30) days or less, nor to dogs brought into the city for the purpose of participating in any show or event.
- B. Information Required for Registration. Before receiving a registration receipt and metallic registration tag, each owner must state at the time of application for such a permit, the name and address of the owner and sex, breed, age and color of each dog to be registered. The owner must also present a certificate from a veterinarian stating that the dog has been vaccinated for the prevention of rabies. Such certificate must give the last date of vaccination and the number of the vaccination tag used by the veterinarian at the time of vaccination. It is unlawful for the owner to misrepresent the age of any dog for the purpose of avoiding the payment of the license required by this Section.
- C. Collar-Tag Attachment. It shall be the duty of the owner or keeper of any dog so registered to provide a suitable collar for such dog to wear and to attach thereto the metallic registration tag having a number corresponding with the certificate of registry inscribed thereon. All dogs not so registered and collared as prescribed by this Section may be impounded by the animal control officer or any police officer or other designated official of the city.
- D. Removal of Collar and Registration Tag. It is unlawful for any person other than the owner to remove the collar from any dog to which collar has been attached the metallic registration tag herein required,

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or to remove said metallic registration tag from the collar to which it has been attached.

- E. The owner of any dog of registration age shall make application for permit and obtain a permit tag for such dog within ten (10) days after acquisition or age attainment.
- F. Licensing and Fee Exemptions.
 - 1. The provisions of §13-200.02.010.(A)(1) shall not apply to:
 - 2. Seeing eye dogs properly trained to assist blind persons, if such dogs are actually being used by blind persons to assist them in moving from place to place.
 - 3. Hearing dogs properly trained to assist deaf persons if such dogs are actually used by deaf persons to aid them in responding to an auditory stimulus.
 - 4. Dogs specifically trained to assist officials of governmental agencies in the performance of their duties and which are owned by such agencies.
 - 5. Nothing in this section (F)(1) shall be construed to exempt any dog from having a current rabies vaccination.

Section 13-200.02.020 Revocation of License - Dogs

If the owner of any dog is convicted of a violation of this Section on two or more different occasions during any twelve (12) month period involving the same dog, the license of the dog involved shall be revoked. The animal control officer or other police officer shall be authorized to immediately impound and pick up any dog whose license has been revoked. Any dog impounded following revocation of its license shall be dealt with in accordance with the provisions of city ordinances for impounded dogs. Under no conditions shall the dog be allowed to be brought back into the city.

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Section 13-200.02.030 Dogs Running at Large

It shall be unlawful for any dog to be at large at any time within the corporate limits of the city. The owner or custodian of any dog which is at large shall be in violation of this section, regardless of the precautions taken to prevent the escape of the dog and regardless of lack of knowledge of the offense at the time it occurs.

Section 13-200.02.040 Female Dogs in Heat/Season Running at Large

The owners or custodians of female dogs shall cause such dogs, when in heat/season, to be penned or enclosed in such a manner as to preclude other dogs from attacking such female dog or from being attracted to such female dog. It shall be unlawful for the owner or custodian of any female dog to cause, permit, or allow such dog to be at large, or to enter upon a street or sidewalk while such female dog is in copulating heat/season regardless of lack of knowledge of the offense at the time it occurs. If the female dog cannot be controlled by the owner during the copulating heat/season, such dog may be impounded by the animal control officer.

Section 13-200.02.050 Cruelty to Dogs

- A. Except as authorized by law, it shall be unlawful for any person to willfully or maliciously kill, injure, maim, disfigure, torture, beat, mutilate, burn or scald, overdrive or otherwise cruelly set upon any dog. Each such act shall constitute a separate violation and shall be guilty of a class B misdemeanor.
- B. It shall be unlawful for any person to carry or to confine any dog in or upon any vehicle in a cruel or inhumane manner, including, but not limited to, carrying or confining such dog without adequate ventilation.
- C. Every operator of a motor vehicle or self-propelled vehicle within the city shall, immediately upon injuring, striking, maiming or running

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down any dog, fully comply with all requirements set forth in UCA Section 41-13-200-30.

- D. Fights. It is unlawful for any person within the limits of the city to, in any manner whatsoever encourage or urge any dog or dogs to fight or urge them on after they commence to fight.

Section 13-200.02.060 Dog Bites

- A. It shall be unlawful for any dog to bite or attack any person or domestic animal. It is no defense that the dog is chained or confined if the chaining or confining is on public or private property where the public has access to be on such property. The owner or custodian of any dog is in violation of this section regardless of the precautions taken to prevent the bite or attack and regardless of the lack of knowledge of the offense at the time it occurs.
- B. It is unlawful for any person to keep, own, harbor, or have the control of any fierce or dangerous dog. It is prima facie evidence that a dog is a fierce or dangerous dog if it bites or attacks a person or domestic animal. Any police officer or animal control officer may apprehend such dog and may cause it to be impounded at the animal shelter.

Section 13-200.02.070 Intra-seizure of Dogs

- A. Whenever a police officer or an animal control officer shall have probable cause to believe that a dog has been abandoned, although confined upon private property, that is in violation of any of the provisions of Section 13-200 of the Kanab Municipal Code, or is a vicious dog, the officer shall be authorized to immediately seize the dog and may impound the same in the animal shelter and such officer shall have the right to enter upon whatever premises the dog may be kept for such purpose.

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- B. If a dog is summarily impounded without the knowledge of the owner or custodian, a notice that the dog has been impounded shall be given to the owner or custodian of the dog, if the same is known, by attaching the notice to the door at the residence thereof or by mailing a notice to the last known address of the owner or custodian.
- C. If no response is received to the notice of summary impoundment within the time frames established by the rules and regulations of the animal shelter, such dog shall be adopted or euthanized as an abandoned dog.
- D. A dog summarily impounded as provided in this section may be recovered by the owner complying with the regulations of the animal shelter. If, in a subsequent court proceeding, the dog is determined not to be abandoned, vicious or a nuisance, the dog shall be released to the owner or custodian without any charge.

Section 13-200.02.080 Dog Noise Disturbance

Excessive Noise. It is unlawful for any person to harbor, keep, or own within the limits of the city any dog which barks, whines, howls, or makes other disturbing noises in an excessive, continuous, or untimely fashion day or night. Any police officer or animal control officer may apprehend such dog and may cause it to be impounded in the animal shelter. A second conviction of this section by the same dog within a twelve month period shall be grounds for removal of the dog from the city, which dog will not be allowed to return.

Section 13-200.02.090 Defecation and Urination

- A. It is unlawful to allow a dog to defecate or urinate upon private property not owned by the person owning or in control of such dog.
 - 1. The owner or custodian of any dog shall be responsible for the removal of any defecation deposited by such dog on public

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property, recreation areas, or private property not owned by the person owning or in control of such dog.

- B. Kennels and Runs. It is unlawful for the owner or occupant of any premises on which a kennel, run, or other structure or area for housing or keeping of dogs is situated, to allow such kennel, run, or other structure or area of the premises to become unsanitary, unclean, or to emit undue stench or odor. The owner or occupant of any premises permitting any such condition to exist that does not abate such condition within 24 hours after notice shall be issued a citation. If such a notice is given, the condition must remain abated on a permanent basis. Additional notices shall not be necessary prior to the issuance of a citation.

Section 13-200.02.100 Detention of Dogs

It is unlawful for any person to detain or hold the dog of another without notifying the animal control officer or law enforcement agency within twenty four hours.

