

Section 1: GENERAL PROVISIONS

Section 1-001	Name of Code
Section 1-002	Repeal of Existing Ordinances
Section 1-003	Effect of Repealing Ordinances
Section 1-004	Effective Date
Section 1-005	Definition and Rules of Construction
Section 1-006	Captions
Section 1-007	Severability
Section 1-008	Numbering of Ordinances
Section 1-009	Statutes or Codes Included and Excluded
Section 1-110	Introductory Provisions To Construction of Crimes Under This Code.
Section 1-111	Application of Code-Offense Prior to Effective Date
Section 1-112	Purposes and Principles of Construction
Section 1-113	Crimes Abolished
Section 1-114	Strict Construction Rule not applicable
Section 1-115	Procedure - Governed by State and Constitutional Provisions Liability for Civil Damages Not Affected
Section 1-120	Jurisdiction and Venue
Section 1-121	Jurisdiction of Offenses
Section 1-130	Limitation of Actions
Section 1-131	Embezzlement of Public Moneys - Falsification of Public Records
Section 1-132	Misdemeanor - Any Infraction - Commencement of Prosecution
Section 1-133	Fraud or Breach of Fiduciary Obligation - Misconduct by Public Officer or Employee
Section 1-134	Defendant Out of State
Section 1-135	Lesser Included Offense For Which Period of Limitations Has Run
Section 1-140	Multiple Prosecution and Double Jeopardy - Criminal Joinder
Section 1-141	"Single Criminal Episode" Defined
Section 1-142	Incorporation by Reference of Provisions of State Criminal Code
Section 1-143	Joinder of Offenses and Defendants

Section 1: GENERAL PROVISIONS

Section 1-150	Burden of Proof
Section 1-151	Incorporation of State Code
Section 1-160	Definitions
Section 1-161	Incorporation of State Code
Section 1-200	Principles of Criminal Responsibility
Section 1-210	Culpability Generally
Section 1-211	Incorporation of State Code
Section 1-220	Criminal Responsibility For Conduct of Another
Section 1-221	Incorporation of State Code
Section 1-230	Defenses to Criminal Responsibility
Section 1-231	Incorporation of State Code
Section 1-240	Justification Excluding Criminal Responsibility
Section 1-241	Incorporation of State Code
Section 1-300	Punishments
Section 1-310	Classification of Offenses
Section 1-311	Sentencing in Accordance with Chapter
Section 1-312	Designation of Offenses
Section 1-313	Misdemeanors Classified
Section 1-314	Infractions
Section 1-315	Continuing Violation
Section 1-320	Sentencing
Section 1-321	Sentences or Combination of Sentences Allowed - Civil Penalties
Section 1-322	Misdemeanor Conviction - Term of Imprisonment
Section 1-323	Infraction Conviction - Fine, Forfeiture, and Disqualification
Section 1-330	Fines and Special Sanctions
Section 1-331	Fines of Persons
Section 1-332	Fines of Corporations, Associations, Partnerships, or Governmental Instrumentalities
Section 1-340	Limitations and Special Provisions on Sentences
Section 1-341	Incorporation of State Code
Section 1-400	Administrative Remedies
Section 1-410	Hearings
Section 1-411	Request
Section 1-412	Form of Request

Section 1: GENERAL PROVISIONS

Section 1-413

Procedure

Section 1-414

Not Additional Remedy

Section 1-001 Name of Code

The ordinances contained in this code and all ordinances of a general nature hereafter adopted and inserted herein and all amendments, additions and changes thereto shall be part of this code and shall be known and cited as the "Revised Ordinances of the City of Kanab."

Section 1-002 Repeal of Existing Ordinances

A. So far as the provisions of these Revised Ordinances are the same as those of previously existing ordinances, they shall be construed as continuations thereof. All ordinances and resolutions of this municipality heretofore in force, except such as are of a private, local or temporary nature including franchises, grants, dedications, bond issues, elections, and special levies for local assessments, hereby are repealed except as otherwise provided in subsection B of this section.

B. Those ordinances of this municipality which are of a general nature which are not repealed and which the recorder/clerk is hereby authorized and directed to insert in the appropriate place in this code and which shall be deemed part of this code are:

1. Zoning Ordinance
2. Subdivision Ordinance
3. Mobile Home & Recreational Coach Ordinance

Section 1-003 Effect of Repealing Ordinances

The repeal of the ordinances as provided in section 1-002, shall not affect any debt or fee which is accrued, any duty imposed any penalty incurred, nor any action or proceeding commenced under or by virtue of the ordinances repealed or the term of office of any person holding office at the time these ordinances take effect; nor shall the repeal of any ordinance have the effect of reviving any ordinance heretofore repealed or superseded.

