

**Ordinance No. 14-47**

**AN ORDINANCE AMENDING TITLE 8, CHAPTER 3 OF  
THE MUNICIPAL CODE OF PARK CITY, UTAH TO INCLUDE  
THE PROHIBITION OF AFFORDABLE HOUSING FRAUD**

WHEREAS, there exists, homes, deed restricted for affordability within the city limits of Park City; and

WHEREAS, Park City Municipal Corporation wishes to ensure that the deed restricted affordable housing units are meeting the needs of the target population, the homes remain viable and in good condition and remain affordable for the long term; and

WHEREAS, there have been acts in the past by owners, developers, buyers, sellers, real estate brokers and agents, appraisers, title companies, mortgage brokers and mortgage lenders, seeking to disregard the recorded deed restrictions and to sell, lease or finance said units at market value or rent a unit or not occupy a unit when owner-occupation and/or occupation as a primary residence is required; and

WHEREAS, Park City Municipal Corporation wants to ensure that any fraud and unjust enrichment in the process is stopped and that buyers, sellers, renters and other intended beneficiaries of deed restricted affordable housing are protected from any fraudulent acts or statements;

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF PARK CITY, UTAH THAT:

**Section I.** Amendment. Title 8 Criminal Code of the Municipal Code of Park City is hereby amended to include Section 8-3-6, as follows:

**8-3-6 AFFORDABLE HOUSING FRAUD**

1. Definitions:

- a. **AFFIDAVIT OF COMPLIANCE.** Form sent annually to owners of property that is deed restricted for affordability requiring signature and notarization establishing compliance with the deed restrictions recorded against said property.
- b. **DEED RESTRICTED AFFORDABLE HOUSING UNIT.** Any housing unit that has deed restrictions recorded against the unit preserving affordability.
- c. **DOMICILE.** The place where an individual has a fixed permanent home and principal establishment; to which the individual if absent, intends to return; and in which the individual and his or her family voluntarily reside, not for a special or temporary purpose, but with the intention of making a permanent home for a minimum of nine months out of each calendar year.
- d. **MAXIMUM RESALE VALUE.** Maximum Resale Value is based on the resale formula established in the applicable deed restriction.

- e. PRIMARY RESIDENCE. The place where a domicile has been established.
2. Affordable Housing Fraud. A person commits the offense of Affordable Housing Fraud if the person does any of the following with the intent to defraud, mislead, receive unjust enrichment, or otherwise circumvent the proper application of recorded deed restrictions for affordable housing:
- a. Knowingly makes any material misstatement, misrepresentation, or omission during the purchase, sale, mortgage lending process, leasing, or other process involving a deed restricted affordable housing unit, intending that it be relied upon by a buyer, seller, mortgage lender, borrower, renter or any other party;
  - b. When dealing with a deed restricted affordable housing unit, knowingly:
    - i. Participates in or facilitates any contract or other agreement other than a standard Real Estate Purchase Agreement or other formal real estate contract or agreement for the real property, to sell or purchase improvements to the real property or personal property for a value in excess of the deed restricted maximum resale value;
    - ii. Obtains or facilitates financing of a deed restricted affordable housing unit at an amount greater than the deed restricted maximum resale value;
    - iii. Closes an escrow or facilitates a transfer of the property without fully complying with all requirements related to a transfer of the property;
    - iv. Leases an affordable unit without fully complying with the requirements set forth in the deed restrictions;
    - v. Fails to occupy his or her deed restricted affordable housing unit as his or her primary residence; or
    - vi. Fails to file or cause to be filed annually a signed and notarized affidavit of compliance, or provides false information on the affidavit of compliance;
  - c. Knowingly files or causes to be filed with any county recorder in Utah any document that the person knows contains a material misstatement, misrepresentation, or omission; or
  - d. Receives any proceeds or any compensation in connection with a sale, lease or financing of a deed restricted affordable housing unit that the person knows resulted from a violation of this section.
3. Penalty. Any person violating the provisions of this ordinance shall be guilty of a class B misdemeanor. Any person convicted of violating this section is disqualified from further participation in affordable housing programs within the city limits for a period of five (5) years following the date of such conviction; provided, however, this provision shall not be construed or interpreted to impair any existing contract to which the convicted person is a party.
4. Enforcement. The Park City Police Department shall have authority to investigate violations of this section and issue citations.

**Section II.** Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent

jurisdiction, such provision shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

**Section III.** Conflict with Existing Ordinances, Resolutions, or Policies. To the extent that any ordinances, resolutions, or policies of Park City Municipal Corporation conflict with the provisions of this ordinance, this ordinance shall prevail.

**Section IV.** Effective Date. This ordinance shall become effective upon publication.

PASSED AND ADOPTED BY THE Park CITY COUNCIL this 25 day of September, 2014.

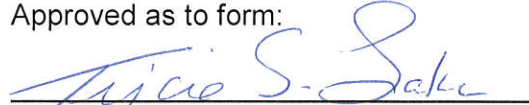
PARK CITY MUNICIPAL CORPORATION

  
\_\_\_\_\_  
Mayor Jack Thomas

Attest:

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Marci Heil, City Recorder

Approved as to form:

  
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Tricia S. Lake, Assistant City Attorney