

TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS

11. TOWN STANDARDS

CHAPTER 10: GENERAL PROVISIONS

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§ 10.01 TITLE OF CODE.

All ordinances of a permanent and general nature of the town, as revised, codified, rearranged, renumbered and consolidated into component codes, titles, chapters and sections, shall be known and designated as the “Paragonah Town Code,” for which designation “code of ordinances,” “codified ordinances” or “code” may be substituted. Code title, chapter and section headings do not constitute any part of the law as contained in the code.

§ 10.02 INTERPRETATION.

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition and application shall govern the interpretation of this code as those governing the interpretation of state law.

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

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All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

§ 10.04 CONSTRUCTION OF CODE.

(A) This code is a codification of previously existing laws, amendments thereto and newly enacted laws. Any previously existing law or amendment thereto reenacted by this code shall continue in operation and effect, as if it had not been repealed by this code. All rules and regulations adopted under laws reenacted in this code shall remain in full force and effect unless repealed or amended subsequent to the enactment of this code.

(B) Any appropriation repealed and reenacted by this code is continued only for the period designated in the original enactment of that appropriation.

(C) The numerical order and position of sections in this code does not resolve a conflict between two or more sections.

(D) Any irreconcilable conflict between sections shall be resolved by reference to the dates that the sections were originally enacted. The section most recently enacted supersedes any conflicting section or division.

(E) All references within a section of this code to any section of previously existing laws refer to the numbers in the original enactment.

(F) (1) The numerical designations and descriptive headings assigned to the various titles, chapters, subchapters or sections of this code, as originally enacted or as added by amendment, are not law, and may be altered by the compilers of this or any subsequent codification, in any official publication, to more clearly indicate its content. These descriptive headings are for organizational purposes only and do not affect the meaning, application or construction of the law they precede.

(2) Each note following a section of this code is for reference purposes only and is not a part of the section.

(G) All references to any section of this code refer to all subsequent amendments to that section, unless otherwise provided.

§ 10.05 RULES OF INTERPRETATION; DEFINITIONS.

(A) *Rules of interpretation.* This code shall be construed by the following rules unless the construction is plainly repugnant to the legislative intent or context of the provision.

(1) Words and phrases shall be taken in their plain, ordinary and usual sense. Technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(2) Words imputing joint authority to three or more persons shall be construed as imputing

authority to a majority of the persons, unless otherwise declared in the section giving the authority.

(3) Where a section requires an act to be done which, by law, an agent or deputy may perform in addition to the principal, the performance of the act by an authorized deputy or agent is valid.

(4) Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(B) *Definitions.* For the purpose of this code of ordinances, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUSINESS. Includes all activities engaged in within this town carried on including the exchange of goods and services for the purpose of gain or economic profit, except that the acts of employees rendering service to employers shall not be included in the term business unless otherwise specifically provided.

CLERK. The Clerk of the Town Council.

COUNCIL. The Town Council of Paragonah, Utah.

COUNTY. Iron County.

HIGHWAY. Includes bridges, roads and streets, unless otherwise expressly provided.

LICENSE. Includes any certificate or license issued by this municipality.

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.

MONTH. One calendar month.

OFFENSE. Any act, action or conduct prohibited by this code or the failure to perform any acts required in this code.

OFFICER or OFFICIALS. Any elected or appointed person employed by the town unless the context clearly indicates otherwise.

OWNER. Applied to a building or land shall include any part owner, joint owner, tenant in common, joint tenant or lease of a whole or part of such building or land.

PERSON. Extends to and includes person, persons, firm, corporation, copartnership, trustee, lessee, receiver and bodies politic. Whenever used in any clause prescribing and imposing a penalty, the terms **PERSON** or **WHOEVER** as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

PRECEDING and FOLLOWING. When referring to sections or divisions in this code, refer to the sections or divisions next following or next preceding that in which the words occur, unless some other section is designated.

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PROPERTY. Includes both real and personal property.

STATE. The State of Utah.

STREET. Includes alleys, lanes, courts, boulevards, public ways, public squares, public places, sidewalks, gutters and culverts, crosswalks and intersections.

TENANT or **OCCUPANT.** Applied to a building or land shall apply to any person who occupies all or any part of such building or land either alone or with others.

