

**Ordinance No. 2023-51**

**AN ORDINANCE AMENDING SECTIONS 4-1-1, 4-3-6, AND 4-7-3 OF THE MUNICIPAL CODE OF PARK CITY, UTAH**

WHEREAS, changes in State law removed the statutory authorization for the Main Street Business Improvement District and the corresponding fee; and

WHEREAS, City Council finds that it is in the public interest to update the City Code to reflect the changes in State law and remove references to the Business Improvement District.

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

**SECTION I. Approval of Amendments to Title 4.** Sections 4-1-1, 4-3-6, and 4-7-3 of the Park City Code are hereby amended as shown in Attachment A.


**SECTION II. Effective Date.** This ordinance shall become effective upon publication.

**PASSED AND ADOPTED** this 2<sup>nd</sup> day of November, 2023.

PARK CITY MUNICIPAL CORPORATION

DocuSigned by:  
*Nann Worel*  
57775BCB46414F6  
\_\_\_\_\_  
Mayor, Nann Worel

Attest:

DS  
  
DocuSigned by:  
*Michelle Kellogg*  
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\_\_\_\_\_  
Michelle Kellogg, City Recorder

Approved as to form:

DocuSigned by:  
*Margaret Plane*  
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City Attorney's Office

## Attachment A: Title 4 Amendments

### **4-1-1 Definitions**

All words and phrases used in this Title shall have the following meanings unless a different meaning clearly appears from the context. Definitions specific to Chapters 4-8 and 4-11 are included in their respective chapters:

**ART.** Original works of fine Art, graphic Art, and aesthetic objects produced by the Artist. It shall not include any Art produced by any Person other than the Artist displaying the Art, or any Art purchased or taken on consignment and held for resale.

**ARTIST.** The creator of the Art who exhibits his/her own Art for sale. Artist does not include street musician.

**AVAILABLE CITY PROPERTY.** The green space at the northeast intersection of Park Avenue and 9<sup>th</sup> Street, Park City, Utah, owned and operated by the City, and alternatively pursuant to 4-10-3(E)(1), City Park.

**BACKGROUND CHECK CERTIFICATE.** Certificate issued by the Bureau of Criminal Investigation that includes the applicant's name, date of certificate, date of expiration, and a statement that the certificate holder has met the requirements of the background check.

**BEDROOM.** Each room in a hotel, motel, lodge, condominium project, single family residence, fractional ownership or timeshare project, or other Nightly Lodging Facility that is intended primarily for the temporary use of transient guests for sleeping purposes.

**BUSINESS.** A distinct and separate Person or entity Engaging in Business, as those terms are defined herein. A Business is distinguished from another Business by separate state sales tax numbers or separate ownership.

**CITY.** Park City, Utah.

**COMMERCIAL VEHICLES AND TRAILERS & CONSULTANT LICENSE.** Motor vehicles used for a Business's normal activities, but not used to transport people to, from, and within Park City for a Fare. Such vehicles include but are not limited to vehicles used for deliveries, cleaning or consulting, commercial hauling, and snow removal services, as well as cargo rental vehicles, concrete trucks, and dump trucks.

**DABS.** The Utah Department of Alcoholic Beverage Services.

**EMPLOYEE BASED.** Businesses which lease or otherwise provide employees to other businesses or any Person in return for consideration. Such businesses include but are not limited to employment agencies and security firms.

**ENGAGING IN BUSINESS.** Includes all activities within the corporate limits of Park City carried on 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 prescribed. "Engaging in Business" includes but is not limited to the

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sale, rental, Gifting, marketing, or promotion of tangible personal or real property at retail or wholesale, the manufacturing of goods or property, and the rendering of personal services for others for consideration by Persons engaged in any profession, trade, craft, Business or occupation, except the rendering of personal services by an employee to his/her employer under any contract of personal employment. Each manufacturing or originating company, whether individually occupying a premise, including home occupations and home offices, or co-locating, shall be required to obtain an individual Business license for that Business activity.

**EXHIBIT.** To display for sale with the intent or expectation of receiving valuable consideration for the item displayed.

