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Section 14-100 Water

Section 14-110 Water Department and System

The water department of the municipality is hereby created. It shall administer the operation and maintenance of the water system of the municipality.

Section 14-110.1 Water & Streets Advisory Board

Creation and Establishment of a Water and Streets Board

The Board shall consist of 5 members who shall be recommended by the City Council member in charge of Water and Streets and appointed by the Mayor with the consent of the City Council. Board members shall serve a term of four years and until their successors are appointed; provided, that the members first appointed shall be appointed for such terms that two members shall serve until 12/31/01, and their successors are appointed and the remaining members shall serve until 12/31/02, and their successors are appointed. A member of the Board shall be the City Council person in charge of water and streets or the Mayor. Vacancies shall be filled by City Council appointment for the unexpired term of the Board Member. Members may serve additional terms at the request of the appointing body. The members of the water and streets board shall serve in that capacity without compensation.

Section 14-110.2 Terms of Office

The terms of office for the five (5) Kanab City Water & Streets Advisory Board members who are not members of the Kanab City Council shall be

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for four (4) years. The Kanab City Water & Streets Advisory Board member's terms shall be staggered so that no more than two (2) member's terms shall expire at the same time. The term of the office for the Kanab City Council member designated as liaison for the Kanab City Water & Streets Advisory Board shall correspond to his tenure of office as Kanab City Council member, and to his appointment as liaison with the Kanab City Water & Streets Advisory Board. Appointments to office will be made on or before the first Monday in June of each year.

Section 14-110.3 Vacancies and Removals for Cause

Vacancies of appointed members occurring otherwise than through the expiration of terms shall be filled for the remainder of the unexpired term by appointment of the Kanab City Council. The Kanab City Council shall have the right to remove any member of the Kanab City Water & Streets Advisory Board for misconduct and may remove any member for non-performance of duty. Non-performance of duty shall include a repeated failure to attend Kanab City Water & Streets Advisory Board meetings.

Section 14-110.4 Compensation

The Kanab City Water & Streets Advisory Board shall serve without compensation shall serve without compensation, except that the Kanab City Council shall provide for reimbursement of the Kanab City Water & Streets Advisory Board for actual expenses incurred upon presentation of proper receipts and vouchers.

Section 14-110.5 Officers

The City Councilman in charge of Water and Streets shall serve as chairman of the Water and Streets Board. The Water and Streets Board shall elect from its own number, a secretary, and shall appoint all other officers necessary for a period of one year and until the successor qualifies. In the event of a vacancy in any office, a successor shall be appointed for unexpired term of the officer holder. An officer shall cease

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to be such upon ceasing to be a member of the Board. members of the Board may be designated by the Board to serve as committee chairmen over various activities as they arise and individuals not members of the board may be appointed by the Board to serve on said committees.

Section 14-110.6 Quorum and Vote

A quorum shall consist of three (3) members and a Chairman or Chairman Pro-Tem. A motion shall not be presented unless a quorum is present. A majority vote shall be constituted of at least a majority of members present.

Section 14-110.7 Employees, Expenditures

The Kanab City Water & Streets Advisory Board may, upon the approval of the Kanab City Council, employ experts and staff including, consultants and a secretary and pay such expenses, exclusive of gifts, as may be reasonable and necessary for carrying out the duties defined in this Ordinance, providing that such expenditures may not exceed the amount appropriated for the operation of the Kanab City Water & Streets Advisory Board by the Kanab City Council.

Section 14-110.8 Duties and Responsibilities

The duties and responsibilities of the Advisory Board are as follows:

- A. The Kanab City Water & Streets Advisory Board may adopt such rules and procedures as it may deem necessary for the proper conduct of its business.
- B. To keep a record of its proceedings, such record shall be open to inspection by the public at all reasonable times.
- C. To study the problems and determine the needs of Kanab City Water & Streets facilities.

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- D. To adopt and then periodically review and update a City Water & Streets Plan.
- E. To assist in the dissemination of information regarding the City water and streets.
- F. To consider, investigate, make finding, report and recommend upon any special matter or questions within the scope of its work when requested by the City Council.
- G. To make recommendations concerning the proper operation and welfare of the Kanab City Water & Streets facilities.

Section 14-110.9 Reviews by City Council

The City Council shall have the right to review the conduct, acts, and decisions of the Water & Streets Advisory Board. Any person may appeal any ruling or order of the Commission to the City Council who may hear the matter and make a final decision.

Section 14-110.10 Effective Date

This Ordinance is hereby declared to be of immediate necessity for the preservation of public peace, health and safety, and shall be in full force and effective from and after its passage and publications as provided by law.

Section 14-110.11 Meetings

The Board shall meet once a month on the third Thursday of each month at 7:00 p.m. The time and place of such meetings may be altered upon reasonable notice given to all Board Members. Notice of all such meetings shall be given as provided by law.

Section 14-110.12 Bylaws

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The Board may promulgate such rules, regulations and bylaws as the Board deems necessary to carry out the effective and efficient functions of their duties.

Section 14-111 Superintendent

There is hereby created the position of superintendent of the water department.

Section 14-112 Duties of the Superintendent

The superintendent of the water system shall manage and supervise the municipal water system pursuant to the provisions of this part and pursuant to resolutions, rules, and regulations adopted by the governing body from time to time prescribing his powers and duties and directing the manner and frequency with which he shall make reports to the mayor relating to the water system. All of the functions and activities of the superintendent shall be carried on under the direction of the mayor.

Section 14-113 Application for Water Connections

Section 14-113.1 Application for Water Connection within the Kanab City Limits

Any person, other than a sub-divider or developer seeking multiple connections, who desires or is required to secure a new connection to the municipal water system, shall file with the water department for each such connection a written and signed connection application in substantially the following form:

KANAB, UTAH
APPLICATION FOR WATER CONNECTION
TO THE MUNICIPALITY OF KANAB, CITY

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I hereby apply to the municipality of Kanab City for permission to connect my premises at _____ with the Kanab City water system and hereby agree as follows:

1. (a) The municipality shall make the requested connection from its water main to and including the water meter and up to my property line or to the meter if the meter is installed within my property. I agree to pay the municipality the connection charges and fees as may be fixed by the governing body by resolution or ordinance including a reservoir charge if so provided.

Additionally, I agree to pay \$_____ for inspection and overhead charges and other miscellaneous costs of the municipality as may be fixed by the governing body by resolution or ordinance.

(b) The connection so made by the municipality, including the meter, shall remain the property of the municipality at all times, and the municipality shall have access thereto at all times.

2. The location of the meter, whether on my premises or at some point near my premises, may be decided solely by the municipality.

3. Before making connection with the water system, I shall cause the plumbing upon my premises to be inspected by the municipality and if the plumbing is not approved, I will cause the plumbing to be rectified at my own expense to meet the requirements of the municipality or of any other governmental agency having jurisdiction to regulate the water system within the municipality.

4. I will be bound by the rules, regulations, resolutions, or ordinances enacted now or hereafter by the municipality applicable to the municipality's water system.

5. The purpose for which the water connection will be used is _____.

6. The municipality shall have free access to the lines and meters installed under this agreement and, at reasonable times, through my property if necessary.

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Dated _____ this _____ day of _____, 20_____.

Applicant _____

Section 14-113.2 Application for Water Connection outside the City Limits

Any person, other than a sub-divider or developer seeking multiple connections, who desires or is required to secure a new connection to the municipal water system for property located outside the Kanab City limits, shall file with the water department for each such connection a written and signed connection application in substantially the following form:

KANAB, UTAH

APPLICATION FOR WATER CONNECTION

OUTSIDE THE CITY LIMITS

I hereby apply to the municipality of Kanab City for permission to connect my premises at _____ with the Kanab City water system and hereby agree as follows:

1. (a) The municipality shall make the requested connection from its water main to and including the water meter and up to my property line or to the meter if the meter is installed within my property. I agree to pay the municipality the connection charges and fees as may be fixed by the governing body by resolution or ordinance including a reservoir charge if so provided.

Additionally, I agree to pay \$_____ for inspection and overhead charges and other miscellaneous costs of the municipality as may be fixed by the governing body by resolution or ordinance.

(b) The connection so made by the municipality, including the meter, shall remain the property of the municipality at all times, and the municipality shall have access thereto at all times.

2. The location of the meter, whether on my premises or at some point

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near my premises, may be decided solely by the municipality.

3. Before making connection with the water system, I shall cause the plumbing upon my premises to be inspected by the municipality and if the plumbing is not approved, I will cause the plumbing to be rectified at my own expense to meet the requirements of the municipality or of any other governmental agency having jurisdiction to regulate the water system within the municipality.

4. I will be bound by the rules, regulations, resolutions, or ordinances enacted now or hereafter by the municipality applicable to the municipality's water system.

5. The purpose for which the water connection will be used is _____.

6. The municipality shall have free access to the lines and meters installed under this agreement and, at reasonable times, through my property if necessary.

7. It is understood and agreed that this agreement will provide connections only and any later agreement for supply shall be subject to supply of surplus water only as determined available by the City Council. This agreement shall at all times be subject to the obligations of the City to supply its inhabitants with water as required by Article XI, Section 6 of the Constitution of Utah, and the provision of Utah Code Ann. 10-8-14. In the event of shortages, absence of surplus, or circumstances requiring the use of the City's surplus waters within the corporate limits of the City the delivery of waters by the City to a connection under this agreement or a supply agreement may be restricted or terminated, either temporarily or permanently, without liability to the City.

8. It is understood and agreed that connection may be made through lines, mains or systems not owned by Kanab City and that the City assumes no liability or responsibility for said lines, mains or systems.

Dated _____ this _____ day of _____, 20____.

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Applicant

Section 14-113.3 Application for Water Service within the Kanab City Limits

Any person who desires or is required to secure water service when such service is available from the municipal water system, shall file with the water department a written application and agreement for the service which shall be in substantially the following form:

KANAB, UTAH

APPLICATION FOR WATER SERVICE

TO THE MUNICIPALITY OF KANAB CITY, UTAH

The undersigned hereby applies for water service from the municipality of Kanab, Utah, for premises located at_, and hereby agrees:

1. To pay charges for such water service as are fixed from time to time by the governing body until such time as I shall direct such service to be discontinued.
2. In the event of a failure to pay water charges within the due dates fixed by the governing body or of a failure of the occupant of the premises to conform to the ordinances and regulations established by the governing body regulating the use of the water system, that the municipality shall have the right to discontinue the water system service at its election, pursuant to five days written notice of the municipality's intention mailed to the address of service, until all delinquencies and any re-connection fees imposed are paid in full or until any failure to conform to this ordinance or regulations issued thereunder is eliminated.
3. To be bound by the rules, regulations, resolutions, or ordinances enacted or adopted by the governing body applicable to the municipality's water system.
4. Applicant does hereby deposit \$_ with the municipality on the filing of this application for water service, and it is agreed and understood that the

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municipality may, but need not, apply the deposit upon bills due for prior service and that the right of the municipality to shut off service as above provided shall exist even though the deposit has not been applied to the payment of past due bills for services. On final settlement of applicant's account, any unused balance of the deposit will be refunded to applicant upon return of the security deposit receipt issued by the municipality at the time the deposit was made.

5. The deposit shall not be considered as an advance payment for any service. Charges and unpaid accounts shall be considered delinquent notwithstanding the existence of the deposit, and the applicant or user of water service shall not have the right to compel the municipality to apply the deposit to any account to avoid delinquency.