TOWN. The Town of Paragonah, Utah.

TOWN MARSHAL or **MARSHAL.** All have the same meaning and may be used interchangeably.

WEEK. Any seven-day period.

WRITTEN and **IN WRITING.** Include printing, lithographing or other modes of representing words and letters. Where the written signature of a person is required, the terms mean the proper handwriting of the person, or the person's mark.

YEAR. One calendar year, unless otherwise expressly provided.
(Prior Code, § 1-005)

§ 10.06 SEVERABILITY.

(A) If any section of this code now enacted or subsequently amended or its application to any person or circumstances is held invalid, the invalidity does not affect other sections that can be given effect without the invalid section or application.

(B) Except in the case of a section or amendment to this code containing a nonseverability provision, each division or part of every section is severable. If any portion or application of a section is held invalid, the invalidity does not affect the remainder of the section unless:

(1) The remainder is so essentially and inseparably connected with and so dependent upon the invalid provision or application that it cannot be presumed that the remainder would have been enacted without the invalid provision or application; or

(2) The remainder is incomplete and incapable of being executed in accordance with the legislative intent without the invalid provision or application.

(C) This section applies to every section of this code regardless of whether a section was enacted before or after the passage of this code.

(D) The repeal of a section or amendment stating that the provisions of a chapter, subchapter or section are severable as provided in division (B) above does not affect the operation of division (B)

above with respect to that chapter, subchapter or section.

§ 10.07 REFERENCE TO OTHER SECTIONS.

Whenever in one section reference is made to another section hereof, the reference shall extend and apply to the section referred to as subsequently amended, revised, recodified or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

§ 10.08 REFERENCE TO OFFICES; NAME DESIGNATIONS.

(A) *Reference to offices.* Reference to a public office or officer shall be deemed to apply to any office, officer or employee of this municipality exercising the powers, duties or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

(B) *Name designations.* Whenever any ordinance or resolution of the Council refers to any board, bureau, commission, division, department, officer, agency, authority or instrumentality of any government, and that name designation is incorrectly stated; on the effective date of that ordinance or following the effective date, the rights, powers, duties or liabilities placed with that entity are or were transferred to a different entity; then the named board, bureau, commission, department, division, officer, agency, authority or instrumentality, whether correctly named in the ordinance at its effective date or not, means that correctly named entity, or the entity to which the duties, liabilities, powers and rights were transferred.

§ 10.09 ERRORS AND OMISSIONS.

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

§ 10.10 REASONABLE TIME.

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, ***REASONABLE TIME OR NOTICE*** shall be deemed to mean the time which is necessary for a prompt performance of the act or the giving of the notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be a Saturday, Sunday or a state holiday, it shall be excluded.

§ 10.11 REPEAL OR MODIFICATION OF CODE SECTION.

When a section of this code is repealed which repealed a former section or law adopted prior to the enactment of this code, the former section or law is not revived unless it so expressly provides. The repeal of any section shall not extinguish or release any penalty, forfeiture or liability incurred under the section, unless the repealing section so expressly provides. The section shall be treated as still remaining in force for the purposes of sustaining any proper action or prosecution for the enforcement of the penalty, forfeiture or liability.

§ 10.12 LIMITATION PERIODS.

The running of any period of limitations or any requirement of notice contained in any law, whether applicable to civil causes or proceedings, or to the prosecution of offenses, or for the recovery of penalties and forfeitures, contained in a law repealed and reenacted by this code, shall not be affected by the repeal and reenactment; but all suits, proceedings and prosecutions for causes arising or acts committed prior to the effective date of this code may be commenced and prosecuted with the same effect as if this code had not been enacted.

§ 10.13 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

§ 10.14 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

(A) If the legislative body shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of the chapter or section. In addition to an indication thereof as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

§ 10.15 SECTION HISTORIES; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and amending ordinances, if any, are listed following the text of the code section. Example:

(Ord. 10, passed 5-13-1960; Ord. 15, passed 1-1-1970; Ord. 20, passed 1-1-1980; Ord. 25, passed 1-1-1985)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute. Example:
(UCA § 26-2-22)

(2) If a statutory cite is set forth as a “statutory reference” following the text of the section, this indicates that the reader should refer to that statute for further information. Example:

§ 39.01 PUBLIC RECORDS AVAILABLE.