Section 13-200.02.110 Abandoning Sick, Diseased, or Disabled Dogs

It is unlawful for any person to abandon or to turn out at large any sick, diseased or disabled dog, but such dog shall, when rendered worthless by reason of sickness or other disability, be disposed of by the owner thereof in the manner as provided in section 13-200.02.120.

Section 13-200.02.120 Disposal of Dogs

It is unlawful for the owner of any dog that dies or is killed within the limits of this city, to fail to remove or bury the carcass of such dog within ten hours after its death.

Section 13-200.02.130 Quarantine of Dogs

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Whenever any dog attacks or bites a person, the owner of the dog shall immediately notify the police department, which shall cause the dog to be impounded or otherwise quarantined for a period of ten days. At the end of the ten-day quarantine period, the dog may be released from quarantine, upon a veterinarian's examination that such dog is free from rabies. The expenses incurred in the inspection of such dog shall be paid by the owner or person in control of such dog, in addition to any other fines or charges due. Such expenses shall be paid prior to the release of the dog. If the dog dies within the ten-day quarantine period, its brain shall be sent to the State Department of Health for examination for rabies.

Section 13-200.02.140 Enforcement

In the enforcement of any provision of this Section, any police officer or animal control officer is authorized to enter the premises of any person to take possession of the registered or unregistered, fierce, dangerous, or vicious dog or dogs running at large, when in fresh pursuit of such dog at the time the dog goes onto the private property. It is not the intent of this subsection to authorize any entry onto property which is in violation of State or Federal Constitutional restrictions regarding search and seizure.

Section 13-200.02.150 Interference with Officer

- A. It shall be unlawful for any person to interfere with, molest, hinder or prevent any police officer or animal control officer in the discharge of their duties as herein prescribed.
- B. Any person who shall hinder, delay, interfere with or obstruct any police officer or animal control officer while engaged in capturing, securing or taking to the animal shelter any dog or dogs liable to be impounded, or who shall break open or in any manner directly or indirectly aid, counsel or advise the breaking open of any animal

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control vehicle or other vehicle used for the collecting of any such animals shall be deemed guilty of a class B misdemeanor.

Section 13-200.02.160 Dogs in Prohibited Areas

- A. It shall be unlawful for any person to take or to permit any dog, whether loose or on a leash or in arms, in or about any establishment or place of business where food or food products are sold or displayed, as required by Utah State code; and it shall be unlawful for any person to allow any dog to enter or be in any place of worship during public services; and it shall be unlawful for any person to allow any dog to enter in or be upon any public park, school, cemetery or other city property where it is posted that no dogs are allowed.
- B. An exception to this section shall be for any dog trained and used for physically handicapped persons, such as dogs for the blind or hearing impaired.

Section 13-200.02.170 Allowable Number of Dogs

- A. Except as otherwise provided in this Section, no more than two (2) dogs which are three (3) months of age or older shall be kept at any residence at any time.
- B. Dog kennels, breeding kennels, veterinary hospitals, boarding kennels, or any similar facilities which keep more animals than allowed by this section, are permitted within the City and exempt from this section only if licensed by the City and lawfully located pursuant to City Zoning Regulations.

Section 13-200.02.171 Amnesty Exception

- A. There shall be a one time amnesty exception to section 13-200.02.170. Up to four (4) dogs which are kept upon residential premises at the time of adoption of this ordinance may continue to be

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kept on the premises if the dogs are licensed with the City within 30 days of adoption of the ordinance. The dogs in excess of the two provided in subsection 13-200.02.170 A shall be "amnesty" dogs and the total dogs on the premises during the amnesty period shall not exceed four dogs over the age of three (3) months.

- B. An amnesty dog may not be replaced upon its death or other disposition and shall be the oldest dog(s). Upon the death or other disposition of a nonamnesty dog(s) it shall be replaced by an amnesty dog.
- C. Amnesty dogs shall be implanted with a microchip purchased by the owner from the City within 30 days of adoption of this ordinance.

Section 13-200.02.172 Micro-chipped Dogs

- A. The owner shall, at his/her own expense, have the dog permanently identified by having the licensing number assigned by the city to such dog and having the dog implanted with a microchip that the owner shall purchase from the city for the purpose of identifying dogs under the amnesty program.
- B. Owners shall assume the risk of non-identification of all micro-chipped, unrestrained dogs that are subsequently impounded by animal control officers.
- C. It is unlawful for any vendor of microchips to refuse to provide information to the City as to the identification of the owner or animal that has been micro-chipped.
- D. All "amnesty" dogs under section 13-200.01.171, in addition to being licensed pursuant to this Section, shall be implanted with a microchip purchased from the City within 30 days of the adoption of this ordinance.

Section 13-200.02.180 Impound

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- A. Any dog impounded at an animal shelter shall be held five working days if it has a current year's license tag and/or identifiable microchip information which is readable and has been registered with the City. After five working days, if the dog is not claimed or adopted, it shall be euthanized.
- B. Any dog impounded at an animal shelter shall be held three working days if it has no current year's license tag and/or identifiable microchip information which is readable and has been registered with the City. After three working days, if the dog is not claimed or adopted, it shall be euthanized.
- C. Any dog voluntarily relinquished to the animal control officer or an animal shelter by the owner or custodian thereof for destruction or other disposition need not be kept for the minimum holding period, but shall be euthanized immediately.
- D. The animal control officer or police officer shall have the sole discretion to determine serious injury or disease that will require euthanasia prior to three (3) working days.

Section 13-200.02.190 Threatening Passers-By

It shall be unlawful for any dog to threaten passers-by by nipping, chasing, jumping upon, attacking, or chasing any person, bicycle, or motor vehicle.

Section 13-200.02.200 Penalties Unless

Unless otherwise specifically provided, every person whose dog violates any provision of this Section is guilty of a class C misdemeanor.

Section 13-200.03.010 Rabies Control

- A. A Report of Bites. All persons bitten and the parents or guardians of minor children bitten by a dog, cat, skunk, fox, bat, coyote, bobcat,

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or other animal known to constitute a serious threat of rabies shall notify the animal control officer immediately thereafter. Physicians treating such bites and other persons having the knowledge of such bites shall also be required to make such notification.

- B. Report of Suspected Rabid Animals. Any person who observes or has knowledge of an animal which shows symptoms of rabies or which acts in a manner which would lead to a reasonable suspicion that it may have rabies shall notify the animal control officer and comply with appropriate laws and regulations regarding suspected cases of rabies as directed by the state or city-county health departments.
- C. Isolation of Biting or Suspected Rabid Animals.
 - 1. Upon the reasonable order of the animal control or public health officer, a biting or suspected rabid animal shall be isolated, at the owner's expense if owned, in strict confinement under proper care and under the observation of licensed veterinarian in an animal shelter or veterinary hospital in a manner approved by the animal control officer.
- D. Examination of Head. Any biting or suspected rabid animal may be humanely euthanized immediately, and such animal's undamaged and properly packaged and properly refrigerated head shall be delivered promptly to an approved medical facility having the capability of performing tests to demonstrate the presence of rabies.
- E. Release. Ten (10) days after the day of infliction of a bite by an animal, such animal may be released to its owner after a licensed veterinarian has examined that animal and in his/her opinion found it not to have had rabies in a transmittable stage on the day of infliction of the bite. Non-immunized animals shall be vaccinated for rabies before release.
- F. Animals Possibly Exposed to Rabies. Any animal of a species subject to rabies which has been bitten by a known rabid animal, or which has been in intimate contact with such an animal, shall be isolated, at the owner's expense if owned, in strict confinement in a place and

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manner approved by the animal control officer and observed by a licensed veterinarian for a period of six (6) months, or euthanized. Notwithstanding the foregoing, the following alternative is permitted in case of dogs and cats. If the dog or cat has been vaccinated against rabies at least thirty (30) days prior to the suspected exposure with a type of vaccine produced under U.S.D.A. license and within the time period approved by the state veterinarian, the dog or cat may be re-vaccinated and isolated in strict confinement in a place and manner approved by the animal control officer and observed by a licensed veterinarian for a period of thirty (30) days.