6. In the event of collection, to pay a reasonable attorney's fees and costs of court.

DATED this _____ day of _____, 20____.

Applicant

Section 14-113.4 Application for Water Service Outside Kanab City Limits

Any person who desires or is required to secure water service when such service is available from the municipal water system, to property located outside the Kanab City limits, shall file with the water department a written application and agreement for the service which shall be in substantially the following form:

KANAB, UTAH

APPLICATION FOR WATER SERVICE

OUTSIDE KANAB CITY LIMITS

The undersigned hereby applies for water service from the municipality of Kanab, Utah, for premises located at _____

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and hereby agrees:

1. To pay charges for such water service as are fixed from time to time by the governing body until such time as I shall direct such service to be discontinued.
2. In the event of a failure to pay water charges within the due dates fixed by the governing body or of a failure of the occupant of the premises to conform to the ordinances and regulations established by the governing body regulating the use of the water system, that the municipality shall have the right to discontinue the water system service at its election, pursuant to five days written notice of the municipality's intention mailed to the address of service, until all delinquencies and any re-connection fees imposed are paid in full or until any failure to conform to this ordinance or regulations issued thereunder is eliminated.
3. To be bound by the rules, regulations, resolutions, or ordinances enacted or adopted by the governing body applicable to the municipality's water system.
4. Applicant does hereby deposit \$_____ with the municipality on the filing of this application for water service, and it is agreed and understood that the municipality may, but need not, apply the deposit upon bills due for prior service and that the right of the municipality to shut off service as above provided shall exist even though the deposit has not been applied to the payment of past due bills for services. On final settlement of applicant's account, any unused balance of the deposit will be refunded to applicant upon return of the security deposit receipt issued by the municipality at the time the deposit was made.
5. The deposit shall not be considered as an advance payment for any service. Charges and unpaid accounts shall be considered delinquent notwithstanding the existence of the deposit, and the applicant or user of water service shall not have the right to compel the municipality to apply the deposit to any account to avoid delinquency.
6. In the event of collection, to pay a reasonable attorney's fees and costs

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of court.

7. It is understood and agreed that this agreement is for the supply of surplus water only as determined available by the City Council and this agreement shall at all times be subject to obligations of the City to supply its inhabitants with water as required by Article XI, Section 6 of the Constitution of Utah, and the provision of Utah Code Ann. 10-8-14. In the event of shortages, absence of surplus, or circumstances requiring the use of the City's surplus waters within the corporate limits of the City the delivery of waters by the City under this agreement may be restricted or terminated, either temporarily or permanently, without liability to the City. In the event of termination of less than 30 days duration or restriction of any duration, the City shall give reasonable notice thereof to the user. In the event of permanent termination, the City shall give the user sixty (60) days written notice thereof.

8. It is understood and agreed that user may be receiving its water supply through lines, mains or systems not owned by Kanab City and that the City assumes no liability or responsibility for said lines, mains, or systems.

DATED _____ this _____ day of _____, 20_____.

Section 14-113.5 Severability

If any clause, section or paragraph of this ordinance is held to be unconstitutional or void for any reason, such holding shall not affect the remaining provisions.

Section 14-113.6 Effective Date

This ordinance being necessary for the safety, peace and health of this municipality, shall take effect immediately on posting.

Section 14-114 Application for Water Connection by Sub-divider

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Whenever a sub-divider or developer desires or is required to install water connections and extensions for a subdivision or development, the sub-divider or developer shall enter into a written extension agreement which shall constitute an application for permission to make the extensions and connections and an agreement specifying the terms and conditions under which the water extensions and connections shall be made and the payments that shall be required.

Section 14-115 Application for Water Service

Any person who desires or is required to secure water service when such service is available from the municipal water system, shall file with the water department a written application and agreement for the service which shall be in substantially the following form:

KANAB, UTAH

APPLICATION FOR WATER SERVICE

TO THE MUNICIPALITY OF KANAB CITY, UTAH

The undersigned hereby applies for water service from the municipality of Kanab, Utah, for premises located at _____, and hereby agrees:

1. To pay charges for such water service as are fixed from time to time by the governing body until such time as I shall direct such service to be discontinued.
2. In the event of a failure to pay water charges within the due dates fixed by the governing body or of a failure of the occupant of the premises to conform to the ordinances and regulations established by the governing body regulating the use of the water system, that the municipality shall have the right to discontinue the water system service at its election, pursuant to five days written notice of the municipality's intention mailed to the address of service, until all delinquencies and any re-connection fees imposed are paid in full or until any failure to conform to this ordinance or regulations issued thereunder is eliminated.

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3. To be bound by the rules, regulations, resolutions, or ordinances enacted or adopted by the governing body applicable to the municipality's water system.

4. Applicant does hereby deposit \$_____ with the municipality on the filing of this application for water service, and it is agreed and understood that the municipality may, but need not, apply the deposit upon bills due for prior service and that the right of the municipality to shut off service as above provided shall exist even though the deposit has not been applied to the payment of past due bills for services. On final settlement of applicant's account, any unused balance of the deposit will be refunded to applicant upon return of the security deposit receipt issued by the municipality at the time the deposit is made.

5. The deposit shall not be considered as an advance payment for any service. Charges and unpaid accounts shall be considered delinquent notwithstanding the existence of the deposit, and the applicant or user of water service shall not have the right to compel the municipality to apply the deposit to any account to avoid delinquency.

6. In the event of collection, I/We agree to pay all attorney's fees, court costs, filing fees, and all collection costs, up to 50% of amount owing may be assessed by an collection agency retained to pursue the matter. I/We further agree to pay interest at the rate of 1 and 1/2% per month (18% per year).

DATED _____ this _____ day of _____, 19_____.

Applicant

Section 14-116 Non-Owner applicants - Agreement of Owner

Applications for water service made by the tenant of an owner must in addition to the above requirements be guaranteed by an agreement

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signed by the owner of the premises or his duly authorized agent in substantially the following form:

In consideration of the acceptance of the application for water service submitted by _____ (tenant), I or we will pay for all water services for any such tenant or any other occupant of _____ premises in case such tenant or occupant shall fail to pay for the same according to the ordinances, rules regulations or resolutions enacted by the municipality.

Dated this _____ day of _____, 20____.

(Owner)

Section 14-117 Rates and Connection Fees

The rates, penalty fee for delinquency in payment, connection fee, reservoir fee, inspection fee and other charges incidental to connection and services from the municipal water system shall be fixed from time to time by resolution enacted by the governing body. The governing body may from time to time promulgate rules for levying, billing, guaranteeing and collecting charges for water services and all other rules necessary for the management and control of the water system. Rates for services furnished shall be uniform with respect to each class or classes of service established or that may hereafter be established.

Section 14-117.1 Security Deposits

- A. Applicants for culinary water service who are not the owners of the real property upon which the requested service is intended to be used shall deposit the sum of \$50 with the City Treasurer as security for payment of culinary water charges incurred by such user.
- B. The security deposit shall be returned to the depositor, together with the interest thereon at the rate of 9% per annum computed annually,

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after the closing and final billing has been determined and paid or upon request after five consecutive years of payment without delinquency.

- C. The amount of the security deposit required herein or rate of interest payable thereon may be amended from time to time by resolutions of the City Council.

Section 14-118 Special Rates

The governing body may from time to time fix by agreement or resolution special rates and conditions for users using exceptionally large amounts of water service or making use of the water system under exceptional circumstances, upon such terms and conditions as they may deem proper.

Section 14-119 Board of Equalization, Rates, and Rebates

The governing body is hereby constituted a board of equalization of water rates to hear complaints and make corrections of any assessments deemed to be illegal, unequal, or unjust. They may, if they see fit, rebate all or any part of the water bill of any indigent person.

Section 14-120 Use without Payment Prohibited

It shall be unlawful for any person by himself, family, servants, or agents to utilize the municipal water or sewer system without paying therefor, as herein provided or, without authority, to open any fire hydrant, stopcock, valve, or other fixtures attached to the system of water supply unless it is done pursuant to proper application, agreement, or resolution. It shall be unlawful to injure, deface, or impair any part or appurtenance of the water or sewer system, or to cast anything into any reservoir or tank belonging to the water system.

Section 14-121 Delinquency-Discontinuance of Service

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- A. The recorder/clerk or water supervisor shall furnish to each user, or mail to, or leave at his place of residence or usual place of business, a written or printed statement stating thereon the amount of water service charges assessed against him once each month or at such other regular interval as the governing body shall direct.
- B. The statement shall specify the amount of the bill for the water service and the place of payment and date due. If any person fails to pay the water charges on or before the date due, the recorder/clerk or water supervisor shall give the customer notice in writing of intent to discontinue the service to the customer unless the customer pays the bill in full within ten (10) days from the date of notice.
- C. If the water service is thereafter discontinued for failure to make payment, then before the water service to the premises shall again be provided, all delinquent water charges must have been paid to the treasurer or arrangements made for their payment in a manner satisfactory to the municipality. In the event water is turned off for nonpayment of water charges, then before the water service to the premises shall again be provided, the customer shall pay, in addition to all delinquent water charges, such extra charge for turning the water on and off as the governing body may have established by resolution. Until such a resolution has been adopted, there shall be added an extra charge of \$40.00 for turning on the water. Furthermore, in addition to such payments and penalties, a delinquent customer may be required to make and file a new application and deposit if the previous deposit has theretofore been applied to the payment of delinquent bills. The recorder/clerk is hereby authorized and empowered to enforce the payment of all delinquent water charges by an action at law in the name of the municipality.

Section 14-122 Turning On Water after Being Turned Off Prohibited

It shall be unlawful for any person, after the water has been turned off from the premises for nonpayment of water charges or other violation of

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the ordinances, rules, regulations, or resolutions pertaining to the water supply, to turn on or allow the water to be turned on or used without authority from the superintendent or recorder/clerk.

Section 14-123 Separate Connections

It shall be unlawful for two or more families or service users to be supplied from the same service pipe, connection or water meter unless special permission for such combination usage has been granted by the governing body and the premises served are owned by the same owner. In all such cases, a failure on the part of any one of the users to comply with this section shall warrant a withholding of a supply of water through the service connection until compliance or payment has been made, and in any event, the property owner shall be primarily liable to the municipality to require separate pipes, connections, or meters at a subsequent time.

Section 14-124 Unauthorized Users

It shall be unlawful for any water service user to permit any person from other premises or any unauthorized person to use or obtain water services regularly from his premises or water facilities, either outside or inside his premises.

Section 14-125 Period for Visitors

Individuals visiting the premises of an authorized user in a recreational vehicle not including a mobile home and continuing to live therein during the period of visitation may receive water service from the service pipes or facilities of the host during the visitation period which shall not exceed one month. Continued use thereafter shall be deemed unauthorized and violative of the provisions of his part relating to separate connections and unauthorized use.

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Section 14-126 Pipes to Be Kept In Good Repair

All users of water services shall keep their service pipes and connections and other apparatus in good repair and protected from frost at their own expense. No person except under the direction of the water superintendent shall be allowed to dig into the street for the purpose of laying, removing, or repairing any service pipe.

Section 14-127 Quality of Service Pipe

- A. All service and other pipe used in conjunction with the water services of the municipality shall be of such material, quality, and specifications as the governing body may from time to time by resolution provide, and shall be installed at such distances below the ground as may be specified by regulations relating to the water department. All work, alterations, or extensions affecting water pipes shall be subject to the acceptance of the water superintendent, and no connections with any water mains shall be made without first obtaining a permit therefor from the recorder/clerk.
- B. No consumer shall be permitted to conduct water pipes across lots or buildings to adjoining premises without permission from the water superintendent and subject to such requirements relating to controls as may be imposed by him.