Section 1: GENERAL PROVISIONS

Section 1-004 Effective Date

These Revised Ordinances shall become effective January 1, 1996.

Section 1-005 Definition and Rules of Construction

In the construction of the ordinances of this municipality, the following rules and definitions shall be observed and applied unless such construction would be inconsistent with the manifest intent of these ordinances:

A. **General rule** - All words and phrases shall be construed and understood according to the common use and understanding of the language; the technical words and phrases and such other words and phrases as may have acquired a particular meaning in law shall be construed and understood according to such particular meaning.

B. **Gender** - *singular and plural*. Unless otherwise indicated from the context of the ordinance, all words used in the singular shall include the plural and all words used in the masculine gender shall extend to and apply to the feminine gender.

C. **Person** - The term "person" includes all individuals both male and female, any governmental agency, corporation, partnership, association, company, and every other form of organization whether formed voluntarily or involuntarily.

D. **Tenses** - The use of any verb in the present tense shall include the future and past tense when applicable.

E. **Highway - Road** - The terms "highway" and "road" include public bridges, and may be equivalent to the words "county way," "county road," "common road," and "state road."

F. **Street** - The term "street" includes alleys, lanes, courts, boulevards, public ways, public squares, public places, sidewalks, gutters and culverts, crosswalks, and intersections.

G. **Business** - The term "business" includes any trade, profession, calling, activity, operation or enterprise for which a license is required by any ordinance of this municipality.

H. **License** - The term "license" includes any certificate or license issued by this municipality.

Section 1: GENERAL PROVISIONS

- I. **Property** - The term "property" includes both real and personal property.
- J. **Owner** - The term "owner" applied to a building or land shall include any part owner, joint owner, tenant of lessee of a whole or part of such building or land.
- K. **Tenant - Occupant** - The term "tenant" or "occupant" applied to a building on land either alone or with others.
- L. **Reasonable time** - In all cases where any ordinance requires that an act be done in a reasonable time or that reasonable notice be given, such reasonable time for such notice shall be deemed to mean such time as may be necessary for the expeditions performance of such duty or compliance with such notice.
- M. **Time - how computed** - The time within an act is to be done as provided in any ordinance or in any resolution or order of this municipality, when expressed in days, shall be determined by excluding the first day and including the last day, except if the last day be a Sunday or a holiday, then the last day shall be the day next following such Sunday or holiday which is not a Sunday or holiday. When time is expressed in hours, Sunday and all holidays shall be excluded.
- N. **Week** - The word "week" shall be construed to mean any seven-day period.
- O. **Location** - Whenever any act, conduct or offense is prohibited or required and no reference is made to location, unless the context specifically indicates otherwise, the act, conduct, or offense prohibited or required shall be within the boundaries of this municipality.
- P. **Chief of police, city marshal, town marshal or marshal** - The terms "chief of police," "city marshal," "town marshal" or "marshal" as used in this code all have the same meaning and may be used interchangeably.
- Q. **Municipality** - The word "municipality" as used throughout this code means the City of Kanab.
- R. **Governing Body** - The word "governing body" as used throughout this code means the city council of this municipality.

Section 1: GENERAL PROVISIONS

S. ***Offense*** - Offense means any act, action, or conduct prohibited by this code or the failure to perform any acts required in this code.

T. ***Officer or Officials*** - The terms "officer" or "official" as used in this code mean any elected or appointed person employed by the municipality unless the context clearly indicates otherwise.

U. ***Recorder/Clerk*** - The term "recorder/clerk" means the individual appointed to act as the recorder of the municipality.

Section 1-006 Captions

The captions in this code immediately preceding each section are intended as mere captions to indicate the content of the section and shall not be deemed or taken to be part of the sections.

Section 1-007 Severability

It is hereby declared to be the intention of the governing body that the sections, paragraphs, sentences, clauses and phrases of this code are severable, and if any phrase, clause, sentence, paragraph or section of this code shall be declared unconstitutional or without effect by any final judgment or decree of a court of competent jurisdiction such judgement shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this code.

Section 1-008 Numbering of Ordinances

A. The recorder/clerk shall, in so far as possible, assign all ordinances of a general nature adopted after these revised ordinances a number which shall conform to the numbering system used in this code and shall indicate upon the face of the ordinance the date adopted.