Section 13-200.03.020 Vaccination Required

- A. Dog owners shall obtain a rabies vaccination for each dog they own, keep, harbor or have custody of, within ten (10) days after it becomes three months of age, or within ten (10) days after obtaining any dog over three months of age. It shall be unlawful for any person or persons to own, keep, harbor or possess or to have in his or her care, charge or custody, any dog three months of age or over unless such dog has a current and valid rabies vaccination administered by any duly qualified and licensed veterinarian, with a rabies vaccine approved by the State Department of Health for use in dogs. Such vaccination shall be repeated at intervals specified by the State Department of Health in order to maintain adequate immunity.
- B. In addition to the current years license, the vaccination tag shall be attached to or otherwise worn by the dog. It shall be unlawful for any person or persons to remove or cause to be removed the vaccination tag from any dog without the consent of the owner, keeper, or harbinger thereof. The vaccination tag shall not be transferable from one dog to another.

Section 13-200.03.030 Penalties

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Unless otherwise specifically provided, every person who violates any provision of this Section is guilty of a class C misdemeanor.

Section 13-200.04 Kennels

Section 13-200.04.010 Allowable Number of Dogs and Cats

Except as otherwise provided in this Section, no more than two (2) dogs and/or three (3) cats which are three (3) months of age or older shall be kept at any residence at any time.

Section 13-200.04.020 Permit Required

- A. Permit required. No person shall operate or maintain a kennel without first obtaining a permit from Kanab City.
- B. Application. All applications for permits to operate or maintain a kennel shall be submitted in writing upon printed forms provided for such purposes by the city. The application shall first be referred to the city animal control officer. Upon approval, the city shall issue the permit upon payment of the fee herein provided.
- C. Before the permit can be issued the following conditions concerning the location of the kennel must be met.
 - 1. A private kennel shall be located in a Residential Agricultural (RA) District, with a conditional use permit and shall not exceed more than three (3) dogs per acre. The location where the dogs or cats are kept, raised or housed, must be 200 feet away from any neighboring house, and must be 150 feet from any road.
 - 2. A public kennel shall be located in a permitted commercial district, with a conditional use permit.
- D. The following minimum standards shall be complied with to obtain and maintain a kennel permit.

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1. Enclosure must be provided which shall allow adequate protection against weather extremes. Floors of buildings, runs and walls shall be of an appropriate material as required by the specific breed of animal and also to permit proper cleaning and disinfecting.
 2. Adequate ventilation shall be maintained and an appropriate temperature provided as required by the specific breed of animal housed therein.
 3. Each animal shall have sufficient space to stand up, lie down and turn around without touching the sides or tops of cages.
 4. Runs shall provide an adequate exercise area and protection from the weather.
 5. All animal quarters and runs are to be kept clean, dry and in a sanitary condition.
 6. The food shall be free of contamination, palatable and of sufficient nutritive value as to meet the normal daily requirements for the condition and size of the animal.
 7. Fresh water is to be available at all times. Water vessels shall be mounted or secured in a manner that prevents tipping and be of the removable type.
- E. Holders of existing kennel permits which do not meet the distance requirements required in this Section shall be exempt from the distance requirements for their existing animals. As animals die, are sold, given away, or are otherwise removed from the property, they may not be replaced unless all of the conditions of this Section are met. The city shall have the power to revoke the kennel permit in the event that the permit holder is convicted of any other violation of the provisions of this title.

Section 13-200.04.030 Fees

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Any person conducting, operating or maintaining a kennel shall pay to the city for the privilege of conducting, operating or maintaining such kennel an annual permit fee shall be in amounts established by city council resolution.

Section 13-200.04.040 Violations - Permit Revocation

Whenever the animal control officer or police officer finds or discovers any violations of any rule or regulation promulgated as herein provided by the city-county health department, it shall, upon receipt of such notice, immediately notify the owner or custodian of such kennel, to appear before the city council at a day and time certain to show cause why the permit should not be revoked for such violation.

Section 13-200.04.050 Inspection

It shall be the duty of the animal control officer or police officer to periodically inspect all registered kennels, to see that the provisions of this Section pertaining to the sanitation and care of such places are being observed.

Section 13-200.04. 060 Definitions - Exception for Puppies-Kittens

- A. Kennel as defined in §13-200.01.010 shall be applicable to this Section.
- B. This Section shall not apply to the birth of puppies or kittens in a situation which is not an intentional commercial breeding business so long as the number of dogs or cats is reduced down to two (2) dogs and or three (3) cats or less within three (3) months from the birth of the puppies or kittens.

Section 13-200.04.070 Penalties

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Unless otherwise specifically provided, every person who violates any provision of this Section is guilty of a class C misdemeanor.

EXHIBIT A

LICENSE AND REGISTRATION REQUIRED FEES

1. Unaltered Dog License (Male or Female) \$ 25.00
- 1A. Unaltered dog license (Male or Female) under the amnesty program. 25.00
2. Altered Dog License (Male or Female) 15.00
- 2A. Altered dog license (Male or Female) under the amnesty program. 15.00
3. At Large Pickup Fee \$ 35.00
4. Impound Fee Per Day \$10.00
5. Late Fee on License (After February 15) \$10.00
6. Emergency Euthanasia \$40.00
7. Burial Fee \$40.00
8. Kennel license \$300.00
(Includes monthly inspections.)
9. Microchip fee (without implanting) \$10.00

Section 13-300 Criminal Code

Section 13-310 Adoption Criminal Code

- A. ADOPTION OF CRIMINAL CODE - The provisions of Titles 26, 30, 31A, 32A, 53A, 53B, 54, 58, 59, 63, 73, 76, 77, and 78 which define offenses which are Class B or Class C Misdemeanors, or Infractions, and definitions or supporting sections as contained in the Utah Criminal and Traffic Code - 1996 Edition, which is published as a Code book form for the Utah Department of Public Safety, by the Michie Company, three copies of which have been filed for use and examination by the public in the office of the City Recorder, hereby is approved and adopted as the Criminal Code of this municipality, as modified by ordinances of this municipality.
- B. Penalties

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1. Any violation of Section 32A-12-209 shall be punished as a class C Misdemeanor, with no minimum mandatory fine.
2. Violations of all other provisions shall be punished as provided for therein.