Section 14-128 Faulty Equipment

It shall be unlawful for any water user to:

- A. Waste water.
- B. Allow it to be wasted by stops, taps, valves, leaky joints or pipes or to allow tanks or watering troughs to leak or overflow.
- C. Wastefully run water from hydrants, faucets, or stops or through basins, water closets, urinals, sinks, or other apparatus.

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- D. Use the water for purposes other than for those which he has applied, or to use water in violation of the rules and regulations for controlling the water supply.

Section 14-129 Sprinkling Vehicles

Vehicles for sprinkling shall be regulated and controlled by the water department through the superintendent of the water department.

Section 14-130 Department To Have Free Access

The water superintendent and his agents shall at all ordinary hours have free access to any place supplied with water services from the municipally system for the purpose of examining the apparatus and ascertaining the amount of water service being used and the manner of its use.

Section 14-131 No liability for Damages

The municipality shall not be liable for any damage to a water service user by reason of stoppage or interruption of his or her water supply service caused by fires, scarcity or water, accidents to the water system or its mains, or which occurs as the result of maintenance and extension operations, or from any other unavoidable cause. This section shall not be construed to extend the liability of the municipality beyond that provided in the Governmental Immunity Act.

Section 14-132 Water Not Supplied for Motors, Siphons, Etc.

No water shall be supplied from the pipes of the municipal water system for the purpose of driving motor, siphon, turbine, or other wheels, or any hydraulic engines, or elevators, or for driving or propelling machinery of any kind whatsoever, nor shall any license be granted or issued for any such purpose except by special permission of the governing body.

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Section 14-133 Sprinklers

- A. It shall be unlawful for any person to use such number of outlets simultaneously or to use such sprinkler or combinations of sprinkler or outlets as will in the opinion of the governing body materially affect the pressure or supply of water in the municipal water system or any part thereof, and the governing body may from time to time, by resolution, specify combinations or numbers of outlets which may have such effect.
- B. The governing body shall, after determining that such improper use exists, notify the affected water user or the owner of the premises whereon such use occurs of such determination in writing, order such use discontinued and advise that such continues usage constitutes a violation of this part.

Section 14-134 Scarcity of Water

In time of scarcity of water, whenever it shall in the judgment of the mayor and the governing body be necessary, the mayor shall by proclamation limit the use of water to such extent as may be necessary. It shall be unlawful for any person, his family, servants, or agents, to violate any proclamation made by the mayor in pursuance of this part.

Section 14-135 Waste of Water

- A. Users of water from the municipal water system shall not permit water to continue to run wastefully and without due efforts to conserve water. If, in the judgment of the water superintendent or of any of the officers of the municipality, user of municipal water engages in practices which result in the needless waste of water and continues so to do after reasonable notice to discontinue wastefulness has been given, the superintendent or any officer may refer the matter to the governing body.
- B. The governing body may thereupon consider terminating the right of the individual to use culinary water. If it elects to consider the matter

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of termination, it shall give notice to the water user of the intention to terminate his water connection at least five days prior to the meeting of the governing body at which termination of water service is to be considered. The notice shall inform him of the time and place of the meeting and of the charges which lead to the consideration of the termination.

- C. A water user whose right to utilize municipal water is being reviewed shall have opportunity to appear with or without counsel and present his reasons why his water service should not be discontinued.
- D. After due hearing the governing body may arrive at a determination. If the determination is to discontinue the wasteful water user's service connection, it shall notify him of the decision and of the period during which the service will remain discontinued.

Section 14-136 Water Meters

- A. Except as otherwise expressly permitted by this part, all structures, dwelling units, establishments and persons using water from the municipal water system must have such number of water meters connected to their water system as are necessary in the judgement of the superintendent to adequately measure use and determine water charges to the respective users.
- B. Meters will be furnished by the municipality upon application for a connection, and upon payment of such connection fees and other costs as may be established by the governing body from time to time.
- C. Meters shall be deemed to be and remain the property of the municipality. Whenever a dispute between superintendent and the property owner arises as to the appropriate number of meters to be installed on any premises, the matter shall be heard and determined by the governing body after due notice in writing to the parties involved.

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- D. The superintendent shall cause meter readings to be taken regularly and shall advise the recorder/clerk thereof for the purpose of recording the necessary billings for water service.
- E. Meters may be checked, inspected or adjusted at the discretion of the municipality, and they shall not be adjusted or tampered with by the customer. Meter boxes shall not be opened for the purpose of turning on or off the water except by an authorized representative of the municipality unless special permission is given by the municipality through its representatives to the customer to do so.
- F. If a customer submits a written request to the superintendent to test his water meter, the municipality may, if under the circumstances it deems it advisable and in its discretion, order a test of the meter measuring the water delivered to such customer. If such request is made within twelve months after the date of the last previous test, the customer may be required to pay the cost of such test. If the meter is found in such test to record from 97% to 103% of accuracy under methods of testing satisfactory to the governing body, the meter shall be deemed to accurately measure the use of water.
- G. If the municipality's meters fail to register at any time, the water delivered during the period of failure shall be estimated on the basis of previous consumption during a period which is not questioned. In the event a meter is found to be recording less than 97% or more than 103% of accuracy, the municipality shall make such adjustments in the customer's previous bills as are just and fair under the circumstances.
- H. All damages or injury to the lines, meter, or other materials of the municipality on or near the customer's premises caused by any act or neglect of the customer shall in the discretion of the municipality be repaired by and at the expense of the customer, and the customer shall pay all costs and expenses, including a reasonable attorney fee, which may arise or accrue to the municipality through its efforts to repair the damage to the lines, meters, or to other equipment of the department or collect such costs from the customer.

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Section 14-137 Permits for Installation

It shall be unlawful for any person to lay, repair, alter, or connect any water line to the municipal culinary water system without first having received a construction permit from the office of the recorder/clerk or from the water superintendent.

Section 14-138 Applications for Installation Permit

A. Applications for permits to make water connections or other alteration or for laying or repairing lines connected directly or indirectly to the municipal water system must be made in writing by a licensed plumber, his authorized agent, or by the owner of the premises who shall describe the nature of the work to be done for which the application is made.

The application shall be granted if the superintendent determines that:

1. The connection, repair, alteration or installation will cause no damage to the street in which the water main is laid, or that it will not be prejudicial to the interests of persons whose property has been or may thereafter be connected to the water main.
2. The connection conforms to the ordinances, regulations, specifications and standards of materials required by the municipality.
3. That the applicant has a current valid building permit for the lot which he is requesting the water connection.
4. The minimum monthly water fee shall begin when the applicants permit is granted for the installation o the water meter. All connections, alterations or installations shall be to the line and grade designated by the water superintendent.

B. Fees for permits or for inspection services shall be of such amounts as the governing body shall from time to time determine by resolution.

This Ordinance shall be effective immediately from its publication.

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Section 14-139 Moving or Replacement of Water Lines

In the event that the municipality in its sole discretion determines that any water line of the municipality must be moved or replaced, the municipality shall bear that portion of the cost of such move or replacement which applies to main lines up to the property line of the customer. The cost of re-connecting such new line or lines from the house of the customer to his property lines shall be borne by the customer.

Section 14-140 When Permits Shall Not Be Issued

Permission to connect with the municipal water system shall not be given unless the plumbing in the house or building to be connected meets the provisions of the building and plumbing codes of the municipality.

Section 14-141 Discontinuance of Service

Any customer desiring to discontinue service shall notify the municipality in writing of such fact at least ten days before the date when such service shall be discontinued. On giving such written notice, the customer shall not be responsible for water bill incurred after the date specified in the notice. Any credit balance in favor of the customer as a result of an advance payment of bills or a deposit made will be refunded upon discontinuance of service.

Section 14-141.1 Temporary Discontinuance of Service

- A. In the event a customer discontinues his services as provided in 14-141, and at the time of discontinuance of service said user indicates the discontinuance of service will be temporary the municipality shall, in its discretion, have the water meter physically removed.
- B. A customer shall be charged a fee of \$50.00 for reinstallation of a water meter removed pursuant to this Section, or for re-connection

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of water at the customer's address in the event the water meter was not physically removed.

- C. The fee charged in this ordinance may be amended from time to time by resolution of the City Council.

Section 14-142 Fire Hydrants

Water for fire hydrants will be furnished free of charge by the municipality. Installation and repairs on such hydrants shall be at the expense of the municipality and shall be made under the direction of the municipality. All customers shall grant the municipality, upon demand, a right-of-way or easement to install and maintain such hydrants on their premises if the municipality concludes that hydrants shall be so installed for the protection of the residents of the municipality.

Section 14-143 Extension of Water Mains within the Municipality

Any person or persons, including any sub-divider, who desires to have the water-mains extended within the municipality, and is willing to advance the whole expense of such extension and receive the return of an agreed portion thereof, as hereinafter provided, may make application to the governing body by petition. The petition shall contain a description of such proposed extension accompanied by a map showing the location of the proposed extension together with an offer to advance the whole expense thereof, which cost shall be verified by the water superintendent. The governing body may grant or deny the petition as in its discretion seems best for the welfare of existing water users in the municipality.

Section 14-144 Cost of Extensions Determined

Upon the receipt of such petition and map and before the petition is granted, the governing body shall obtain from the water superintendent a certified statement showing the whole cost of expense of making such extension.

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Section 14-145 Amount of Cost to Be Deposited With Recorder

If the governing body grants the petition, the amount of the cost of making the extension, as certified by the superintendent shall be deposited with the recorder/clerk before any work shall be done on such extension. The deposit shall be made within 30 days, or such other time as the governing body shall indicate, after the granting thereof.

Section 14-146 Return of Any Money-Forfeiture

- A. At the time the governing body decides whether or not to grant petition for an extension, it shall also decide whether or not any portion of the costs is to be refunded and the manner and circumstances under which such refund shall be made or credited to the applicant, his successors or representatives. Such determination shall be duly recorded in writing and a copy thereof furnished to the applicant.
- B. In the event any deposit remains unclaimed for a period of five years after the depositor has discontinued water service, the deposit may be forfeited and then transferred to the water utility fund.

Section 14-147 Ownership of Extension

Any such extension shall be deemed the property of the municipality.

Section 14-148 Water Meter Relocation

- A. Any person who has applied for a water connection to the City's water supply, but has not installed the water meter may transfer his rights under said application to any other person or to an entirely different location.
- B. The transfer of such rights as are provided in this Ordinance shall not be allowed after the water meter has been installed. The right to

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transfer said installation rights shall terminate once work has commenced to install the said water meter.

- C. Any property owner may have his water meter relocated on the same lot or to an adjoining parcel of property where said meter will service the original residence. The property owner requesting the relocation shall be charged for the actual cost of labor and materials in relocating the water meter and any water lines necessary in making the change.
- D. Water meter relocations provided for in this Ordinance shall be prohibited in all subdivisions which are not in compliance with City, County or State law.
- E. Any property owner connected to the City's water supply, shall be required to have his water meter located on or near the same lot, where said meter will service the customer. The municipality in its sole discretion will determine the exact location of said meter. The property owner requiring the relocation shall be charged for the actual cost of labor and materials in relocating the water meter and any water lines.

Section 14-150 Service Outside Municipality

Section 14-151 Supply of Water Services to Person outside the Municipal Limits

The municipality may furnish water service from its water system to persons outside the municipality in accordance with the provisions of this part.