This municipality shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.

Statutory reference:

Inspection of public records, see UCA § 26-2-22

(C) If a section of this code is derived from the previous code of ordinances of the town and subsequently amended, the previous code section number shall be indicated in the history by “(Prior Code, § _____).”

§ 10.16 PRESERVATION OF PENALTIES, OFFENSES, RIGHTS AND LIABILITIES.

All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws. This code does not affect any rights or liabilities accrued, penalties incurred or proceedings begun prior to the effective date of this code. The liabilities, proceedings and rights are continued; punishments, penalties or forfeitures shall be enforced and imposed as if this code had not been enacted. In particular, any agreement granting permission to utilize highway rights-of-way, contracts entered into or franchises granted, the acceptance, establishment or vacation of any highway, and the election of corporate officers shall remain valid in all respects, as if this code had not been enacted.

§ 10.99 GENERAL PENALTY.

(A) *Construction of penalties.*

(1) *Introductory provisions to construction of crimes under this code.*

(a) *Application of code; offense prior to effective date.*

1. The provision 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; if the offense was committed after the effective date of this code.

2. 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

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effective date of this code if any of the elements of this offense occurred prior to the effective date.

(b) *Purposes and principles of construction.* The provisions of this code shall be construed in accordance with these general purposes to:

1. Forbid and prevent the commission of offenses;
2. Define adequately the conduct and mental state which constitute each offense and safeguard conduct that which without fault from condemnation as criminal;
3. Prescribe penalties which are proportionate to the seriousness of offenses and which permit recognition of differences in rehabilitation possibilities among individual offenders; and
4. Prevent arbitrary or oppressive treatment of persons accused or convicted of offenses.

(c) *Crimes abolished.* No conduct is a crime or an offense unless made so by this code, or other ordinances or other applicable statute.

(d) *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 division (A)(2) above.

(e) *Procedure; governed by state and constitutional provisions liability for civil damages not affected.*

1. 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 the state and the Constitution of the United States.

2. 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.

(Prior Code, § 1-110)

(2) *Jurisdiction and venue.*

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

1. The offense is committed either wholly or partly within the municipality;
2. The conduct outside this municipality constitutes an attempt within this municipality;

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 an offense under this code and such other 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.

(Prior Code, § 1-120)

(3) *Limitation of actions.*

(a) *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.

(b) *Misdemeanor; any infraction; commencement of prosecution.*

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

a. A prosecution for a misdemeanor must be commenced within two years after it is committed; and

b. A prosecution for any infraction must be commenced within one year after it is committed.

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

(4) *Fraud or breach of fiduciary obligation; misconduct by public officer or employee.* If the period prescribed in division (C)(2)(a) above 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 or herself 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 this 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.

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(5) *Defendant out of state.* The period of limitation does not run against any defendant during any period of time he or she is out of the state following the commission of an offense.

(6) *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.

(Prior Code, § 1-130)

(7) *Multiple prosecution and double jeopardy; criminal joinder.*

(a) *"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 section shall be construed to limit or modify the joinder of offenses and defendants in criminal proceedings.

(b) *Incorporation by reference of provisions of State Criminal Code.* The provision of UCA §§ 76-1-402 through 76-1-405 are hereby adopted as part of this code and incorporated herein by reference.

(c) *Joinder of offenses and defendants.*

1. Two or more offenses under this code or the ordinances of this town 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.

2. 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 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.

(Prior Code, § 1-140)

(8) *Burden of proof.* The provisions of UCA §§ 76-1-501 through 76-1-504 are hereby adopted and incorporated herein by reference.

(Prior Code, § 1-150)

(9) *Definitions.* The provisions of UCA §§ 76-2-101 through 76-2-104 are hereby adopted and incorporated herein by reference.

(Prior Code, § 1-160)

(10) *Criminal responsibility for conduct of another.* The provisions of UCA §§ 76-2-201 through 76-2-205 are hereby adopted as part of this code and incorporated herein by reference.

(Prior Code, § 1-220)

(11) *Defenses to criminal responsibility.* The provisions of UCA §§ 76-2-301 through 76-2-308 are hereby adopted as part of the code and incorporated herein by reference.