Section 13-311 Off-Highway Vehicle Act

- A. Adoption of Off-Highway Vehicle Act. Section 22 of Title 41 of the Utah Code Annotated 1953, as it applies to all off-highway vehicles other than snowmobiles shall constitute the Kanab City Ordinance as to the rules and regulations governing off-highway vehicle (hereinafter OHV) and the same shall be construed to make them applicable as City ordinances.
- B. Operation by person 16 years of age and older. No person 16 years or older shall operate an off-highway vehicle on the designated streets of Kanab City unless such person has valid driver's license. The violation of this provision shall be punishable as a Class C misdemeanor.
- C. Operation by persons under 16 years of age. No person under 16 years of age may operate and no owner may give permission to a person under the age of 26 to operate an off-highway vehicle on the designated streets of Kanab City. The violation of this provision shall be punishable as an infraction.
- D. Designation of OHV routes. The following streets within the City of Kanab are designated as permissible routes for the use of off-highway vehicles subject to all other rules and regulation outlined in this Section.
- E. Speed Limits. The maximum speed for off-highway vehicles shall be 25 miles per hour or as posted (for general motor vehicular traffic) whichever is the most restrictive. The operation of off-highway vehicles shall otherwise be in accordance with all applicable motor

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vehicle laws and regulations. The violation of this provision shall be punishable consistent with speed violation for general motor vehicles.

1. The following described roadways are hereby designed for off highway vehicle (OHV) use in conformance with all applicable laws, ordinances, and regulations of the State of Utah and the City of Kanab.

West Side of Kanab

- 300 West to Highway 89 North.
- 300 North - from 300 West to 200 East.
- 200 West - from 300 North to 200 South.
- 200 South to 100 West (1 block).
- South on 100 West to 400 South (2 blocks).
- 300 South - West to Powell Drive.
- South on Powell Drive to the Utah / Arizona State Line.
- 100 West to 300 East.

East Side of Kanab

- 300 North down 200 East to 100 North.
- East on 100 North to 300 East (1 block).
- Down 300 East to 400 South.
- West on 400 South to 175 East.
- 175 East to 650 South.
- 650 South to 2100 South on State Road 11.
- 2100 South to 2500 South on 175 East.
- 175 East to 400 East on 2500 South.

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- 2500 South to 2900 South on 400 East.
- 550 East to 1000 East on 2900 South.

Highway 89

- From 300 East on Highway 89 to 900 East.
- South on 900 East to Chinle Drive.
- East on Chinle Drive (old highway 89) to the junction of Highway 89 (6 miles).

The use of the above designated routes by OHV shall be exclusively for the purpose of accessing approved trails or roadways on state and federal lands outside City limits.

2. Operation of off-highway vehicles on streets or roadways within Kanab City other than those designated above shall be authorized, but only to access the closest designated route described above or by operators then registered as participants of an organized OHV event which event has previously obtained the necessary permit or authorization from Kanab City. The violation of this section shall be punishable as an infraction.
3. Speed limits. The maximum speed for off-highway vehicles shall be as posted for general motor vehicular traffic and the operation of off-highway vehicles shall otherwise be in accordance with all applicable motor vehicle laws and regulations. The violation of this provision shall be punishable consistent with speed violation for general motor vehicles.

Section 13-312 Curfew-Minors-Exceptions

It is hereby made unlawful for persons of or below the following ages to remain upon the streets, alleys or public places or vacant lots of the

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municipality between the hours set forth below, unless such person is accompanied by a parent, guardian, or other person with legal custody of such persons necessitates, in which event such person or persons shall obtain a permit from the Chief of Police. Where a permit is required, such permit shall be kept with the person.

<u>Ages</u>	<u>Curfew Hours</u>
14 and below	10:00 p.m. to 5:00 a.m.
15 to 18	10:00 p.m. to 5:00 a.m. for every curfew period which immediately precedes a school day.
	12:00 Midnight to 5:00 a.m for curfew periods not preceding a school day.

A school day shall be any day that Kanab High School is in session during the regular school year.

Section 13-313 Responsibility Of Parents, Etc.

The parents, guardians or persons with the legal charge or custody of any person subject to section 13-312 shall not permit such person or persons to remain upon any street, alley, vacant lot or public place, except when a permit as is therein authorized has been issued.

Section 13-314 Discharge of Firearms

It shall be a class B misdemeanor for any person to discharge within the city of Kanab any kind of firearm unless a permit is issued by the Chief of Police; provided that this section shall not be construed to prohibit any officer of the law from discharging a firearm in the performance of his

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duty nor any citizen from discharging a firearm when lawfully defending person or property.

Section 13-315 Prohibition of Discharge of Fireworks or To Set On Fire Any Inflammable Material Within Kanab City

- A. It shall be unlawful to purchase, sell, display or discharge Class C Fireworks within Kanab City beginning May 28, 1996, until further notice, without first having obtained a Fireworks permit from the City Fire Department or other authorized agents.
- B. It shall be unlawful to throw, deposit, or discard upon any public road, highway, park, recreation area or other public or private land, or waterway any lighted material.
- C. That during the closed season it shall be a Class B misdemeanor to set on fire, or cause to be set on fire any inflammable material, without first securing a written permit from the City Fire Department, and complying fully with the terms and conditions prescribed with the permit.
- D. The Penalty for Violating this Ordinance, shall be a Class B Misdemeanor by a fine up to \$1000 and imprisonment up to six months. Each day during or on which a violation occurs or continues shall constitute a separate offense and shall be punishable as such hereunder.
- E. It is hereby declared that this ordinance is necessary for the immediate safety of the Citizens of Kanab City and shall take effect immediately upon publication and shall remain in effect until further notice.

Section 13-349 Sexually-oriented Businesses

Section 13-350 Purpose

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The purpose of this Section is to regulate sexually-oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent deleterious secondary effects of sexually-oriented businesses within the City. The provisions of this Section have neither the purpose nor effect of imposing a limitation or restriction on the content of or reasonable of or reasonable access to any communicative materials, including sexually-oriented materials. Similarly, it is neither the intent nor effect of this Section to restrict or deny access by adults to sexually-oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually-oriented entertainment to their intended market. Neither is it the intent nor effect of this Section to condone or legitimize the distribution of obscene or indecent material.

Section 13-351 Definitions

For purposes of this Section, the following words and phrases shall have the meanings set forth below unless a different meaning is clearly indicated by the context.

"Adult bookstore" or "adult video store" means a commercial establishment which, as one of its principal purposes, offers for sale oriental for any form of consideration any one (1) or more of the following: books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides or simulated display, or other visual representations which are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas. For the purpose of this definition, "principal purpose" means the commercial establishment:

- A. has a substantial portion of its displayed merchandise which consists of items, or
- B. has a substantial portion of the wholesale value of its displayed merchandise which consists of said items, or

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- C. has a substantial portion of the retail value of its displayed merchandise which consists of said items, or
- D. derives a substantial portion of its revenues from the sale or rental, for any form of consideration, of said items, or
- E. maintains a substantial section of its interior business space for the sale or rental of said items; or
- F. regularly features said items, and prohibits access by minors, because of age, to the premises, and advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way; or
- G. maintains an adult arcade, which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting specified sexual activities or specified anatomical areas.

"Adult cabaret" means a nightclub, bar, juice bar, restaurant, bottle club, or other commercial establishment, whether or not alcoholic beverages are served, which regularly features persons who appear nude and/or semi-nude.