Section 14-152 Petitions for Service

Any person located outside the municipal limits who desires to be supplied with water services from the municipal water system and is willing to pay in advance the whole expense of extending the water system to his

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property, including the cost of extending any water main beyond its present location, may make application to the governing body by petition containing:

- A. A description of the proposed extension.
- B. A map showing the location thereof.
- C. An offer to pay the whole expense incurred by the municipality in providing such extension and to advance such expense as shall be verified to by the water superintendent. The governing body and the person or persons seeking such extension may enter into an agreement providing in detail the terms under which the extension may be utilized by others in the future and the terms under which all or any portion of the cost of installing such extension may be refunded.
- D. An acknowledgment that the municipality is granting the petition need supply only such water to the petitioner which from time to time the governing body deems beyond the requirements of water users within the municipal limits, and that such extension shall be the property of and subject to the control of the municipality.

Section 14-153 Extensions May Be Master Metered

When an extension supplying more than one house or user outside the municipal limits is connected to municipal water mains, the water superintendent may require a master meter to be installed near the point where the connection is to be made to the municipal main. This installation will be at the expense of the persons served by such extension according to the regular rates for meter installation. Responsible parties must agree to pay all bills for water served through the meter at the applicable water rates.

Section 14-154 Cost of Extensions to Be Determined By Water Superintendent

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Upon receipt of such petition and map and before the petition is granted, the governing body shall determine what portion, if any, of the extension of the municipal water mains to the municipal limits the municipality shall construct, and shall obtain from the water superintendent a verified statement showing the whole cost and expense of making such extension. Such costs and expenses shall include administrative and supervisory expenditures of the municipal water department, which shall in no event be deemed to be less than ten percent of the cost of materials and labor.

Section 14-160 Back Flow and Cross Connections

Section 14-161 Purpose

This Ordinance is enacted:

- A. To protect the public potable water supply of Kanab City from the possibility of contamination or pollution by isolating within the customer's internal distribution system(s) such contaminants or pollutants which could backflow into the public water system either by back-pressure or back-siphon.
- B. To eliminate or control existing cross-connections, actual or potential, between the customer's in-plant potable water system(s), and non-potable water system(s), plumbing fixtures and industrial piping system(s).
- C. To provide for the maintenance of a continuing program of cross connection control which will systematically and effectively prevent the contamination or pollution of all potable water systems.

Section 14-162 Definitions

- A. Approved Backflow Assembly:

Approved Backflow Assembly shall mean that assembly which is accepted by the Utah Department of Health as meeting an applicable specification or as suitable for the proposed use.

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B. Auxiliary Water Supply:

Auxiliary Water Supply shall mean any water supply on or available to the premises other than Kanab City's public water supply. These auxiliary waters may include water from another public potable water supply or any natural sources such as a well, spring, river, stream, etc., or "used waters" or "industrial fluids". These waters may be contaminated or polluted or they may be objectionable and constitute an unacceptable water source over which Kanab City does not have authority for sanitary control.

C. Backflow:

Backflow shall mean the reversal of the normal flow of water caused by either back-pressure or back siphon.

D. Back-Pressure:

Back-Pressure shall mean the flow of water or other liquids, mixtures, or substances under pressure into the distribution pipes of a potable water supply system from any source other than the intended source.

E. Back-Siphon:

Back-Siphon shall mean the flow of water or other liquids, mixtures, or substances into the distribution pipes of a potable water supply system from any source other than the intended source, caused by the reduction of pressure in the potable water supply system.

F. Backflow Prevention Assembly:

Backflow Prevention Assembly shall mean an assembly or means designed to prevent backflow. Specifications for backflow prevention assemblies are contained within the Utah Plumbing Code, Chapter 10, (Appendix J), and replacements thereof, and the cross Connection Control Program for Utah. All backflow prevention assemblies shall be approved by the Utah Department of Health prior to installation. A listing of these approved backflow prevention assemblies is available from the Utah Department of Health.

G. Contamination:

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Contamination shall mean an impairment of the quality of the potable water supply by sewage, industrial fluids, water liquids, compounds or other materials to a degree which creates an actual or potential hazard to the public health through poisoning or through the spread of disease.

H. Cross Connection:

Cross Connection shall mean any physical connection or arrangement of piping or fixtures between two otherwise separate piping systems, one of which contains potable water and the other non-potable or industrial fluids of questionable safety, through which, or because of which, backflow may occur into the potable water system. This shall include any temporary connections, such as swing connections, removable sections, four way plug valves, spools, dummy section or pipe, swivel or change-over device or sliding multiport tubes.

I. Cross Connection - Controlled:

Cross Connection - Controlled shall mean a connection between a potable water system and a non-potable water system with an approved backflow prevention assembly properly installed and maintained so that it will continuously afford the protection commensurate with the degree of hazard.

J. Cross Connection - Containment:

Cross Connection - Containment shall mean the installation of an approved backflow assembly at the water service connection to any customer's premises where it is physically and economically unfeasible to find and permanently eliminate or control all actual or potential cross connections within the customer's water system. It shall also include isolation by the installation of an approved backflow prevention assembly on the service line leading to and supplying a portion of a customer's water system where there are actual or potential cross connections which cannot be effectively eliminated or controlled at the point of the cross connection.

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Section 14-163 Contamination and Backflow Prevention

It shall be unlawful for any person having control in any degree over any premises, or for any user of potable water supplied by the City to permit the existence or occurrence of:

- (1) back-pressure or back siphon causing contamination,
- (2) backflow, or
- (3) contamination of the City potable water by an auxiliary water supply.

It shall be unlawful for any person having control in any degree over any premises, or for any user of potable water supplied by the City to allow cross connection of the City potable water system with any auxiliary water supply or other plumbing system which contains fluids not originating within the City potable water system, unless such cross connection is made with an approved backflow prevention assembly in compliance with this ordinance.

Each Kanab City water system customer shall be responsible for the protection of the public potable water distribution system from contamination or pollution due to the backflow of contaminants or pollutants through its water service connection. If, in the judgment of the Kanab City Council an approved backflow prevention assembly is required (at the customer's water service connection or within the customer's private water system) for the safety of the water system, the Water Superintendent shall give notice in writing to said customer to install such an approved backflow prevention assembly(s) at specific location(s) on his premises. The customer shall immediately install such approved assembly(s) at the customer's own expense and failure, refusal or inability on the part of the customer to install, have tested and maintain said assembly(s) shall constitute grounds for discontinuing water service to the premises until such requirements have been satisfactorily met.

Section 14-164 Water Service Connection

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No water service connection to any premises, including an auxiliary water supply connection, shall be installed or maintained by the Kanab City Water Superintendent unless the water supply is protected as required by the State and local laws, regulations, codes, and this ordinance.

Section 14-165 Cross-Connection Prevention

- A. The Building Inspector in reviewing building plans and inspecting plumbing as it is installed shall prevent cross connections from being designed and built. Where the review of building plans suggests or detects the potential for a cross connection being made an integral part of the plumbing system, the building inspector shall require such cross connections be either eliminated or provided with an approved backflow prevention assembly in accordance with the applicable codes.
- B. The building inspector's authority to review and specify shall begin at the point of service (the downstream side of the meter) and carry throughout the entire length of the customer's water system. The building inspector shall inquire about the intended use of water at any point where it is suspected that a cross connection might be made or where one is actually called for by the plans. When such a cross connection is discovered, it shall be mandatory that a suitable, approved backflow prevention assembly be required by the plans and be properly installed, in accordance with the applicable codes.

Section 14-166 Installation of Backflow Prevention Assembly

Installation of an approved backflow prevention assembly shall be installed on each service line to a customer's water system, at or near the property line or immediately inside the building being served. In all cases, the assembly shall be installed before the first branch line leading off the service line.

Section 14-167 Specifications for Backflow Prevention Assemblies

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Backflow prevention assemblies shall be installed in water supply lines to provide at least the degree of protection stipulated in the Utah Plumbing Code, Chapter 10 (Appendix J) or replacements thereof. All backflow prevention assemblies shall be exposed for easy observation and be readily accessible.

Section 14-168 Maintenance of Backflow Prevention Assembly

It is the responsibility of the person or persons (including owners and lessees) having control of backflow prevention assemblies installed in a potable water supply system for protection against backflow to assure that such assemblies are maintained in good working condition. Upon inspection, any assembly found to be defective or inoperative shall be replaced or repaired. No assembly shall be removed from use, relocated, or substituted without the approval of the Water Superintendent.

Section 14-169 Testing Of Backflow Prevention Assemblies

- A. Only Certified Backflow Assembly Technicians shall do the testing, maintenance and/or repair of backflow prevention assemblies. The Certified Technician shall tag each double check valve, pressure vacuum breaker, reduced pressure backflow assembly and air gap, showing the serial number of the assembly, date tested and by whom. The technician's license number shall also be on this tag. Tests are made according to the regulations set forth by the State Department of Health, Bureau of Drinking Water/Sanitation.
- B. A technician making any test shall report the results of that test to the customer, the Kanab City Water Superintendent and the Bureau of Drinking Water/Sanitation. If such a commercial tested assembly is in need of repair, a licensed plumber shall make the actual repair as required by Utah Code Ann. 58A-2-5-(3).
- C. Backflow prevention assemblies shall be inspected and tested at least once per year at the expense of the owner, lessee or user of the premises. In those instances where the Water Superintendent deems

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the hazard to be great, he may require certified inspections and tests at a more frequent interval. These inspections and tests shall be performed by a Certified Backflow Assembly Technician.

- D. All backflow prevention assemblies shall be tested within ten (10) working days of initial installation.
- E. No backflow prevention assembly shall be installed so as to create a safety hazard or in violation of any plumbing, building or other code.

Section 14-170 Nonconforming Backflow Prevention Assemblies

All presently installed backflow prevention assemblies which do not meet the requirements of this section but were approved assemblies for the purposes described herein at the time of installation and which have been properly maintained, shall, except for the inspection and maintenance requirements under this ordinance, be excluded from the requirements of these rules if the Water Superintendent determines they will satisfactorily protect the public water system. The unit shall be replaced by an approved backflow prevention assembly meeting the requirements of this ordinance whenever the existing assembly is moved from the present location or requires more than minimum maintenance, or when the Water Superintendent finds that the maintenance of this assembly constitutes a hazard to health.

Section 14-171 Water System Inspection

The customer's system shall be open for inspection at all reasonable times to the Water Superintendent to determine whether cross connections or other structural or sanitary hazards, including violations of this ordinance, exist. When such a condition becomes known, the Water Superintendent shall deny or immediately discontinue service to the premises by providing a physical break in the service line until the customer has corrected the condition in conformance with the State and City statutes relating to plumbing, water supplies and the regulations adopted pursuant thereto.

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Section 14-172 Discontinuance of Service

Service of water to any premises shall be discontinued by the Water Superintendent if any violation of this ordinance is suspected, or if a backflow prevention assembly required by this ordinance for control of backflow and cross connections is not installed, tested, and maintained, or if it is found that a backflow prevention assembly has been removed, bypassed, or if an unprotected cross connection exists on the premises. Service shall not be restored until such conditions or defects are corrected.

Section 14-173 Enforcement

The Kanab City Water Superintendent is invested with the authority and responsibility for the implementation of an effective cross connection control or cross connection containment program and for the enforcement of the provisions of this ordinance.