**FOOD TRUCK OPERATOR.** One who owns or operates a Food Truck as defined in Title 15, Land Management Code.

**GIFTING.** Includes various hospitality, filming, display, exhibiting, or promotional use of goods not for sale and other related activity that are marketing or promoting tools in which goods are given or traded to the public in general or desirable people so that the product will be associated with those people and appear in publications, media, internet, etc., to give the product exposure. Gifting is not just the display of goods with the hope of future orders; it involves actually giving the product away, where the consideration for the gift is the exposure of the product, and includes direct or indirect interaction with customers or potential customers in order to increase awareness of a product, or service of company. Corporate groups that receive gifts purchased by the corporation that are not provided by another entity and are exclusively for the group will not be considered Gifting.

**HOURLY USER CAPACITY.** The maximum number of Persons that can be safely and reasonably accommodated per hour by an amusement park, golf course, athletic club, theater, bowling alley, tennis club, racquetball club, swimming pool, ski lift, gondola, or tram, or any other recreational, sports, or entertainment facility.

**INSTRUCTOR LICENSE.** Any individual engaged in instructing individuals or groups, or teaching, giving, or offering lessons, classes, training, or other programs to individuals or groups such as ice skating lessons, etc., must obtain an Instructor License if instructing 30 days or more per annum. Instructor licenses are assessed at the same rate as commercial vehicles.

**LICENSE FEE(S).** Fees as defined by the Business License Fee Schedule.

**MAIN STREET BUSINESS DISTRICT.** Main Street Business ~~Improvement~~ District (~~MSBDBID~~) is defined as all businesses located in the following area:

The ~~MSBDBID~~ boundary shall follow the centerline of the following streets: Beginning at the intersection of Main Street and Deer Valley Drive, then proceeding westerly on Main Street to the intersection of the 9<sup>th</sup> Street, then west on 9<sup>th</sup> Street to the intersection of the 9<sup>th</sup> Street and Park Avenue, then proceeding southerly on Park Avenue to the intersection

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of King Road, then easterly on King Road to Main Street, then southerly on Main Street to Hillside Avenue, then proceeding easterly along Hillside to Marsac Avenue, then proceeding northward on Marsac Avenue to the intersection of Deer Valley Drive and the point of beginning.

**MOBILE VENDOR.** One who sells non-food goods such as flowers, agricultural products, or merchandise from push carts, mobile wagons, or motor vehicles. Mobile Vendors do not include Food Truck Operators.

**NIGHTLY LODGING FACILITY.** Any place where any portion is rented or otherwise made available to Persons for transient lodging purposes for a period less than thirty (30) days including, without limitation, a hotel, motel, lodge, condominium project, single family residence, fractional ownership or timeshare project.

**NON-PROFIT CORPORATION.** A corporation organized for some purpose other than making a profit and, as such, may enjoy a tax exempt status.

**NUISANCE.** For the purposes of the Alcoholic Beverage Licenses Chapter of this Title, any licensed premises where:

- A. Alcoholic beverages are manufactured, sold, kept, bartered, stored, consumed, given away, or used contrary to the Alcohol Beverage Control Act or this Code;
- B. Intoxicated Persons are permitted to loiter about;
- C. Profanity, indecent, immoral, loud, or boisterous language or immoral, unruly, disorderly, lewd, obscene conduct is permitted or carried on;
- D. Persons under the age of twenty-one (21) are permitted to purchase or drink beer or liquor;
- E. City, county, state, or federal laws or ordinances that protect the public health, safety, peace, or morals are violated by the licensee or his/her agents or patrons with the consent or knowledge of licensee;
- F. Patrons litter or throw other objects within the licensed premises or from the licensed premises in a manner which tends to affect the public health, safety, peace, or morals;
- G. Patrons are permitted to remove opened containers of alcoholic beverages or glasses containing alcoholic beverages from the licensed premises to the public street or way.

**PERSON(S).** Any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, partnership, joint venture, club, company, Business trust, corporation, association, society, or other group of individuals acting as a unit, whether mutual, cooperative, fraternal, non-profit, or otherwise.