"Adult motel" means a motel, hotel, or similar commercial establishment which:

- A. offers accommodations to the public for any form of consideration; provides customers with closed-circuit television transmissions, films, motion pictures, video cassettes, other photographic reproductions, or live performances which are characterized by the display or simulated display of specified sexual activities or specified anatomical areas and which advertises the availability of such material by means of a sign visible from a public right-of-way, or by means of any on-

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or-off premises advertising, including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; or

- B. offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
- C. allows a tenant or occupant of a sleeping room to sub rent the room for a period of time that is less than ten (10) hours.
- D. "Adult motion picture theater" means a commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the display or simulated display of specified sexual activities or specified anatomical areas are regularly shown to more than five (5) persons for any form of consideration.

"Characterized by" means describing the essential character or quality of an item. As applied in this Section, no business shall be classified as a sexually-oriented business solely by virtue of showing, selling, or renting materials rated "NC-17" or "R" by the Motion Picture Association of America.

"City" means the City of Kanab, Utah.

"Customer" means a patron of a business as defined in this Section. "Employ," "employee" and "employment" describe and pertain to any person who performs any service on the premises of a business, on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

"Establish" and "establishment" means any of the following:

- A. the opening or commencement of any sexually-oriented business as a new business;
- B. the conversion of an existing business, whether or not a sexually-oriented business, to any sexually-oriented business; or

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- C. the addition of any sexually-oriented business to any other existing sexually-oriented business.

"Finance Director" means the Kanab City Manager or his or her designee."Hearing Officer" means an attorney with an independent practice and not a full-time employee of Kanab City, licensed to practice law in the state of Utah.

"Influential interest" means any of the following:

- A. the actual power to operate a sexually-oriented business or control the operation, management or policies of a sexually-oriented business or legal entity which operates a sexually-oriented business.
- B. ownership of a financial interest of twenty (20) percent or more of a business or of any class of voting securities of a business, or
- C. holding an office (e.g., president, vice president, secretary, treasurer, managing member, managing director, etc.) in a legal entity which operates a sexually-oriented business.

"Licensee" means a person in whose name a license to operate a sexually-oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for a sexually-oriented business license. In the case of an employee, "licensee" means the person in whose name a sexually-oriented business employee license has been issued."Municipal Council" means the Municipal Council of the City of Kanab, Utah."Nudity" or "state of nudity" means the showing of the human male or female genitals, public area, vulva, anus, or anal cleft or cleavage with less than a fully opaque covering, or the showing of the female breast with less than fully opaque covering of part of the nipple and areola.

"Operate" or "cause to operate" means to cause to function or to put or keep in a state of doing business."Operator" means any person on the premises of a sexually-oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. A person may operate or cause to be operated

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a sexually-oriented business whether or not that person is an owner, part owner, or licensee of the business."Person" means an individual, proprietorship, partnership, corporation, association, or other legal entity."Premises" means the real property upon which a sexually-oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually-oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in an application for a business license pursuant to Section 13-353 of this Section."Regularly" means the consistent and repeated doing of the act so described."Semi-nude" or "state of semi-nudity" means the showing or the simulated showing of a female breast with less than a fully opaque covering below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition includes the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a dress, blouse, shirt leotard, or similar wearing apparel provided the areola is not exposed in whole or in part."Semi-nude model studio" means a place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketch, drawn, painted, sculptured, photographed, or similarly depicted by other persons. This definition does not apply to any place where persons appearing in a state of semi-nudity do so in a modeling class operated:

- A. by a college, junior college, or university supported entirely or partly by taxation;
 - B. by a private college or university which maintains and operates educational programs in which credits are transferable to college, junior college, or university supported entirely or partly by taxation;
- or:

"Sexual device" means any three-dimensional object designed or marketed for stimulation of the male or female human genital organ or anus or for sadomasochistic use or abuse of oneself or others and shall

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include devices such as dildos, vibrators, penis pumps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include any device primarily intended for protection against sexually transmitted diseases or for preventing pregnancy."Sexual device shop" means a commercial establishment that regularly features sexual devices. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic, or any establishment primarily dedicated tot providing medical or healthcare products or services, nor shall this definition be construed to include commercial establishments which do not restrict access to any portion of their premises by reason of age."Sexual encounter center" means a business or commercial enterprise that, as one of its principal business purposes, purports to offer for any form of consideration, physical contact in the form of wrestling or tumbling when (1) or more of the persons is semi-nude."Sexually-oriented business" means an adult bookstore or adult video store, an adult cabaret, an adult motel, an adult motion picture theater, a seminude model studio, sexual device shop, or a sexual encounter center."Simulated showing or simulated display" means the utilization of a device or covering, exposed to view, that realistically appears to be any part of a specified anatomical area.

"Specified anatomical area" means and includes:

- A. less than completely and opaquely covered human genitals, public region, anus, anal cleft, buttock and female breast below a point immediately above the top of the areola; and
- B. human male genitals in a discernibly turgid state, even if completely and opaquely covered.

"Specified criminal activity" means:

- A. any of the following specified crimes for which less than five (5) years elapsed since the date of conviction or the date of release from confinement for the conviction whichever is the later date:
 - 1. dissemination or distribution of obscenity or pornographic material;

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2. distribution of a controlled substance;
3. engaging in organized criminal activity relating to a sexually-oriented business;
4. indecency with a child, including:
 - (a) unlawful sexual activity with a minor,
 - (b) sexual abuse of a minor, and
 - (c) lewdness involving a child;
5. indecent exposure or lewdness;
6. molestation of a child, including:
 - (a) rape of a child,
 - (b) object rape of a child,
 - (c) sodomy on a child;
 - (d) sexual abuse of a child, and
 - (e) aggravated sexual abuse of a child;
7. sexual exploitation of a minor;
8. prostitution or promotion of prostitution, including:
 - (a) patronizing a prostitute,
 - (b) aiding prostitution
 - (c) exploiting prostitution, and
 - (d) aggravated exploitation of prostitution;
9. rape, including,
 - (a) object rape,
 - (b) forcible sodomy, and
 - (c) forcible sexual abuse;
10. sale, distribution or display of harmful material to a minor, including:

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- a. indecent public displays, and
- a. dealing in harmful material to a minor;
- 11. sexual assault or aggravated sexual assault;
- 12. sexual performance by a child;
- 13. criminal attempt, conspiracy or solicitation to commit any of the foregoing offenses or
- 14. any offense in another jurisdiction that, had the predicate act (s) been committed in Utah, would constitute any of the foregoing offenses; or
- B. any attempt, solicitation, or conspiracy to commit one (1) of the foregoing offenses.

"Specified sexual activity" means any of the following:

- A. actual or simulated intercourse, oral copulation, masturbation or sodomy; or
- B. actual or simulated excretory functions as a part of or in connection with any of the activities described in (I) above."Substantial" means at least thirty-five (35) percent of the item(s) or word(s) so modified."Transfer of ownership or control" of a sexually-oriented business means any of the following:
 - 1. the sale, lease, or sublease of the business;
 - 2. the transfer of securities which constitute an influential interest in the business, whether by sale, exchange, or similar means; or
 - 3. the establishment of a trust, gift, or other similar legal device which transfers ownership of control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

"Viewing room" means the room, booth, or area where a customer of a sexually-oriented business would ordinarily be positioned while watching a film, videocassette, or other video reproduction.