Section 14-200 Sewers

Section 14-210 Administration

Section 14-211 Sewer Department and System

The sewer department is hereby created. It shall comprise all of the property, equipment and personnel necessary to the maintenance and operation of the municipality's sewage collection and disposal system. The department shall administer the operation and maintenance of the municipal water system.

Section 14-212 Superintendent of the Sewer Department

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There is hereby created the position of superintendent of the sewer department.

Section 14-213 Duties of the Superintendent

The superintendent of the sewer department shall manage and supervise the municipality's sewer system under the direction of the governing body which from time to time shall by resolution or otherwise prescribe his powers and duties and direct the manner and frequency with which he shall make reports to the mayor relating to the sewer system.

Section 14-214 Application for Sewer Service

Any person who desires or is required to secure sewer service when such service is available from the municipal sewer systems shall apply therefor to the recorder/clerk and file an agreement with the municipality which shall be in substantially the below stated form:

APPLICATION FOR SEWER SERVICE

(Date)

TO THE MUNICIPALITY OF KANAB:

The undersigned hereby applies for sewer services from the municipality for premises located at _____ and hereby agrees to pay charges for such sewer services as shall be fixed by the governing body of the municipality by resolution or ordinance until such time as I shall direct such service to be discontinued.

In the event of a failure to pay for this service within the due dates fixed by the governing body or of a failure of the occupant of the premises to conform to the ordinances and regulations established by the governing body relating to the use of the sewer system, the municipality shall have the right to discontinue my water service from the municipal water system until all delinquencies and any re-connection fees imposed are

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paid in full or until any failure to conform to the sewer ordinances or regulations issued thereunder is eliminated.

Additionally, I agree that the municipality shall have the right to institute collection proceedings by all means available to it, including suit in a court of proper jurisdiction. The applicant agrees to pay all costs of collection including court costs and attorney's fees.

The undersigned agrees to be bound by the rules, regulations, resolutions, or ordinances enacted or adopted by the governing body of the municipality applicable to the municipality's sewer system.

(signed)

Section 14-215 Non-Owner Applicants - Agreement by Owner

Applications for sewer services made by the tenant or an owner must in addition to the above requirement be guaranteed by an agreement signed by the owner of the premises or his duly authorized agent to the following effect:

In consideration of the acceptance of the application for sewer service submitted by (any present or future tenant) _____, I, or we, will pay for all sewer services furnished to such tenant, or other occupant of _____ (premises) , in case such tenant or occupant shall fail to pay for the same according to the ordinances, resolutions, rules or regulations of the municipality.

(Owner)

Section 14-216 Rates and Connection Fees

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The rates, penalty fee for delinquency in payment and connection fees for sewer services from the municipal sewer system shall be fixed from time to time by resolution or ordinance of the governing body. The governing body may from time to time enact rules for levying, billing, guaranteeing and collecting charges for sewer services and all other rules necessary for the management and control of the sewer system.

Section 14-216.1 Service Charge Procedure

- A. **PURPOSE** - The purpose of this ordinance shall be to generate sufficient revenue to pay all costs for the operation and maintenance of the complete wastewater system. The costs shall be distributed to all users of the system in proportion to each user's contribution to the total loading of the treatment works. Factors such as strength (BOD and TSS), volume, and delivery flow rate characteristics shall be considered and included as the basis for the user's contribution to ensure a proportional distribution of operation and maintenance costs to each user (or user class).
- B. **ANNUAL COST OF OPERATION AND MAINTENANCE** - The City of Kanab, or its City Engineer, shall determine the total annual costs of operation and maintenance of the wastewater system which are necessary to maintain the capacity and performance, during the service life of the treatment works, for which such works were designed and constructed. The total annual cost of operation and maintenance shall include, but need not be limited to labor, repairs, equipment replacement, maintenance, necessary modifications, power, sampling, laboratory tests, and a reasonable contingency fund.
- C. **WASTEWATER CONTRIBUTION PERCENTAGE** - The City of Kanab, or its City Engineer, shall determine for each user or user class the average daily volume of wastewater discharged to the wastewater system, which shall then be divided by the average daily volume of all wastewater discharged to the wastewater system to determine such user's volume contribution percentage. The amount used as the

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total average daily volume of wastewater shall exclude infiltration and inflow. The City of Kanab, or its City Engineer, shall determine for each user or user class the average daily poundage of 5-day 20-degree Centigrade Biochemical Oxygen Demand (BOD) discharged to the wastewater system which shall then be divided by the average daily poundage of all 5-day BOD discharged to the wastewater system to determine such user's BOD contribution percentage.

1. The City of Kanab, or its City Engineer, shall determine for each user or user class the average daily total suspended solids (TSS) poundage discharged to the wastewater system which shall then be divided by the average daily poundage of all TSS discharged to the wastewater system, to determine such user's TSS contribution percentage. The volume contribution percentage, BOD contribution percentage and TSS contribution percentage for each user or user class shall be multiplied by the annual operation and maintenance costs for wastewater treatment of the total volume flow, total 5-day 20-degree centigrade BOD and total TSS, respectively.
- D. SURCHARGE FOR EXCESS BOD AND TSS - The City of Kanab, or its City Engineer, will assess a surcharge rate for all nonresidential users discharging wastes with BOD and TSS strengths greater than the average residential user. Such users will be assessed a surcharge sufficient to cover the cost of treating their above-normal strength wastes. Normal strength wastes are considered to be 120 ppm BOD and 150 ppm TSS. The surcharge rate structure for such above-normal strength waste dischargers is attached (Appendix A). *See Title 14-000 Pg. 38.*
- E. SERVICE CHARGE - Each non-residential user's wastewater treatment cost contributions as determined in Sections 3 and 4 shall be added together to determine such user's annual wastewater service charge. Residential users may be considered to be one class of user and an equitable service charge may be determined for each user based on the estimate of the total wastewater contribution of this class of user. The governing body may classify industrial, commercial, and other

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non-residential establishments as a residential user, provided that the wastes from these establishments are equivalent to the wastes from the average residential user with respect to volume, total suspended solids, and BOD. Each user's wastewater treatment cost contribution will be assessed in accordance with the attached rate schedule (Appendix B). *See Title 14-000 Pg. 39.*

- F. WASTEWATER FACILITIES REPLACEMENT FUND - A reserve fund called the Wastewater Facilities Replacement Fund is hereby established within the wastewater utility fund for the purpose of providing sufficient funds to be expended for obtaining and installing equipment, accessories and appurtenances during the useful life (20 years) of the wastewater treatment facilities necessary to maintain the capacity and performance for which such facilities are designed and constructed (Appendix C). *See Title 14-000 Pg. 39.*
- G. PAYMENT OF SERVICE CHARGE AND PENALTIES - The City shall submit an annual statement to the user for the user's annual wastewater service charge or one-twelfth of the user's annual wastewater service charge may be included with the monthly water and/or wastewater utility billings. The City shall add a penalty of \$5.00 if the payment is not received by the City within 60 days. Should any user fail to pay the user wastewater service charge and penalty within 60 days of the due date, the City may stop the wastewater service to the property.
- H. REVIEW OF SERVICE CHARGE - The City shall review the total annual cost of operation and maintenance as well as each user's wastewater contribution percentage not less often than every two years and will revise the system as necessary to assure equity of the service charge system established herein and to assure that sufficient funds are obtained to adequately operate and maintain the wastewater treatment works. The City shall apply excess revenues collected from a class of users to the costs of operation and maintenance attributable to that class for the next year and adjust the rate accordingly. If a significant user, such as an industry, has completed in-plant modification which would change that user's wastewater

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contribution percentage, the user can present, at a regularly scheduled meeting of the governing body, such factual information and the City shall then determine if the user's wastewater contribution percentage is to be changed. The City shall notify the user of its findings as soon as possible.

- I. NOTIFICATION - Each user will be notified, at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to wastewater treatment services.
- J. WASTES PROHIBITED FROM BEING DISCHARGED TO THE WASTEWATER TREATMENT SYSTEM - The discharge of any waters containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly, or by interaction with other wastes, to contaminate the sludge of any municipal systems, or to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisances, or create any hazard in or have an adverse effect on the waters receiving any discharge from the treatment works is hereby prohibited.
 - 1. Each user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge of the Kanab City Treatment Works shall pay for such increased costs.
 - 2. (Article No. V of the City's "Regulation of Sewer Use" ordinance contains additional requirements covering the use of the City's public sewers.)
- K. PROHIBITION OF CLEAR WATER CONNECTIONS - No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
- L. PROPER DESIGN AND CONSTRUCTION OF NEW SEWERS AND CONNECTIONS - The size, slope, alignment, materials of construction of all sanitary sewers and sewer connections, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the

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building and plumbing code or other applicable rules and regulations of the City of Kanab and the State of Utah. In the absence of code provision or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9 shall apply.

1. (Article No. IV of the City's "Regulations of Sewer Use" ordinance contains additional requirements covering the proper design and construction of the City's sanitary sewers, building sewers, and connections.)
- M. VALIDITY - All ordinances or parts of ordinances in conflict herewith are hereby repealed.
- N. ORDINANCE IN FORCE - This ordinance shall be in full force and effect from and after its passage, approval, recording, and publication as provided by law.

APPENDIX A

SURCHARGE RATE SCHEDULE FOR ABOVE-NORMAL STRENGTH WASTES

The City of Kanab, or its Engineer, has determined that the average total suspended solids (TSS) and 5-day biochemical oxygen demand (BOD) daily loadings for the average residential user are 120 ppm BOD and 150 ppm TSS. The City of Kanab, or its Engineer, has assessed a surcharge rate for all non-residential users discharging wastes with BOD and TSS strengths greater than the average residential user. The surcharge will be sufficient to cover the costs of treating such users' above normal strength wastes. Such users will pay an additional service charge of 1.7 cents per 1,000 gallons for each 25 ppm over 150 ppm TSS.

APPENDIX B

RATE SCHEDULE

Residential users are considered to be one class of user and are assessed

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a charge of \$5.75 per month. Non-residential users with flows no greater than the average residential user's flow of 3,600 gallons per month and with BOD and TSS no greater than the average residential user's strength of 120 ppm BOD and 150 ppm TSS will pay the same charge of \$1.43 per population equivalent per month as the average residential user.

Non-residential users with volumes greater than the average residential user will pay an additional charge of \$0.176 per 1,000 gallons per month for all flows greater than the average residential user's flow of 3,600 gallons per month.

Any non-residential user with BOD and TSS greater than the average residential user's strength of 120 ppm BOD and 150 ppm TSS will pay a surcharge in accordance with the rates shown in the surcharge rate schedule.

APPENDIX C

WASTEWATER FACILITIES REPLACEMENT FUND SCHEDULE

The reserve fund, called the Wastewater Facilities Replacement Fund, will not be required since all components of the wastewater treatment facility have a life expectancy of at least 20 years.

Section 14-217 Special Rates

The governing body may from time to time fix by agreement or resolution special rates and conditions upon such terms as they may deem proper for users of the sewer service discharging wastes of unusual characteristics or making use thereof under exceptional circumstances.

Section 14-218 Board of Equalization, Rates and Rebates

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The governing body is hereby constituted a board of equalization of sewer rates to hear complaints and make corrections of any assessments or charges deemed to be illegal, unequal, or unjust.