B. The recorder/clerk shall keep all ordinances of a local, private or temporary nature, including franchises, grants, dedications, bond issues and tax levies, in a separate book of "Special Ordinances" properly indexed and organized according to date adopted. The first number of such an ordinance shall be the last two digits of the year the ordinance is adopted, followed by sequential, ascending number indicating the order in which such special ordinance was adopted during the year.

Section 1: GENERAL PROVISIONS

C. Failure to comply with this section shall not affect or render invalid any ordinance of this municipality.

Section 1-009 Statutes or Codes Included and Excluded

Any reference or citation to any statute shall not be interpreted or construed to include, incorporate or make the citation of statute part of this code unless the provisions of this code specifically include, incorporate, or make the citation or statute part of this code by reference or incorporation, and any such reference or citation not specifically included or incorporated may be changed, amended or deleted without publication on an order of the governing body.

Section 1-110 Introductory Provisions To Construction of Crimes Under This Code.

Section 1-111 Application of Code-Offense Prior to Effective Date

A. The provisions of this code shall govern the construction of, the punishment for, and the defense against any offense defined in this code or, except where otherwise specifically provided or the context otherwise requires, any offense defined outside this code; provided such offense was committed after the effective date of this code.

B. Any offense committed prior to the effective date of this code shall be governed by the ordinances of this municipality existing at the time of commission thereof, except that a defense or limitation on punishment available under this code shall be available to any defendant tried or retried after the effective date. An offense under this code shall be deemed to have been committed prior to the effective date of this code if any of the elements of the offense occurred prior to the effective date.

Section 1-112 Purposes and Principles of Construction

The provisions of this code shall be construed in accordance with these general purposes to:

A. Forbid and prevent the commission of offenses.

Section 1: GENERAL PROVISIONS

B. Define adequately the conduct and mental state which constitute each offense and safeguard conduct that which without fault from condemnation as criminal.

C. Prescribe penalties which are proportionate to the seriousness of offenses and which permit recognition of differences in rehabilitation possibilities among individual offenders.

D. Prevent arbitrary or oppressive treatment of persons accused or convicted of offenses.

Section 1-113 Crimes Abolished

No conduct is a crime or an offense unless made so by this code, or other ordinances or other applicable statute.

Section 1-114 Strict Construction Rule not applicable

The rule that a penal ordinance is to be strictly construed shall not apply to this code, or any of its provisions, or other ordinances of this municipality. All provisions of this code and offenses defined by it shall be construed according to the fair import of their terms to promote justice and to affect the objects of the law and general purposes of section 1-112.

Section 1-115 Procedure - Governed by State and Constitutional Provisions Liability for Civil Damages Not Affected

A. Except as otherwise provided, the procedure governing the accusation, prosecution, conviction, and punishment of offenders and offenses is not regulated by this code, but shall be in conformity with the laws of Utah and the Constitution of the United States.

B. This code does not bar, suspend, or otherwise affect any rights to or liability for damages, penalty, forfeiture, impeachment, or other remedy authorized by law to be covered or enforced in a civil action, administrative proceeding, or otherwise, regardless of whether the conduct involved in the proceeding constitutes an offense defined in this code.

Section 1: GENERAL PROVISIONS

Section 1-120 Jurisdiction and Venue

Section 1-121 Jurisdiction of Offenses

A. A person is subject to prosecution in this municipality for an offense which he commits, while either within or outside the municipality, by his own conduct or that of another for which he is legally accountable, if:

1. The offense is committed either wholly or partly within the municipality; or
2. The conduct outside this municipality constitutes an attempt within this municipality; or
3. The conduct outside this municipality constitutes a conspiracy to commit an offense within this municipality and an act in furtherance of the conspiracy occurs in this municipality; or
4. The conduct within the municipality constitutes an attempt, solicitation or conspiracy to commit in another jurisdiction.

B. An offense is committed partly within this municipality if either the conduct which is an element of the offense, or the result which is such an element, occurs within this municipality.

C. An offense which is based on an omission to perform a duty imposed by this code is committed within this municipality regardless of the location of the offender at the time of the omission.

Section 1-130 Limitation of Actions

Section 1-131 Embezzlement of Public Moneys - Falsification of Public Records

A prosecution for embezzlement of public moneys or the falsification of public records may be commenced at any time.