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Section 13-352 Classification

The classifications for sexually-oriented businesses shall be as follows:

- A. adult bookstore or adult video store;
- B. adult cabaret;
- C. adult motel;
- D. adult motion picture theater;
- E. semi-nude model studio;
- F. sexual device shop; or
- G. sexual encounter center.

Section 13-353 License Required

- A. It shall be unlawful for any person to operate a sexually-oriented business in Kanab City without a valid sexually-oriented business license.
- B. It shall be unlawful for any person to be an employee, as defined in this Section, of a sexually-oriented business in Kanab City without a valid sexually-oriented business employee license.
- C. An applicant for a sexually-oriented business license or a sexually-oriented business employee license shall file in person at the Kanab City business license office a complete application made on a form provided by the Finance Director. The application shall be signed as required by subsection (E) herein and shall be notarized. An application shall be considered complete when it contains, for each person required to sign the application, the information and/or items required in subsections (a) through (g) below, accompanied by the appropriate fee identified in Section 13-13-355 of this Section.

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1. the applicant's full true name and other names used by the applicant in the preceding five (5) years;
 - (a) current business address or another mailing address of the applicant;
 - (b) written proof of age, in the form of a driver's license or a copy of a birth certificate accompanied by a picture identification document issued by a government agency;
 - (c) if the application is for a sexually-oriented business license, the business name, location, legal description, mailing address and phone number of the sexually-oriented business;
 - (d) if the application is for a sexually-oriented business license, the name and business address of the statutory agent or other agent authorized to receive service of process;
 - (e) a statement of whether an applicant has been convicted of or has pled guilty or nolo contendere to a specified criminal activity as defined in Section 13-351 of this Section, and if so, each specified criminal activity involved, including the date, place and jurisdiction of each as well as the dates of conviction and release from confinement, where applicable; and
 - (f) a statement of whether any sexually-oriented business in which an applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):
 - (g) been declared by a court of law to be a nuisance; or
 2. been subject to a court order of closure or padlocking.
 - a. The information provided pursuant to subsections (a) through (g) of this subsection
- D. shall be supplemented in writing by certified mail, return receipt requested, to the Finance Director within ten (10) working days of a

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change of circumstances which renders the information originally submitted false or incomplete.

- E. An application for a sexually-oriented business license shall be accompanied by a legal description of the property where the business is located and a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches. Applicants who are required to comply with Subsections 13-363 and 13-367 of this Section shall submit a diagram indicating that the interior configuration meets the requirements of those sections.
- F. If a person who wishes to operate a sexually-oriented business is an individual, the person shall sign the application for a license as the applicant. If a person who wishes to operate a sexually-oriented business is other than an individual, each person with an influential interest in the business shall sign the application for a license as the applicant. Each applicant shall be qualified under Section 13-354 and each applicant shall be considered a licensee if a license is granted.
- G. The information provided by an applicant in connection with an application for a license under this Section shall be maintained by the office of the Finance Director on a confidential basis, and such information may be disclosed only as may be required by law or court order, and only to the extent required, by law or court order.

Section 13-354 Issuance of License

- A. Upon the filing of a complete application under Subsection (C) of this Section for a sexually-oriented business license, the Finance Director shall immediately issue a temporary license to the applicant, which temporary license shall expire upon a final decision of the City to deny or grant a business license. Within twenty (20) days of the filing

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date of a complete sexually-oriented business license application, the Finance Director shall issue a business license to the applicant or issue to the applicant a letter of intent to deny the application. The Finance Director shall issue a license unless:

1. an applicant is less than eighteen (18) years of age;
 2. an applicant has failed to provide information required by Section 13-353 of this Section for issuance of a license or has falsely answered a question or request for information on the application form;
 3. the license application fee required by Section 13-355 of this Section has not been paid;
 4. the sexually-oriented business does not comply with the interior configuration requirements of this Section or does not comply with the interior configuration requirements of this Section or does not comply with local requirements set forth in Section, Kanab City code;
 5. any sexually-oriented business in which the applicant has had an influential interest, has in the previous five (5) years (and at a time during which the applicant had the influential interest):
 - (a) been declared by a court of law to be a nuisance; or
 - (b) been subject to an order of closure or padlocking; or
 6. an applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity as defined in this Section.
- B. Upon the filing of a complete application under Subsection 13-353 (3) of this Section for a sexually-oriented business employee license, the Finance Director shall immediately issue a temporary license to the applicant, which temporary license shall expire upon the final decision of the City to deny or grant a business license. Within twenty (20) days of the filing date of the filing date of a complete sexually-oriented business employee license application, the Finance Director

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shall either issue a Director shall approve the issuance of a license unless:

1. the applicant is less than eighteen (18) years of age;
 2. the applicant has failed to provide information as required by Section 13-353 of this Section for issuance of a license or has falsely answered a question or request for information on the application form;
 3. the license application fee required by Section 13-355 of this Section has not been paid;
 4. any sexually-oriented business in which the applicant has had an influential interest, has in the previous five (5) years (and at a time during which the applicant had the influential interest):
 - a. been declared by a court of law to be a nuisance; or
 - b. been subject to an order of closure or padlocking, or
 5. the applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity as defined in this Section.
- C. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the licensee(s), the expiration date, and, if the license is for a sexually-oriented business, the address of the sexually-oriented business. The sexually-oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually-oriented business so that it may be read at any time. A sexually-oriented business employee shall keep the employee's license on his or her person or on the premises where the licensee is then working or performing.

Section 13-355 Fees

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The initial license and annual renewal fees for sexually-oriented business licenses and sexually-oriented business employee licenses shall be as follows:

- A. one hundred dollars (\$100 for the initial fee for a sexually-oriented business license and fifty dollars (\$50) for annual renewal; and
- B. fifty dollars (\$50) for the initial sexually-oriented business employee license and twenty-five dollars (\$25) for annual renewal.

Section 13-356 Inspection

- A. A sexually-oriented business and any sexually-oriented business employee shall permit the Finance Director and his or her agents to inspect, from time to time on an occasional basis, the portions of the sexually-oriented business premises where customers are permitted, for the purpose of ensuring compliance with applicable requirements of this Section, during those times when the sexually-oriented business is occupied by customers or is open to the public. This section shall be narrowly construed by the City to authorize reasonable inspections of the licensed premises pursuant to this Section, but not to authorize a harassing or excessive pattern of inspections.
- B. The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

Section 13-357 Expiration of License

- A. Except for a temporary license or as otherwise provided in this section, the term of a license shall be as provided in Section 9-138, Kanab City Code, unless suspended or revoked.
- B. A license may be renewed only by submitting an application as provided in Section 13-350.040 and paying the fee required by Section 13-359 of this Section.

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- C. Application for renewal of a license should be made at least ninety (90) days before the expiration date pursuant to the procedures set forth in Section 13-353 of this Section. When made less than ninety (90) days before the expiration date, the expiration of the license shall not be affected.

Section 13-358 Suspension

- A. If a sexually-oriented business licensee knowingly violates or knowingly allows an employee to violate the provisions of this Section, the Finance Director shall issue a letter to the employee indicating the City's intent to suspend the employee's sexually-oriented business employee license for a period of up to thirty (30) days.