Section 14-219 Delinquency - Discontinuance of Service

- A. The sewer department, or such other person as the governing body may designate, shall furnish to each user or mail or leave at his place of residence or usual place of business, a written or printed statement stating the sewer service charges assessed against him once each month or at such other regular intervals as the governing body shall direct. The statement shall specify the amount of the bill, the place of payment, and the date due.
- B. If any person fails to pay his sewer charges within 30 days of the date due, the recorder/clerk or the sewer superintendent shall give the customer notice in writing of the intent to discontinue the service of water to the premises unless the customer pays the bill in full within five days from date of notice.
- C. If the water service is thereafter discontinued for failure to make payment of the sewer service charges, before the water service to the premises shall again be provided, all delinquent sewer charges must have been paid to the municipal treasurer or arrangements made for their payment that are satisfactory to the municipality.
- D. In the event water is turned off for nonpayment of sewer charges, before the water service to the premises shall again be provided, the customer shall pay, in addition to all delinquent charges, such extra charge for turning the water on and off as the governing body may have established by resolution or ordinance.
- E. If any person fails to pay his sewer charges within 30 days of the due date, the recorder/clerk or the sewer supervisor is hereby authorized to take all action necessary to enforce collection, including but not limited to the commencement of legal proceedings in a court of proper jurisdiction seeking judgment for the amount of the

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delinquent fees and service charges and all costs of collection, including court costs and attorney's fees.

Section 14-220 Use of Sewer System Mandatory

It shall be unlawful for the owner or any other person occupying or having charge of any premises within the municipality which are located within 300 feet of a sewer main to dispose of sewage therefrom by any means other than by use of the municipal sewer system. It shall be unlawful to construct or to continue the use of any other sewage disposal system such as a privy, vault, cesspool, or septic tank on the property except by written approval of the governing body in cases of undue hardship.

Section 14-221 Qualified Plumbing Necessary

It shall be unlawful for any person to connect any drain or sewer pipe with the municipal sewer system unless the person is a duly licensed plumber or unless, in the absence of a duly licensed plumber, any proposed connection to, alteration of, or change of connection to the sewer system shall be first submitted to the sewer superintendent for review and approval. After such approval, the installation or work done shall be subject to inspection by the superintendent or his agent.

Section 14-222 Permits for Installations

It shall be unlawful for any person to directly or indirectly engage in the laying, repairing, altering or connecting of any drain or sewer pipe connected with or part of the municipal sewer system without first having received a permit from the office of the recorder/clerk or the sewer superintendent.

Section 14-223 When Permits Shall Not Be Issued

Permits to connect to the municipal sewer system shall not be issued unless the plumbing in the house or building to be connected is in

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accordance with the provisions of the building and plumbing codes of the municipality.

Section 14-224 Revocation of Permits

All construction permits for sewer connections or installations shall be issued to the plumber who is to do the work or to the owner of the property, subject to the supervision and inspection by the superintendent or his agents. The recorder/clerk or superintendent may at any time revoke a permit because of defective work or because of undue delay in completing the permitted work.

Section 14-225 Pipes to Be Kept In Good Repair

All users of the sewer services shall keep their service pipes, connections, and other apparatus in good repair and protected from frost at their own expense. No person, except under the direction of the sewer superintendent, shall be allowed to dig into the street for the purpose of removing or repairing any sewer service pipe or main.

Section 14-226 Quality of Service Pipe

All service and other pipes used in conjunction with the sewer services of the municipality shall be of such material, quality and specifications as the governing board may from time to time by resolution provide and shall be installed at such distances below ground as may be specified by regulations relating to the sewer department. All work, alterations or extensions affecting sewer pipes shall be subject to the acceptance of the sewer superintendent, and no connections with sewer mains shall be made without first obtaining a permit therefor from the recorder/clerk.

Section 14-227 Department To Have Free Access

The sewer superintendent and his agents shall at all ordinary hours have free access to places supplied with sewer services from the municipal

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system for the purpose of examining the apparatus, ascertaining the sewer service being used and the manner of its use.

Section 14-228 Trial Sewer Survey

In order to determine the feasibility of connecting a basement or proposed basement to the sanitary sewer, the owner or plumber may make application for a trial sewer survey, the cost of which shall be as established from time to time by resolution of the governing body. The result of a trial sewer survey shall not constitute a permit to connect to the sewer and is merely for information purposes.

Section 14-230 Regulation and Control of Sewer

Section 14-231 Prohibited Uses

- A. Inflammables. It shall be unlawful for any person to injure, break or remove any part or portion of any sewer appliance or appurtenance, or to discharge into a sewer any inflammable gas, gasoline or oil, any calcium carbide or residue therefrom, or any liquid or other materials or substance which will emit an inflammable gas when in contact with water, sewage or fire. Oil separators installed in any building where volatile fluids are used must not be connected directly or indirectly with a sewer.
- B. Waste pipes from enumerated establishments. The contents of waste pipes from water filters, gas engines, air compressors, vacuum or dry cleaners, garages, wash racks, stores or warehouses containing inflammable substances, car barns, buildings for the stabling or keeping of horses, cows and other animals, or plants using milk or processing milk products, and all similar establishments shall not be disposed of through connection with a sanitary sewer unless such contents are discharged into settling tanks properly trapped and vented. The construction of such tanks must be approved by the municipal engineer, and must be subject to his inspection, approval,

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or condemnation before cement is poured and at all times thereafter until completion of such construction. Upon condemnation by the municipal engineer, the sewage from the tanks shall not be allowed to flow into the sewer until satisfactory alterations have been made and the construction approved by the municipal engineer.

- C. Obstructive material. It shall be unlawful for any person to empty or discharge into the public sanitary sewer any garbage, refuse or other similar matter or substance likely to obstruct the sewer, or any substance, solid or liquid other than the waste products for which the sewer is provided.
- D. Drainage waters and destructive materials. It shall be unlawful for any person to connect with a public sanitary sewer any drain or pipe which discharges rain water, cellar or surface water, acids, alkalies, lye or other injurious liquids, or the contents of any spring, flowing well, creek, ditch, or other water courses. No boiler or heating plant shall be directly connected to the sanitary sewer. The overflow from boilers or heating plants, when cooled to a temperature not to exceed 120 degrees Fahrenheit, will be allowed to run to a sump, which sump shall be connected to the sewer. The discharge of the contents of waste pipes from water filter, gas engines, air compressors, vacuum or dry cleaner, garages, wash racks, stores or warehouses which contain inflammable substances, animals, and all similar establishments, shall not be made into or connected with a sanitary sewer, unless such contents are discharged in to settling tanks properly trapped and vented. Settling tanks shall be constructed of a material approved by the superintendent and shall be at all times subject to his inspection and approval or condemnation. Upon condemnation by the superintendent, the sewage from said tanks shall not be allowed to flow in to sewer until satisfactory alterations have been made and the construction approved by the superintendent.

Section 14-232 Regulations

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The governing body shall have power to and retains the right to adopt regulations controlling the manner and circumstances under which the sewer system may be used in addition to the regulatory provisions set forth expressly in this section.

Section 14-233 Ownership of Connecting Lines

Unless provision is expressly made for ownership of mains or lines by the owner of the adjacent property by means of written agreement, all lines and mains connecting the sewer system to a land owner or resident's premises which are situated on the public way between the main and the property line shall be deemed to be the property of the municipality and subject to its absolute control and supervision even though actual installation may have been performed by the owner or resident of the premises.

Section 14-234 Sewer Man-Holes

It shall be unlawful for any person to open any sewer man-hole without permission from the superintendent.

Section 14-235 Destruction

It shall be unlawful for any person to destroy, deface, injure, or interfere with the operation of any part or appurtenance of the sewer system.

Section 14-400 Utility Offenses

Section 14-410 Definitions

As used in this Part:

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- A. "Owner" includes any part-owner, joint owner, tenant in common, joint tenant, or tenant by the entirety of the whole or a part of any building and the property on which it is located.
- B. "Person" means any individual, firm partnership, corporation, company, association, or other legal entity.
- C. "Tenant or occupant" includes any person including the owner, who occupies the whole or part of any building whether alone or with others.
- D. "Utility" means any public utility, municipally-owned utility, or cooperative utility which provides electricity, gas, water, or sewer, or any combination of them, for sale to consumers.

Section 14-411 Interference with Utility Service

A person is guilty of interference with a utility service if he commits any of the following acts. Any person aiding and abetting in these prohibited acts is a principal and is so punishable. Prohibited acts include:

- A. connecting any tube, pipe, wire, or other instrument with any meter, device, or other instrument used for conducting gas, electricity, water, or sewer in a manner as permits the use of the gas, electricity, water, or sewer without its passing through a meter or other instrument recording the usage for billing;
- B. altering, injuring, or preventing the normal action of a meter, valve, stopcock, or other instrument used for measuring quantities of gas, electricity, water, or sewer service;
- C. reconnecting gas, electricity, water, or sewer connections or otherwise restoring service when one or more of those utilities have been lawfully disconnected or turned off by the provider of the utility service;
- D. intentionally breaking, defacing, or causing to be broken or defaced any seal, locking device, or other part of a metering device for

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- recording usage of gas, electricity, water, or sewer service, or a security system for the recording device;
- E. removing a metering device designed to measure quantities of gas, electricity, water, or sewer service;
 - F. transferring from one location to another a metering device for measuring quantities of public utility services of gas, electricity, water, or sewer service;
 - G. changing the indicated consumption, jamming the measuring device, bypassing the meter or measuring device with a jumper so that it does not indicate use or registers use incorrectly, or otherwise obtaining quantities of gas, electricity, water, or sewer service from the utility without their passing through a metering device for measuring quantities of consumption for billing purposes;
 - H. using a metering device belonging to the utility that has not been assigned to the location and installed by the utility; or
 - I. fabricating or using a device to pick or otherwise tamper with the locks used to deter utility service diversion, metering tampering, and meter thefts.

Section 14-412 Theft of Utility Service

A person is guilty of theft of a utility service if he commits any of the following acts which make gas, electricity, water, or sewer available to a tenant or occupant, including himself, without the payment of full compensation to the utility. Any person aiding and abetting in these prohibited acts is a principal and is so punishable. Prohibited acts include:

- A. connecting any tube, pipe, wire, or other instrument with any meter, device, or other instrument used for connecting gas, electricity, water, or sewer in a manner as permits the use of the gas, electricity, water, or sewer without its passing through a meter or other instrument recording the usage for billing;

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- B. altering, injuring, or preventing the normal action of a meter, valve, stopcock, or other instrument used for measuring quantities of gas, electricity, water, or sewer service;
- C. reconnecting gas, electricity, water, or sewer connections or otherwise restoring service when one or more of those utilities have been lawfully disconnected or turned off by the provider of the utility service;
- D. intentionally breaking, defacing, or causing to be broken or defaced any seal, locking device, or other part of a metering device for recording usage of gas, electricity, water, or sewer service, or a security system for the recording device;
- E. removing a metering device designed to measure quantities of gas, electricity, water, or sewer service;
- F. transferring from one location to another a metering device for measuring quantities of public utility services of gas, electricity, water, or sewer service;
- G. changing the indicated consumption, jamming the measuring device, bypassing the meter or measuring device with a jumper so that it does not indicate use or registers use incorrectly, or otherwise obtaining quantities of gas, electricity, water, or sewer service from the utility without their passing through a metering device for measuring quantities of consumption for billing purposes;
- H. using a metering device belonging to the utility that has not been assigned to the location and installed by the utility; or
- I. fabricating or using a device to pick or otherwise tamper with the locks used to deter utility service diversion meter tampering, and meter thefts.