**PLACE OF BUSINESS.** A place at which one Engages in Business; Each separate Place of Business or location must be separately licensed.

**RESTAURANT.** A Business location at which a variety of foods are prepared and at which complete meals are served to the general public in indoor or outdoor dining accommodations. This does not include Mobile Vendors or Food Trucks.

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**ROUTE DELIVERY.** Any delivery made to customers of a Business, which makes repeated door-to-door deliveries to the same households along designated routes with an established time interval in between delivery visits. The majority of such deliveries must be to fulfill orders previously made by the customer. However, nothing in this Title shall prevent a Business from taking orders from established customers and filled during such delivery visits. Such Business will include, but not be limited to, dairies and sellers of bulk meats or produce.

**SHUTTLE.** A vehicle that travels between fixed locations for a set or predetermined Fare.

**SKI RESORT.** A ski area that operates as a distinct and separate enterprise and which is deemed to include, without limitation, the ski runs, ski lifts, and related facilities that are part of the ski area and primarily service the patrons of the ski area. The Ski Resort includes ski instruction, tours, first aid stations, parking garages, management and maintenance facilities, and workshops, but does not include food service, ski rentals, or retail sales of goods or merchandise, which are all deemed separate businesses even if owned by a resort operator.

**SKIER DAY.** A three (3) year average of the total number of lift tickets sold each year between November 1 and June 30, including daily lift tickets, resident coupons, complimentary tickets, and an estimated average of season pass holders' daily use. The three (3) year average shall be calculated by the Ski Resort and shall include the three (3) most recent years of operation from November 1 through June 30. The City may audit the analysis and any Business records relied upon for the analysis. The calculation shall be submitted to the Finance Department by July 15 of each year.

**SOLICITED DELIVERY.** A delivery of previously ordered goods or services or the United States mail. Solicited Delivery includes, but is not limited to, the delivery of newspapers or publications pursuant to a subscription, parcel delivery services, businesses engaging in Route Delivery, or Persons delivering previously ordered goods or services on behalf of an established retailer of those goods or services.

**SOLICITOR.** A Person who contacts individuals or the general public for the purpose of taking orders for goods or services, or encouraging attendance at sales presentations, lectures, seminars, or the like, at which goods or services are promoted or offered for sale, whether the presentation, or lecture, seminar or the like is held within Park City or not, provided that the Solicitor makes contact with the public at a location other than at the regular Place of Business at which the goods or services are actually sold or performed. For purposes of this Title, the term "goods or services" shall include merchandise, produce, personal services, property services, investment opportunities, franchises, time intervals in the use of ownership or real property, and any other kind of tangible or intangible thing that is given in exchange for valuable consideration.

**SQUARE FOOTAGE.** The aggregate number of square feet of area within a Place of Business that is used by a licensee Engaging in Business.

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**UNIT.** Any separately rented portion of a hotel, motel, condominium, apartment building, single family residence, duplex, triplex, or other residential dwelling without limitation.

**UNSOLICITED DELIVERY.** The delivery of any unsolicited newspaper or publication, sample product, or advertising material. Unsolicited newspapers or publications, sample products, or advertising material shall include, but not be limited to, handbills describing or offering goods or services for sale, any goods or products that were not previously ordered by the homeowner or occupant, any newspaper or publication delivered without a subscription by the owner or occupant, and any coupons or rebate offers for goods and services.