Section 13-359 Revocation

- A. The Finance Director shall issue a letter of intent to revoke a sexually-oriented business license or a sexually-oriented business employee license, as applicable, if the licensee knowingly violates a provision of this Section or has knowingly allowed an employee to violate a provision of this Section and the licensee's license has been suspended within the previous twelve (12) month period.
- B. The Finance Director shall issue a letter of intent to revoke a sexually-oriented business license or a sexually-oriented business employee license, as applicable, if:
 - 1. the licensee has knowingly given false information in the application for the sexually-oriented business license;
 - 2. the licensee has knowingly or recklessly engaged in or allowed possession, use, or sale of controlled substances or alcoholic beverages on the premises;
 - 3. the licensee has knowingly or recklessly engaged in or allowed prostitution on the premises; or

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4. the licensee has knowingly or recklessly engaged in or allowed any specified sexual activity to occur in or on the licensed premises.
- C. The fact that any relevant conviction is being appealed shall have no effect on the revocation of a license, provided that, if any conviction which serves as a basis of a license revocation is overturned or reversed on appeal, such conviction shall be treated as null and of no effect for revocation purposes.
- D. When, after the notice and hearing procedure described in Section 13-360 of this Section, a license is revoked, such revocation shall continue for one (1) year and the licensee shall not be issued a sexually-oriented business license or sexually-oriented business employee license for one (1) year from the date revocation becomes effective.

Section 13-360 Hearing-Denial, Revocation, and Suspension -Appeal.

- A. When the Finance Director issues a written notice of intent to deny, suspend, or revoke a license, the Finance Director shall immediately send such notice, which shall include the specific grounds under this Section for such action, to the applicant or licensee (respondent) by personal delivery or certified mail. The notice shall be directed to the most current business address or other mailing address on file with the Kanab City business license office for the respondent. The notice shall specify a date, not less than ten (10) days nor more than twenty (20) days after the date the notice is issued, on which a hearing officer shall conduct a hearing on the Finance Director's intent to deny, suspend, or revoke the license.
 1. At the hearing, the respondent shall have the opportunity to present all of respondent's arguments and to be represented by counsel, present evidence and witnesses on his or her behalf, and cross-examine any of the Finance Director's witnesses. The Finance Director shall also be represented by counsel, and shall

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bear the burden of proving the grounds for denying, suspending, or revoking the license. The hearing shall take no longer than two (2) consecutive days, unless extended at the request of the respondent to meet the requirements of due process and proper administration of justice. The hearing officer shall issue a written decision, including specific reasons for the decision pursuant to this Section, to the respondent within five (5) days after concluding the hearing.

2. If a decision is to deny, suspend, or revoke a license, the decision shall not become effective until the thirty (30) days after the decision is rendered. The decision shall include a statement advising the respondent of the right to appeal such decision to a court of competent jurisdiction.
 - (a) If the hearing officer's decision finds that no grounds exist for denial, suspension, or revocation of the license, the hearing officer shall, contemporaneously with the issuance of the decision, order the Finance Director to immediately withdraw the intent to deny, suspend, or revoke the license and to notify the respondent in writing by certified mail of such action.
 - (b) If the respondent is not yet license, the Finance Director shall contemporaneously therewith issue the license to the applicant.
- B. If any court action challenging the Finance Director's or hearing officer's decision is initiated, the City Attorney shall prepare and transmit to the court a transcript of the hearing within ten (10) days after receiving written notice of the filing of the court action. The City shall consent to expedite briefing and/or disposition of the action, shall comply with any expedited schedule set by the court, and shall facilitate prompt judicial review of the proceedings.
- C. The following shall apply to any sexually-oriented business that is in operation as of the effective date of this Section:

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1. Upon the filing of any court action to appeal, challenge, restrain, or otherwise enjoin the City's enforcement of the denial, suspension, or revocation, the City shall immediately issue the respondent a provisional license.
2. The provisional license shall allow the respondent to continue operation of the sexually-oriented business or to continue employment as a sexually-oriented business employee and shall expire upon the court's entry of judgment on the respondent's appeal or other action to restrain or otherwise enjoin the City's enforcement.

Section 13-361 Transfer of License

A licensee shall not transfer his or her license to another person, nor shall a licensee operate a sexually-oriented business under the authority of a license at any place other than the address designated on the license.

Section 13-362 Hours of Operation

No sexually-oriented business shall be or remain open for business between 12:00 midnight and 6:00 a.m. on any day.

Section 13-363 Exhibition of Sexually Explicit Films or Videos

- A. A person who operates or causes to be operated a sexually-oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than three hundred fifty (350) square feet of floor space, a film, video cassette, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements.
 1. Each application for a sexually-oriented business license shall contain a diagram of the premises showing the location of each

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restroom, operator station, viewing room, overhead lighting fixture, video camera and monitor installed for monitoring purposes and shall designate those portions of the premises where customers will not be permitted.

- (a) Restrooms shall not contain video reproduction equipment.
 - (b) The diagram shall also designate the placed where the license will be conspicuously posted, if granted.
 - (c) A professionally prepared diagram in the nature of an architectural drawing shall not be required; however, the top of each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas o of the interior of the premises to an accuracy of plus or minus six (6) inches. The Finance Director may waive the foregoing diagram for renewal applications if the applicant presents a previously submitted diagram and certifies that the configuration of the premises has not been altered since it was prepared.
2. It shall be the duty of the operator, and of any employee present on the premises, to ensure no customer is permitted access to any area of the premises which has been designated as an area in which customers will not be permitted in the application filed pursuant to Subsection (A.1) of this section.
 3. The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place where customers are permitted access at an illumination of not less than five (5) foot candles as measured at the floor level. The operator and any employee present on the premises shall have the duty to ensure the illumination described above is maintained at all times when the premises are occupied by customers or open for business.

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4. The operator and any employee present on the premises shall have the duty to ensure no sexual activity occurs in or on the licensed premises.
5. The operator shall have the duty to post conspicuous signs in well-lighted entry areas of the business stating all of the following:
 - (a) occupancy of viewing rooms is limited to one (1) person;
 - (b) sexual activity on the premises is prohibited;
 - (c) making of openings between viewing rooms is prohibited;
 - (d) violators will be required to leave the premises; and
 - (e) violations of Subparagraphs (a), (b), (c) of this paragraph (5) are unlawful.
6. The operator shall have the duty to enforce the regulations set forth in Subsections (5.a) through (5.e) above.
7. The interior of the premises shall be configured to provide an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room, but excluding restrooms, to which any customer is permitted access for any purpose.
 - (a) An operator's station shall not exceed thirty-two (32) square feet of floor area.
 - (b) If the premises have two (2) or more operator's stations designated, then the interior of the premises shall be configured to provide an unobstructed view of each area of the premises to which any customer is permitted access for any purpose from at least one (1) of the operator stations. The view required in this subsection shall be by direct line of sight from an operator's station.
 - (c) The operator and any employees present on the premises shall have the duty to ensure the view area specified in this

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subsection remains unobstructed by any door, curtain, wall, merchandise, display rack or other material or enclosure at all times when a customer is present on the premises.

(d) The operator and any employees present on the premises shall have the duty to ensure the view area specified in this subsection remains unobstructed by any door, curtain, wall, merchandise, display rack or other material or enclosure at all times when a customer is present on the premises.