Section 14-413 Presumption

When a device or alteration is present on property which device or alteration cause the use of utility service not to register on a meter or to

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otherwise not be recorded for payment, there shall be a presumption that the person in possession of the property installed the device or caused the alteration if:

- A. the presence of the device or alteration can be attributed only to a deliberate act in furtherance of an intent to avoid payment for utility service; and
- B. the person in possession of the property has received the direct benefit of the reduction of the cost of the utility service.

Section 14-414 Penalties

A person who violates provisions of this part is guilty of a Class B Misdemeanor.

Section 14-415 Restitution

- A. A person who violates this section shall make restitution to the utility for the value of the gas, electricity, water, or sewer service consumed in violation of this section plus all reasonable expenses and costs incurred on account of the violation of this section. Reasonable expenses and costs include expenses and costs for investigation, disconnection, re-connection, service calls, employee time, and equipment use.
- B. Criminal prosecution under this section does not affect the right of a utility to bring a civil action for redress for damages suffered as a result of the commission of any of the acts prohibited by this section.
- C. This section does not abridge or alter any other right, action, or remedy otherwise available to a utility.

Section 14-500 Uniform Utility Billing Ordinance

Section 14-501 Name

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This Ordinance shall be known as the "Uniform Utility Billing Ordinance."

Section 14-502 Billing

All charges for water, sewer and electrical services provided by the City shall be billed monthly on a combined statement (the "statement"), together with charges for solid waste collection services.

Section 14-503 Due Date

All charges billed on the statement shall be due and payable on the due date provided on the statement. The due date shall be the date printed on the statement that is mailed. Bills ordinarily will be rendered regularly at monthly intervals, but may be rendered more frequently at the Department's option. Non-receipt of bills by the Customer shall not release or diminish the obligation of the Customer with respect to payment thereof. All payments received by the City shall be allocated among the charges billed on the statement according to procedures determined by the City's independent auditor. Those procedures shall be based on requirements of the City's debt obligations and limitations in the City's computer facilities.

Section 14-504 Monthly Minimum

When a Customer receives service for less than thirty (30) days during the billing period, the applicable monthly minimum shall apply.

Section 14-505 Late Charges

A late charge equal to five percent (5%) of all charges not paid on the due date thereof is hereby assessed. The late charge shall be due and payable with all other unpaid charges.

Section 14-506 Involuntary Disconnect Procedures

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In the event any customer fails to pay all charges billed for electrical, water, and sewer services, and any late charges assessed, on or before the due date on the statement, the customer shall be subject to the following disconnect procedures:

- A. The customer shall be mailed at the customer's last known address a notice providing (1) that the customer's electrical service shall be disconnected if all delinquent charges for electrical services and all related late charges are not paid within ten (10) days of the date of the notice, and (2) that the customer's water service shall be disconnected if all delinquent charges for water and sewer services and all related late charges are not paid within ten (10) days of the date of the notice. The customer shall be informed in that notice that the customer may request a hearing to be held within that ten (10) day period to challenge the correctness of charges.
- B. In the event any portion of any bill is disputed, including questions relating to metering, the disputed amount shall be paid under protest when due. Said protest must be in written form and must be received by the Department on or before the due date of the bill in question. The protest shall be referred to the Department Manager for resolution. Upon their written determination of the amount due, the Customer may appeal to the Utility Hearing Officer. In the absence of such an appeal, the determination of the Department Manager shall be final. If protest is not made as herein provided, no adjustment will be made.
- C. The City Manager and/or his designee is hereby appointed as Utility Hearing Officer for the City. If a customer requests in writing that a hearing be held during normal business hours within that 10 day period and that writing is received by the City no later than 24 hours prior to the time for the hearing , the Utility Hearing Officer shall hold an informal hearing with the customer to determine if the charges are correct. The hearing may be continued by the Utility Hearing Officer from time to time in order for the Officer to assemble evidence. The determination of the Utility Hearing Officer shall be announced to the customer at the hearing and that determination shall be final. The

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Utility Hearing Officer shall not have any authority to consider questions of hardship or inability to pay.

- D. If all delinquent charges for water and sewer services and all related late charges are not paid within the 10 day period and are incorrect, the water services for the customer shall be disconnected. The water meter may be removed from the premises as part of the disconnection process, if such removal is deemed necessary by the City utility personnel to prevent unauthorized re-connection to the City water system.
- E. The water services may only be reconnected for the customer if the following are paid:
 - 1. A water reconnect charge of \$40.00
 - 2. All outstanding late charges for water and sewer services
 - 3. All delinquent charges for water and sewer services
 - 4. All applicable deposits are made, and
 - 5. Any Attorney fees and Court costs incurred in the collection of past due water and sewer services.

Section 14-507 Voluntary Disconnect Procedures

In the event a customer desires to disconnect the water service, the service shall be disconnected by the City. The City may, for security purposes, remove the water meters as part of the disconnection process. Then, if service is again requested by that customer, a single reconnect charge of \$40.00 per utility service shall be paid to reconnect the service disconnected.

Any provision of this Ordinance held invalid shall be ineffective to the extent of such invalidity without affecting or invalidating the remaining provisions of this Ordinance. This Ordinance then supersedes and repeals that portion of any Ordinance or Resolution that is inconsistent with the provisions of this Ordinance.

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FEE FOR DISCONNECT NOTICE The fee for a disconnect notice to a Kanab City Customer, pursuant to Section 14-500, the Uniform Billing Ordinance, shall be a fee of fifteen (\$15.00)

Section 14-600 Municipal Hookup Fees

Section 14-610 Hookup Fees Imposed

- A. A Hookup fee is hereby imposed as a condition of the issuance of a building permit for each new connection to the City' s municipal culinary water system, sewer or waste water system, and municipal power system.
- B. The hookup fees shall be assessed upon and paid by or on behalf of an applicant for a building permit.
- C. The hookup fees are due and payable prior to and as a condition precedent to the issuance of a building permit and are in addition to all other applicable fees, including the impact fees.
- D. The amount of the hookup fees shall be the actual costs incurred by the City for labor and materials in order to provide a new connection to the City' s municipal culinary water system, sewer or waste water system, and municipal power system.
- E. The City Council is hereby authorized to pass a resolution amending the applicable hookup fees to be paid by applicants for new building permits.
- F. The City Manager is hereby authorized to adopt written policies consistent with this ordinance and any resolutions authorized hereunder to assist in the implementation, administration and interpretation thereof.
- G. The Kanab City Council shall have the authority in its sole discretion to consider studies and data submitted by an applicant and to adjust the applicable hookup fees as necessary to respond to unusual

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circumstances and ensure that such hookup fees are imposed fairly and equitably.

Section 14-700 Municipal Impact Fees

Section 14-710 Municipal Impact Fees Imposed

Impact fees are hereby imposed as a condition of the issuance of a building permit by the City for any development activity which creates additional demand and need for public facilities for the culinary water system, sewer or wastewater, storm water, parks and recreation, roadways, open space, and public safety facilities as set forth in Exhibit A which is attached hereto and incorporated herein by this reference.

Section 14-711 Definitions.

Words and phrases that are defined in the Act shall have the same definition in this Impact Fee Ordinance. The following words and phrases shall have the following meanings:

- A. "Capital Facilities Plan" means the plan required by Section 11-36-201 of the Act. In Section 11-36-201 (2) (e) there is an exception to the Capital Facilities Plan for Cities of 5,000 or less in population, based on the latest census. While Kanab City does meet this exception, the City has opted to complete a Capital Facilities Plan in accordance with the Act and will adopt the Capital Facilities Plan in conjunction with this Ordinance.
- B. "Development Activity" means any construction or expansion of building, structure or use, any change in use of building or structure, or any change in the use of land that creates additional demand and need for public facilities. Development activity will include residential and commercial users who are not currently connected to any of the City's Public Facilities Systems, but will locate within the City-Wide Service Area.

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- C. "Development Approval" means any written authorization from the City that authorizes the commencement of development activity.
- D. "City" means a local political subdivision of the State of Utah and referred to herein as Kanab City (the "City").
- E. "Impact Fee" means a payment of money imposed upon development activity as a condition of development approval. "Impact Fee" includes development impact fees, but does not include a tax, a special assessment, a hookup fee, a building permit fee, a fee for project improvements, or other reasonable permit or application fees.
- F. "Project Improvements" means site improvements and facilities that are planned and designed to provide service for development resulting from a development activity and are necessary for the use and convenience of the occupant or users of development resulting from a development activity. "Project Improvements" do not include "system improvements" as defined below.
- G. "Proportionate Share" of the cost of public facility improvements means an amount that is roughly proportionate and reasonably related to the service demands and needs of a development activity.
- H. "Public Facilities" means culinary water, sewer or wastewater, storm water, parks and recreation, open space, roadways and public safety improvements of the City for the City-Wide Service Area.
- I. "Service Area" refers to a geographic area designated by the City based on sound planning and engineering principles in which a defined set of the City's public facilities provides service. The service area for purposes of this Ordinance includes all of the area within the jurisdictional boundaries of Kanab City.
- J. "System Improvements" refers both to existing public facilities designed to provide services within the City-Wide Service Area and to future public facilities identified in a reasonable plan for capital improvements adopted by the City that are intended to provide service to the Service Area. "System Improvements" do not include "Project Improvements" as defined above.

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- K. "Adjusted to reflect inflationary costs" means in any fiscal year in which an impact fee update is not conducted by the city, impact fees will be adjusted to reflect inflationary costs using the Engineering News Record's Construction Cost Index as of January 1 of that fiscal year. The adjustment shall be effective on July 1 of the next fiscal year.

Section 14-712 Written Impact Fee Analysis

- A. Executive Summary. A summary of the findings of the Written Impact Fee Analysis that is designed to be understood by a lay person is included in the Kanab City Capital Facilities Plan Development and Impact Fee Analysis "Exhibit C" and demonstrates the need for impact fees to be charged. A copy of the Executive Summary is included in Exhibit C: Written Impact Fee Analysis and has been available for public inspection at least fourteen (14) days prior to the adoption of this Ordinance.
- B. Written Impact Fee Analysis. The City has prepared Exhibit C: Written Impact Fee Analysis for the six impact fees that identifies the impact upon the six facilities required by the development activity and demonstrates how those impacts on system improvements are reasonably related to the development activity, estimates the proportionate share of the costs of impacts on system improvements that are reasonably related to the development activity and identifies how the impact fees are calculated. A copy of Exhibit C: Written Impact Fee Analysis has been available for public inspection at least fourteen (14) days prior to the adoption of this Ordinance.
- C. Proportionate Share Analysis. The City must prepare a Proportionate Share Analysis which analyzes whether or not the proportionate share of the costs of public facilities is reasonably related to new development activity. The Proportionate Share Analysis must identify the costs of existing public facilities, the manner of financing existing public facilities, the relative extent to which new development will contribute to the cost of existing facilities and the extent to which

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new development is entitled to a credit for payment towards the costs of new facilities from general taxation or other means apart from user charges in other parts of the City. A copy of the Proportionate Share Analysis is included in Exhibit C: Written Impact Fee analysis and has been available for public inspection at least fourteen (14) days prior to the adoption of this Ordinance.

Section 14-713 Impact Fee Calculations

Ordinance Enacting Impact Fees. The City Council will, by this Ordinance, approve an impact fee in accordance with the Written Impact Fee Analysis set forth in Exhibit C: Written Impact.