Section 1: GENERAL PROVISIONS

Section 1-132 Misdemeanor - Any Infraction - Commencement of Prosecution

A. Except as otherwise provided in this part, prosecutions for other offenses are subject to the following periods of limitation:

1. A prosecution for a misdemeanor must be commenced within two years after it is committed.
2. A prosecution for any infraction must be commenced within one year after it is committed;

B. The prosecution is commenced on the filing of a complaint or information.

Section 1-133 Fraud or Breach of Fiduciary Obligation - Misconduct by Public Officer or Employee

If the period prescribed in Section 1-132-A has expired, a prosecution may nevertheless be commenced for:

A. Any offense, a material element of which is either fraud or a breach of fiduciary obligation, within one year after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is himself not a party to the offense, but in no case shall this provision extend beyond the period of limitation otherwise applicable by more than three years; and

B. Any offense based on misconduct in office by a public officer or employee at any time during the term of the defendant's public office or the period of his public employment or within two years thereafter, but in no case shall this provision extend beyond the period of limitation otherwise applicable by more than three years.

Section 1-134 Defendant Out of State

The period of limitation does not run against any defendant during any period of time he is out of the state following the commission of an offense.

Section 1: GENERAL PROVISIONS

Section 1-135 Lesser Included Offense For Which Period of Limitations Has Run

Whenever a defendant is charged with an offense for which the period of limitations has not run and the defendant should be found guilty of a lesser offense for which the period of limitations has run, the finding of the lesser and included offense against which the statute of limitations has run shall not be a bar to punishment for the lesser offense.

Section 1-140 Multiple Prosecution and Double Jeopardy - Criminal Joinder.

Section 1-141 "Single Criminal Episode" Defined

In this code unless the context requires a different definition, "single criminal episode" means all conduct which is closely related in time and is incident to an attempt or an accomplishment of a single criminal objective. Nothing in this part shall be construed to limit or modify the joinder of offenses and defendants in criminal proceedings.

Section 1-142 Incorporation by Reference of Provisions of State Criminal Code

The provisions of Utah Code Annotated 76-1-402 through 76-1-405 are hereby adopted as part of this code and incorporated herein by reference.

Section 1-143 Joinder of Offenses and Defendants

A. Two or more offenses under this code or the ordinances of this municipality may be charged in the same citation or complaint in a separate count for each offense if the offenses charged are of the same or similar character or are based on the same act or transgression or on two or more acts or transactions connected together or constituting parts of a common scheme or plan.

B. Two or more defendants may be charged in the same citation or complaint if they are alleged to have participated in the same act or

Section 1: GENERAL PROVISIONS

transaction or in the same series of acts or transactions. Such defendants may be charged in one or more counts together or separately and all of the defendants need not be charged in each count.

Section 1-150 Burden of Proof

Section 1-151 Incorporation of State Code

The provisions of Utah Code Annotated 76-1-501 through 76-1-504 are hereby adopted and incorporated herein by reference.

Section 1-160 Definitions

Section 1-161 Incorporation of State Code

The provisions of Utah Code Annotated 76-1-601 are hereby adopted and incorporated herein by reference.

Section 1-200 Principles of Criminal Responsibility

Section 1-210 Culpability Generally

Section 1-211 Incorporation of State Code

The provisions of Utah Code Annotated 76-2-101 through 76-2-104 are hereby adopted and incorporated herein by reference.

Section 1-220 Criminal Responsibility For Conduct of Another

Section 1-221 Incorporation of State Code

The provisions of Utah Code Annotated 76-2-201 through 76-2-205 are hereby adopted as part of this code and incorporated herein by reference.

Section 1: GENERAL PROVISIONS

Section 1-230 Defenses to Criminal Responsibility

Section 1-231 Incorporation of State Code

The provisions of Utah Code Annotated 76-2-301 through 76-2-308 hereby are adopted as part of the code and incorporated herein by reference

Section 1-240 Justification Excluding Criminal Responsibility

Section 1-241 Incorporation of State Code

The provisions of Utah Code Annotated 76-2-401 through 76-2-406 are hereby adopted and incorporated herein by reference.

Section 1-300 Punishments

Section 1-310 Classification of Offenses

Section 1-311 Sentencing in Accordance with Chapter

A. A person adjudged guilty of an offense under this code or the ordinances of this municipality shall be sentenced in accordance with the provisions of this chapter.

B. Ordinances enacted after the effective date of this code which involve an offense should be classified for sentencing purposes in accordance with this chapter, unless otherwise expressly provided.

Section 1-312 Designation of Offenses

Offenses are designated as misdemeanors or infractions.