(Prior Code, § 1-230)

(12) *Justification excluding criminal responsibility.* The provisions of UCA §§ 76-2-401 through 76-2-406 are hereby adopted and incorporated herein by reference.

(Prior Code, § 1-240)

(B) *Punishments.*

(1) *Classification of offenses.*

(a) *Sentencing in accordance with chapter.*

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

2. 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.

(b) *Designation of offenses.* Offenses are designated as misdemeanors or infractions.

(c) *Misdemeanors classified.*

1. Misdemeanors are classified into two categories:

- a. Class B misdemeanors; and
- b. Class C misdemeanors.

2. An offense designated as a misdemeanor or any act prohibited or declared to be unlawful 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.

(d) *Infractions.*

1. Infractions are not classified.

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

(e) *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.

(Prior Code, § 1-310)

(2) *Sentencing.*

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(a) *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:

1. To pay a fine;
2. To probation; or
3. To imprisonment.

(b) *Misdemeanor conviction; term of imprisonment.*

1. In the case of a Class B misdemeanor, for a term not exceeding six months; and
2. In the case of a Class C misdemeanor, for a term not exceeding 90 days.

(c) *Infraction conviction; fine, forfeiture and disqualification.*

1. A person convicted of an infraction may not be imprisoned but may be subject to a fine, forfeiture or both.

2. Whenever a person is convicted of an infraction and no punishment is specified, the person may be fined as for a Class C misdemeanor.
(Prior Code, § 1-320)

(3) *Fines and special sanctions.*

(a) *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 \$1,000 when the conviction is of a Class B misdemeanor and not to exceed \$500 when the conviction is of a Class C misdemeanor or infraction.

(b) *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 defined in this code or the ordinances of the town or for any offense defined outside of this code over which this town has jurisdiction, for which no special corporate fine is specified, shall be sentenced to pay an amount, fixed by the court, not exceeding \$1,000 when the conviction is for a Class C misdemeanor or infraction.
(Prior Code, § 1-330)

(4) *Limitations and special provisions on sentences.* The provisions of UCA §§ 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.
(Prior Code, § 1-340)

(C) *Administrative remedies; hearings.*

(1) *Request.* Unless otherwise specifically provided in any ordinance of the town 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 an officer agent or employee of this municipality; or

(b) Whose permit or license is revoked, restricted, qualified or limited from that for which it was first issued.

(2) *Form of request.* The request for hearing must be made in writing to the Mayor or Recorder and made within 30 days following the date notice denying, refusing, revoking, qualifying, restricting or revoking the license or permit is mailed by the town to the applicant or license holder at his or her address as it appears on the application or license.

(3) *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 or her own evidence in support of his or her 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.

(4) *Not additional remedy.* This section shall not be constructed so as to afford an aggrieved party more than one hearing before the governing body nor shall the hearing provided in this section apply to any criminal complaint or proceeding.

(Prior Code, § 1-400)

(D) *Civil liability.* None of the provisions of this code shall create any civil liability on the town, its officers or employees whether or not the code imposes mandatory or directional duties and whether or not the town its officers or employees perform or do not perform such duties.

(Prior Code, § 1-500)

CHAPTER 11: TOWN STANDARDS

Section

- 11.01 Duties create no civil liability
- 11.02 Corporate seal
- 11.03 Initial point

§ 11.01 DUTIES CREATE NO CIVIL LIABILITY.

Whenever this code or any ordinance of this town requires that an act be done or prohibits an action by any officer, employee or agent of this town, the failure to perform the act or the performance of the act prohibited shall not create any liability on the town or the officer.

(Prior Code, § 1-010)

§ 11.02 CORPORATE SEAL.

The official and corporate seal of this town shall be one and three-fourths inches in diameter and of the following device: at the center shall be a sheaf of wheat, and encircling said emblem and near the outer edge of the seal, commencing at the left hand portion, the words "Town of Paragonah," "County of Iron," "State of Utah."

(Prior Code, § 1-011)

§ 11.03 INITIAL POINT.

The base or initial point of all official surveys to be hereafter made within the town is the point constituting the southeast corner of section 32 and the southwest corner of section 33 in township 33 south range 8 west Salt Lake base meridian in Iron County.

(Prior Code, § 1-012)