Elements. In calculating the impact fee, the City has included the construction costs, land acquisition costs, costs of improvements, fees for planning, surveying, and engineering services provided for and directly related to the construction of system improvements, and debt service charges if the City might use impact fees as a revenue stream to pay principal and interest on bonds or other obligations to finance the cost of system improvements.

Notice and Hearing. Before approving the Ordinance, the City will hold a public hearing on February 27, 2007, and make a copy of the Ordinance available to the public in the Kanab City Hall at least fourteen (14) days before the date of the hearing, all in conformity with the requirements of Utah Code Annotated 10-9-103(2). After the public hearing, the City Council may adopt or reject the Impact Fee Ordinance as proposed or amend the Ordinance and adopt or reject it as amended.

Contents of the Ordinance. The Ordinance adopting or modifying an impact fee will contain such detail and elements as deemed appropriate by the City Council, including a designation of the service area(s) within which the impact fees are to be calculated and imposed. The City-Wide Service Area will be the only service area included in this analysis. The Ordinance will include (i) a schedule of impact fees to be imposed for or (ii) the formula to be used by the City in calculating the impact fees, or

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both. A copy of this requirement is included in Exhibit C: Written Impact Fee Analysis.

Adjustments. The standard impact fee may be adjusted at the time the fee is charged in response to unusual circumstances or to fairly allocate costs associated with impacts created by a development activity or project. The standard impact fee may also be adjusted to ensure that impact fees are imposed fairly for affordable housing projects, in accordance with the local government's affordable housing policy, and other development activities with broad public purposes. The impact fee assessed to a particular development may also be adjusted should the developer supply sufficient written information and/or data to the City showing a discrepancy between the fee being assessed and the actual impact on the system.

Previously Incurred Costs. To the extent that the new growth and development will be served by previously constructed improvements, the City's impact fee may include public facility costs and outstanding bond costs related to the public facility improvements previously incurred by the City.

Developer Credits. A developer may be allowed a credit against impact fees for any dedication or improvement to land or new construction of system improvements provided by the developer provided that it is (i) identified in the City's Capital Facilities Plan and (ii) required by the City as a condition of approving the development activity. Otherwise, no credit may be given.

Impact Fees Accounting. The City will establish separate interest-bearing ledger accounts for each type of public facility for which an impact fee is promulgated in accordance with the requirements of the Impact Fees Act and deposited in the appropriate ledger account. Interest earned on each fund or account shall be segregated to that account. Impact fees collected prior to the effective date of this Ordinance need not meet the requirements of this section.

Reporting. At the end of each fiscal year, the City shall prepare a report on each fund or account generally showing the source and amount

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of all monies collected, earned and received by the fund or account and each expenditure from the fund or account.

Impact Fee Expenditures. The City may expend impact fees covered by the Impact Fee Policy only for system improvements that are (i) public facilities identified in the City's Capital Facilities Plan and (ii) of the specific public facility type for which the fee was collected. Impact fees will be expended on a First-In First-Out ("FIFO") basis.

Time of Expenditure. Impact fees collected pursuant to the requirements of this Impact Fees Policy are to be expended, dedicated or encumbered for a permissible use within six years of the receipt of those funds by the City, unless the City Council otherwise directs. For purposes of this calculation, the first funds received shall be deemed to be the first funds expended.

1. **Extension of Time.** The City may hold previously dedicated or unencumbered fees for longer than six years if it identifies in writing
 - a. an extraordinary and compelling reason why the fees should be held longer than six years and
 - b. Absolute date by which the fees will be expended.
2. **Refunds.** The City shall refund any impact fees paid by a developer, plus interest actually earned when
 - a. the developer does not proceed with the development activity and files a written request for a refund;
 - b. (ii) the fees have not been spent or encumbered; and
 - c. (iii) no impact has resulted. An impact that would preclude a developer from a refund from the City may include any impact reasonably identified by the City, including, but not limited to, the City having sized facilities and/or paid for, installed and/or caused the installation of facilities based, in whole or in part, upon the Developer's planned development activity even though that capacity may, at some future time, be utilized by another development.

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3. Other Impact Fees. To the extent allowed by law, the City Council may negotiate or otherwise impose impact fees and other fees different from those currently charged. Those charges may, at the discretion of the City Council, include but not be limited to, reductions or increases in impact fees, all or part of which may be reimbursed to the developer who installed improvements that service the land to be connected with the City's system.
4. Additional Fees and Costs. The impact fees authorized hereby are separate from and in addition to user fees and other charges lawfully imposed by the City, and other fees and costs that may not be included as itemized component parts of the Impact Fee Schedule. In charging any such fees as a condition of development approval, the City recognizes that the fees must be a reasonable charge for the service provided.
5. Fees Effective at Time of Payment. Unless the City is otherwise bound by a contractual requirement, the impact fee shall be determined from the fee schedule in effect at the time of payment in accordance with the provisions of Exhibit "A".
6. Imposition of Additional Fee or Refund after Development. Should any developer under take development activities such that the ultimate density or other impact of the development activity is not revealed to the City, either through inadvertence, neglect, a change in plans, or any other cause whatsoever, and/or the impact fee is not initially charged against all units or the total density within the development, the City shall be entitled to charge an additional impact fee to the developer or other appropriate person covering the density for which an impact fee was not previously paid.

Section 14-714 Capital Facilities Plan

- A. Capital Facilities Plan. The City has developed a Capital Facilities Plan for culinary water, sewer or wastewater, storm water, parks and

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recreation, open space, roadways and public safety systems, which are required to maintain an adequate level of service, as shown in the Capital Facilities Plan. The Capital Facilities Plan has been prepared based on reasonable growth assumptions for the City and general demand characteristics of current and future users of the system. Further, the Capital Facilities Plan identifies the impact on system improvements created by development activity and estimates the proportionate share of the costs of impacts on system improvements that are reasonably related to new development activity.

Section 14-715 Impact Fee Schedules and Formulas

The proposed fees are based upon general demand characteristics and potential demand that can be created by each class of user. The City reserves the right under the Impact Fees Act (Utah Code 11-36202 (2) (c, d) to assess an adjusted fee to respond to unusual circumstances to ensure that fees are equitably assessed. Fees included in Exhibit "A" are standard impact fees assessed. Adjustment to these fees may be made with adequate documentation from the developer that the true impact differs from that shown.

Recommended Impact Fees: See Exhibit "A".

This adjustment may result in a higher impact fee if the City determines that a user would create a greater than normal impact on any of the systems. The City may also decrease the impact fee if the developer can provide documentation that the proposed impact will be less than what could be expected given the type of user. (Utah Code 11-36-202 (3) (a).

Section 14-716 Fee Exceptions and Adjustments

- A. Waiver for "Public Purpose". The City Council may, on a project by project basis, authorize exceptions or adjustments to the Impact Fee rate structure for those projects the City Council determines to be of such benefit to the community as a whole to justify the exception or

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adjustment. Such projects may include facilities being funded by tax-supported agencies, affordable housing projects, or facilities of a temporary nature. The City Council may elect to waive or adjust impact fees in consideration of economic benefits to be received from the developers' activity.

1. Procedures. Applications for exceptions are to be filed with the City at the time the applicant first request the extension of service to the applicant's development of property.

Section 14-717 Adjusted to Reflect Inflationary Costs

In any fiscal year in which an impact fee update is not conducted by the city, impact fees will be adjusted to reflect inflationary costs using the Engineering News Record's Construction Cost Index as of January 1 of that fiscal year. The adjustment shall be effective on July 1 of the next fiscal year.

Section 14-720 Service Area

The entire area of the City and any areas outside of the City serviced by such systems are hereby designated and established as one service area with respect to the provision of services for culinary, sewer or waste water, storm water, parks and open space, roadways and public safety.

Section 14-730 Adjustment of Impact Fee

- A. The City may adjust the impact fees imposed pursuant to this ordinance as necessary in order to:
 1. Respond to unusual circumstances in specific cases;
 2. Ensure that the impact fees are imposed fairly;
 3. Permit the adjustment of the amount of the fee based upon studies and data submitted by an applicant as approved by the City Council in order to ensure that the fee represents the

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proportionate share of the costs of providing such facilities which are reasonably related to and necessary in order to provide the services in question to anticipated future growth and development activities; and

4. Allow credits against impact fees for, dedication of land for improvement to or new construction of, any system improvements which are identified in the Capital Facilities Plan and required by the City as a condition of approving the development activity. No credits shall be given for project improvements as defined by the Utah Impact Fees Act.
 - B. The City Manager shall have the authority to make such adjustments based upon information submitted by an applicant and any recommendations from the City Engineer.
 - C. The City Manager may adopt policies consistent with this ordinance and any resolutions passed by the City Council to assist in the implementation, administration and interpretation of this ordinance related to Municipal Impact Fees.
 - D. If the applicant, person or entity is not satisfied with the City Manager's decision, a further appeal may be made to the City Council under the procedures set forth in below.

Section 14-740 Accounting, Expenditure and Refund of Impact Fees

The impact fees collected pursuant to this enactment shall be deposited into a separate interest bearing ledger account and may only be used for capital improvements for which the fees were collected. The accounting, expenditure and refund of all such impact fees collected shall be handled in accordance with the provisions of the Utah Impact Fees Act.

Section 14-750 Administrative Challenges and Appeals Procedure

- A. Any person or entity required to pay an impact fee who believes the fee does not meet the requirements of law may file a written request

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for information with the City as provided by the Utah Impact Fees Act. Within two weeks of the receipt of the request for information, the City shall provide the person or entity with the written analysis required by the Utah Impact Fees Act and any other relevant information relating to the impact fee.

- B. Any person or entity residing in or owning property within the City who believes the fee does not meet the requirements of the law or wishes to challenge the fee shall file a written appeal within 30 days after payment of any impact fee with the Kanab City Manager setting forth in detail all factual and legal grounds in support of the appeal. Upon receipt of the appeal, the City Manager shall make a recommendation to the City Council and schedule a public hearing before the City Council on the appeal for the purpose of receiving input from all interested persons. The City Council shall thereafter render its decision on the appeal no later than 30 days after the date the appeal was filed. Any person or entity who has failed to comply with these administrative remedies may not file or join an action challenging the validity of any impact fee.
- C. Any person or entity who was a party to an appeal under this section who is adversely affected by the decision of the City Council may petition the district court for a review of the decision within 90 days of a decision upholding an impact fee by the City council or within 120 days after the date the challenge to the impact fee was filed, whichever is earlier. Such a declaratory judgment action or petition for review challenging the validity of the fee shall be filed in the Sixth District Court for Kane County.
- D. In the event a petition is filed with the court, the City shall transmit to the reviewing court the record of its proceedings including its minutes, findings, orders and, if available, a true and correct transcript of its proceedings.
- E. If the proceeding was tape recorded, a transcript of the tape recording is a true and correct transcript for the purposes of subsection D above.

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- F. If there is a record:
 - 1. The District Court's review is limited to the record provided by the City; and
 - 2. The court may not accept or consider any evidence outside the City's record unless that evidence was offered to the City and the court determines that it was improperly excluded by the City.
- G. If there is an inadequate record, the court may call witnesses and take evidence.
- H. The Court shall affirm the decision of the City if the decision was supported by substantial evidence in the record.
- I. The judge may award reasonable attorney's fees and costs to the prevailing party in any action brought under this section.

Maximum Allowable Impact Fee	
Water 3/4" meter	\$5,849.34
Sewer	\$1,702.00
Storm Water	\$319.34
Parks	\$1,224.72
Trails	\$164.80
Public Safety	\$86.68
Streets	\$341.34