B. It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

Section 13-364 Loitering, Exterior Lighting, Visibility, and Monitoring Requirements

- A. The operator of a sexually-oriented business shall have the duty to:
1. post conspicuous signs stating that no loitering is permitted on the premises;
 2. designate one (1) or more employees to monitor the activities of persons on the premises by visually inspecting the premises at least once every ninety (90) minutes or inspecting the premises by use of video cameras and monitors; and
 3. provide lighting of the exterior portion of the premises to provide for visual inspection or video monitoring to prohibit loitering. If used, video cameras and monitors shall operate continuously whenever the premises are open for business. Such monitors shall be installed within an operator's station.
- B. It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.
- C. No sexually-oriented business licensee or other person shall erect a fence, wall, or other barrier which prevents any portion of a parking lot for employees or customers of the business from being visible from a public right of way.

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Section 13-365 Penalties and Enforcement

- A. A person who knowingly violates, disobeys, omits, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this Section shall be guilty of a Class "B" misdemeanor. Each day a violation is committed, or permitted to continue, shall constitute a separate offense and shall be fined as such.
- B. The City Attorney is hereby authorized to institute civil proceedings necessary for the enforcement of this Section to prosecute, restrain, or correct violations hereof. Such proceedings, including injunction, shall be brought in the name of the City.
- C. Nothing in this section and no action taken hereunder shall:
 - 1. prohibit a criminal or administrative proceeding as may be authorized by other provisions of this Section, the Kanab City Code, or other law, or
 - 2. exempt any person violating this Section, the Kanab City Code, or other law from a penalty which may be incurred.

Section 13-366 Applicability of Section to Existing Businesses

Any existing sexually-oriented business and sexually-oriented business employee are hereby granted a de facto temporary license to continue operation or employment for a period of ninety (90) days following the effective date of this Section. By the end of said ninety (90) days each sexually-oriented business and sexually-oriented business employee shall conform to and abide by the requirements of this Section.13-367 Prohibited Activities

- A. It is unlawful for a sexually-oriented business to knowingly violate the following regulations or to knowingly allow an employee or any other person to violate the following regulations.
 - 1. It shall be a violation of this Section for a customer, employee, or any other person to knowingly or intentionally, in a sexually-

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oriented business, appear in a state of nudity, regardless of whether such public nudity is expressive in nature.

2. It shall be a violation of this Section for a person to knowingly or intentionally, in a sexually-oriented business, appear in a semi-nude condition unless the person is an employee who, while semi-nude, remains at least six (6) feet from any customer and on a stage at least eighteen (18) inches from the floor in a room of at least one thousand (1,000) square feet.
 3. It shall be a violation of this Section for any employee who regularly appears semi-nude in a sexually-oriented business to knowingly or intentionally touch a customer or the clothing of a customer on the premises of a sexually-oriented business.
 4. It shall be a violation of this Section for any person to sell, use, or consume alcoholic beverages on the premises of a sexually-oriented business.
- B. (2) A sign, in a form prescribed by the Finance Director, summarizing the provisions of Subsections (1), (2), (3), and (4) of this section shall be posted near the entrance of a sexually-oriented business in a location where it is clearly visible to customers upon entry.

Section 13-368 Scierter Required to Prove Violation or Business Licensee Liability

This Section does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a knowing or reckless mental state is necessary to establish a violation of a provision of this Section. Notwithstanding anything to the contrary, for the purposes of this Section, an act by an employee that constitutes grounds for suspension or revocation of that employee's license shall be imputed to the sexually-oriented business licensee for purposes of finding a violation of this Section, or for purposes of license denial, suspension, or revocation, only if an officer, director, or general partner, or a person who managed, supervised, or controlled the operation of the business

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premises, knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act.

Section 13-369 Effect of City Failure to Act

In the event a City official is required to act or do a thing pursuant to this Section within a prescribed time, and fails to act or do such thing within the time prescribed, said failure shall not prevent the exercise of constitutional rights of an applicant or licensee. If the act required of the City official under this Section and not completed in the time prescribed includes approval of condition(s) necessary for approval by the City of an applicant's or licensee's application for a sexually-oriented business license or a sexually-oriented business employee's license (including a renewal), the license shall be deemed granted and the business or employee shall be allowed to commence operations or employment the day after the deadline for the City's action has passed.

PART II:

- A. If a provision of this ordinance conflicts with a provision of a previously adopted ordinance, this ordinance shall prevail.
- B. This ordinance and its various sections, clauses and paragraphs are hereby declared to be severable. If any word, phrase, sentence, part, section, subsection, or other portion of this Section, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable and the remaining provisions of this section, in full force and effect. The Municipal Council declares that no invalid or proscribed provision or application was an inducement to this Section, and that it would have enacted this subsection regardless of the invalid or proscribed provision or application.

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- C. The Municipal Council hereby directs that the official copy of the Kanab City Code be updated to reflect the provisions enacted by this ordinance.

Section 13-370 Signs

Notwithstanding anything contrary contained, in Section 7, Sign Regulations, of the Kanab City Uniform Zoning Ordinance, the more restrictive requirements for signs shall prevail. Signs for sexually oriented businesses shall be limited as follows:

- A. No more than one exterior sign shall be allowed.
- B. No sign shall be allowed to exceed eighteen (18) square feet.
- C. No animation shall be permitted on or around any sign or on the exterior walls or roof of such premises.
- D. No descriptive art or designs depicting any activity related to or inferring the nature of the business shall be allowed on any sign. Said sign shall contain alphanumeric copy only.
- E. Only flat wall signs and/or awning signs shall be permitted.
- F. Painted wall advertising shall not be allowed.
- G. Other than the signs specifically allowed by this Section, sexually oriented businesses shall not attach, construct or allow to be attached or constructed, any temporary signs banner, light, or other device designed to draw attention to the business location.¹

Section 13-371 Location of business, Restrictions

Except as provided in this Section, no building, structure, or land shall be used for the establishment or operation of a sexually-oriented business. A person commits an offense if the person if the person operates or causes to be operated, a sexually-oriented business in violation of this Section.

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- A. Sexually oriented businesses, only be permitted in the areas zones (M-D).
- B. All sexually oriented business shall be located within 1000 feet of:
 - 1. No sexually oriented business shall be located within 1000 feet of:
 - (a) a church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;
 - (b) a public or private educational facility including but not limited to a child day-care facilities, nursery schools, pre-schools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities. School include the school grounds, but does not include facilities used primarily for another purpose and only incidentally as school;
 - (c) a public park or recreational area which has been designated for park or recreational activities including, but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the City which is under the control, operation, or management of the City Park and recreation authorities;
 - (d) an entertainment business which is oriented primarily towards children or family entertainment; or
 - 2. No sexually oriented business shall be located within 600 feet of:
 - (a) a boundary of a residential district as defined in the Kanab City Zoning Ordinance; or
 - (b) the property line of a lot devoted to a residential use as defined in the Kanab City Zoning Ordinance;

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- C. A person commits a misdemeanor if that person causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually-oriented business within one thousand feet (1000') of another sexually oriented business.
- D. For the purpose of this Section, measurements shall be made in a straight line, without regard to the intervening structures or objects from the nearest portion of the building or structure used as part of the premises where a sexually-oriented business is conducted, to the nearest property line of the premises of a used listed in Subsection (B). Presence of a City, County, or other political subdivision boundary shall be irrelevant for purposes of calculating and applying, the distance requirements of this Section.
- E. For the purpose of this Section, the distance between any two sexually-oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closed exterior wall of the structure in which each business is located.