## Attachment B: Title 4 Amendments

### **4-3-6 License Issuance, Revocation, Or Denial**

- A. The Finance Manager or his/her designee shall notify the applicant of:
1. The denial of a license and the reason for such denial; or
  2. The issuance of the license.
- B. The Finance Manager or his/her designee may deny or revoke a license if the applicant:
1. Has been convicted of a fraud or felony by any state or federal court within the past five (5) years, has been released from prison after serving a sentence for a fraud or felony within the last five (5) years, or now has criminal proceedings pending against him/her in any state or federal court for fraud or a felony;
  2. Has obtained a license by fraud or deceit;
  3. Has failed to pay personal property taxes or other required taxes or fees imposed by the City or other governmental agency;
  4. Has violated the laws of the State of Utah, the United States Government, or the ordinances of Park City governing operation of the Business for which the applicant is applying for the license;
  5. Is located within the boundaries of the Main Street Business ~~Improvement District (MSBDBID)~~ and has failed to pay ~~the Business promotion tax, set by separate ordinance, or~~ any applicable solid waste management charges or fees. Proof of up-to-date payment will be required prior to license approval or renewal;
  6. Fails to meet the requirements set by this Title;
  7. Conflicts with other applications or issued licenses;
  8. If applying for a Solicitor license, has been convicted of, or entered a guilty plea, to any crime involving receiving stolen goods, burglary, theft, fraud, the possession or sale of controlled substances, securities violations, or prostitution within the preceding five (5) years; or
  9. It would be inappropriate to issue the license due to concerns regarding the community's general health, welfare, and public safety.
- C. Additionally, the Finance Manager or his/her designee may deny or revoke an alcoholic beverage license if the applicant:
1. Is less than twenty-one (21) years of age;
  2. Has been convicted of:
    - a. A felony under federal or state law;
    - b. A violation of federal law, state law, or local ordinance concerning the sale, offer for sale, warehousing, manufacture, distribution, transportation, or adulteration of an alcoholic product;
    - c. A crime involving moral turpitude; or
    - d. Driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs on two (2) or more occasions within the five (5) years before the day on which the license is issued;
  3. Has had any type of alcoholic beverage license revoked within the last three (3) years;
  4. Fails to comply with federal and state laws pertaining to the payment of taxes and contributions to unemployment and insurance funds; or
  5. Fails to meet all other state requirements for the applicable license.

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### **4-7-3 Applications**

- A. For Type 1 and Type 3 convention sales licenses, the City may take up to ten (10) business days to complete the licensure process to permit adequate time for the Police, Building, Finance, and Planning Departments for review and investigation. The Departments may request reasonable evidence of title to goods proposed to be offered for sale as part of the review.
- B. Retained Council Authority for Type 2 licenses:
1. The Finance Manager or his/her designee shall refer the Type 2 convention sales license application to the Building, Planning, Parking, and Public Safety Departments for approval.
  2. After obtaining department approval, all Type 2 licenses shall require City Council approval at a publicly noticed meeting. All Type 2 license applications must be completed and received at least seven (7) calendar days prior to a regular scheduled meeting and three (3) business days prior to a special meeting.
  3. All Type 2 license applications require the applicant to have a pre-inspection prior to application at the Place of Business conducted by the Building Department for compliance with the building and fire codes. A copy of said pre-inspection report must accompany the license application submittal. The pre-inspection prior to application shall remain valid for one hundred and twenty (120) days.
  4. All Type 2 license applications shall require an accurate floor plan and a design occupancy load stamped by a design professional to be submitted to the Building Department prior to application.
  5. All Type 2 license applicants require a final inspection by the Building Department post application after the space has been set up for the event. Business shall not be conducted until the final inspection has been passed and the applicant has been issued a Type 2 convention sales license.
  6. All Type 2 convention sales license applicants for locations within the Main Street Business ~~Improvement~~ District (~~MSBDBID~~) boundaries are required to submit a payment receipt from the contracted local solid waste removal service provider ~~in the amount of one hundred dollars (\$100) at the time of application showing payment for solid waste removal during the duration of their license, and be required to pay the Main Street BID tax set forth by ordinance.~~
  7. All Type 2 convention sales licenses will be assessed the Enhanced Enforcement Fees as established in the Fee Schedule to be paid at time of application.
  8. If the City Manager or designee deems it necessary, the loading operations of each Type 2 convention sales licensee must be permitted by the Parking Division as set forth in Section 9-5-3(H) of the Municipal Code.
- C. Type 1 and Type 2 Convention Sales and Hospitality Licenses, located in a Storefront that meet the definition of a Conventional Chain Business, must comply with the Land Management Code Section 15-2.5-2 in the Historic Recreation Commercial District or 15-2.6-2 in the Historic Commercial Business District.