Section 1: GENERAL PROVISIONS

Section 1-313 Misdemeanors Classified

A. Misdemeanors are classified into two categories:

1. Class B Misdemeanors
2. Class C Misdemeanors

B. An offense designated as a misdemeanor in this code or in an ordinance of this municipality when no other specification as to punishment or category is made, is a Class B misdemeanor.

Section 1-314 Infractions

A. Infractions are not classified.

B. Any offense which is made an infraction in this code or other ordinances of this municipality and any offense designated by this code or other ordinances of this municipality which is not designated as a misdemeanor and for which no penalty is specified is an infraction.

Section 1-315 Continuing Violation

In all instances where the violation of these ordinances or any ordinance hereinafter enacted is a continuing violation, a separate offense shall be deemed committed on each day during or on which the violation occurs or continues to occur.

Section 1-320 Sentencing

Section 1-321 Sentences or Combination of Sentences Allowed - Civil Penalties

Within the limits prescribed by this code, a court may sentence a person adjudged guilty of an offense to any one of the following sentences or a combination of such sentences:

- A.** To pay a fine; or
- B.** Reserved
- C.** To probation; or

Section 1: GENERAL PROVISIONS

D. To imprisonment

Section 1-322 Misdemeanor Conviction - Term of Imprisonment

A person who has been convicted of a misdemeanor may be sentenced to imprisonment as follows:

- A. In the case of a class B misdemeanor, for a term not exceeding six months;
- B. In the case of a class C misdemeanor, for a term not exceeding ninety days.

Section 1-323 Infraction Conviction - Fine, Forfeiture, and Disqualification

- A. A person convicted of an infraction may not be imprisoned but may be subject to fine, forfeiture or both.
- B. Whenever a person is convicted of an infraction and no punishment is specified, the person may be fined an amount not to exceed the Class C Misdemeanor fine under Utah Code Ann. 76-3-301.

Section 1-330 Fines and Special Sanctions

Section 1-331 Fines of Persons

A person who has been convicted of an offense may, in addition to any term of imprisonment imposed, be sentenced to pay a fine not to exceed the maximum Class B Misdemeanor fine under Utah Code Ann. 76-3-301 if the offense is a Class B Misdemeanor, or the maximum Class C Misdemeanor fine under Utah Code Ann. 76-3-301 if the offense is a Class C Misdemeanor.

Section 1-332 Fines of Corporations, Associations, Partnerships, or Governmental Instrumentalities

The sentence to pay a fine, when imposed upon a corporation, association, partnership, or governmental instrumentality for an offense

Section 1: GENERAL PROVISIONS

defined in this code or the ordinances of the municipality or for any offense defined outside of this code over which this municipality has jurisdiction, for which no special corporate fine is specified, shall be sentenced to pay an amount fixed by the court, not to exceed the maximum Class B misdemeanor fine under Utah Code Ann. 76-3-301 if the offense is a Class B Misdemeanor, or the maximum Class C Misdemeanor fine under Utah Code Ann. 76-3-301 if the offense is a Class C Misdemeanor.

Section 1-340 Limitations and Special Provisions on Sentences

Section 1-341 Incorporation of State Code

The provisions of Utah Code Annotated 76-3-401 through 76-3-405 are hereby adopted and incorporated herein by reference, as such limitations and special provisions on sentences apply to misdemeanors.

Section 1-400 Administrative Remedies

Section 1-410 Hearings

Section 1-411 Request

Unless otherwise specifically provided in any ordinance of the municipality or any code adopted by reference, a hearing before the governing body may be requested by any person:

- A.** Who is denied or refused a permit or license by any officer, agent or employee of this municipality.
- B.** Whose permit or license is revoked, restricted, qualified, or limited from that for which it was first issued.

Section 1-412 Form of Request

The request for hearing must be made in writing to the mayor or recorder/clerk and made within 30 days following the date notice denying,

Section 1: GENERAL PROVISIONS

refusing, revoking, qualifying, restricting or revoking the license or permit is mailed by the municipality to the applicant or license holder at his address as it appears on the application or license.

Section 1-413 Procedure

A. Following receipt of a request for hearing, the governing body shall inform the person requesting a hearing of the time and place the hearing is to be held.

B. At the hearing, the aggrieved party shall have the right to hear and examine any witnesses the municipality may produce to support its decision and to present his own evidence in support of his contention.

C. The governing body shall, within ten days following the conclusion of the hearing, in writing, inform the person who requested the hearing of the decision of the governing body.

Section 1-414 Not Additional Remedy

This part shall not be constructed so as to afford any aggrieved party more than one hearing before the governing body nor shall the hearing provided in this part apply to any criminal complaint or proceeding.