

Ordinance No. 2024-15

**AN ORDINANCE AMENDING TITLE 2 OF THE MUNICIPAL CODE OF PARK CITY, UTAH TO INCLUDE CHAPTER 7, DONATIONS TO CITY**

WHEREAS, the City seeks to encourage and facilitate donations to the City;

WHEREAS, the City seeks to balance the needs and desires of the community with the benefits and costs to the City associated with donations;

WHEREAS, the City seeks to establish uniformity in policy, process and timelines regarding the acceptance of donations to the City; and

WHEREAS, the Park City Council has determined that adoption of this ordinance promotes the best interests of the City;

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

**Section I.** Amendment and Repealed. Title 2 of the Municipal Code of Park City is hereby amended to include Chapter 7 to read as outlined in Exhibit A. Resolution 10-11, which pertains to Memorial and Community Project Donations, is hereby repealed in its entirety.

**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.** Effective Date. This Ordinance shall become effective upon publication.

**PASSED AND ADOPTED** this 11<sup>th</sup> day of July, 2024.

PARK CITY MUNICIPAL CORPORATION

DocuSigned by:  
*Nann Worel*  
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Mayor Nann Worel

Attest:  
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

## **EXHIBIT A**

### **2-7 DONATIONS TO CITY**

#### **2-7-1 PURPOSE**

The purpose of this Chapter is to establish policy and guidelines for acceptance of donations to the City. Its provisions establish a review process that considers the intentions of the donor, the needs and desires of the community, and City benefits and costs associated with proposed donations, including long term costs of maintenance and care of donated property.

#### **2-7-2 SCOPE**

- A. Except as provided in subsection B of this section, the provisions of this Chapter shall apply to any donation made, or proposed to be made, to the City.
- B. This Chapter does not apply to:
  - 1. A grant;
  - 2. A donation consisting solely of volunteer labor;
  - 3. A donation governed by state or federal law;
  - 4. A donation of Public Art governed by Resolution 18-2020, which is reviewed by the Art Board; or
  - 5. A donation to the Library governed by Title 2, Chapter 4, Section 15 of this Code.

#### **2-7-3 DEFINITIONS**

As used in this Chapter:

- A. **Cash Equivalent.** An asset that can be readily converted into a known amount of cash or that can be exchanged for a specified value of goods or services in the same manner as an equivalent value of cash.
- B. **Donation.** Anything (including multi-year contributions) other than a grant, that is contributed to the City by a donor without receiving valuable consideration from the City. It includes a building or structure, an endowment, an improvement, land, materials, money, a cash equivalent, a negotiable security, or volunteer labor paired with another type of donation, but does not include a contribution or payment associated with a sponsorship, naming right, or other similar arrangement.
- C. **Donor.** An individual or organization that makes a donation to the City, including a trust, estate, firm, partnership, joint venture, club, company, joint stock company, corporation, limited liability company, association, society, or any other group of individuals acting together, whether mutual, cooperative, fraternal, nonprofit, or otherwise.

- D. **Excess Funds.** Money, or another kind of donation that has been converted to money, contributed by a donor to the City that is unexpended after completion of the purpose for which a donation is used.
- E. **Grant.** A monetary or non-monetary contribution received pursuant to a formal application process and a formal award, or any contribution received from a governmental entity.
- F. **Nonmonetary Donation.** A donation to the City that cannot be classified as a donation of money, a cash equivalent, a negotiable security, or real property.
- G. **Volunteer.** A person who donates service under the direction of a City official, employee, or agent; without pay or other compensation except expenses actually and reasonably incurred as approved by the City.
- H. **Volunteer Labor.** Work provided by a volunteer under the direction of a City official, employee, or agent, that advances or contributes to a City objective.

#### **2-7-4 POLICY**

- A. Park City encourages donations from individuals and entities that support programs and services the City provides to the public. The City shall evaluate whether to accept a proposed donation based on the provisions of this Chapter and pertinent City policies and procedures. The City shall have sole discretion to determine whether to accept or decline a proposed donation. The intent of the City is to help donors reach their intended goals while at the same time taking action consistent with the mission, goals, plans, resources, and limitations of the City as a whole.
- B. A person who wishes to make a donation is encouraged to contact the recipient City department to discuss the proposed donation and the process for review and acceptance thereof.
- C. Subject to the provisions of this Chapter and in compliance with any applicable law, the City may accept a donation for the purpose of providing an improvement on City property, including an improvement constructed with volunteer labor. Any improvement shall be completed in conformance with applicable City policy and ordinances, development requirements, and other adopted standards.
- D. A donation may be used for any public purpose, subject to the provisions of this Chapter and any applicable donation agreement. If it becomes impossible or impractical to administer the donation in accordance with the wishes of the donor, an alternate purpose, which most closely aligns with the donor's intent, will be determined by the City.
- E. This Chapter shall not be construed to create any right for an individual or organization to make an improvement on City property.
- F. The City Manager, or the City Manager's designee, in consultation with the finance department, is authorized to establish policies and procedures related to donations that are consistent with this Chapter.

### **2-7-5 DONATIONS OF MONEY, CASH EQUIVALENTS, AND NEGOTIABLE SECURITIES**

- A. All donations of money, a cash equivalent, or a negotiable security less than \$10,000 may be accepted by the City Manager or the City Manager's designee in consultation with the finance department. All donations of money, a cash equivalent, or a negotiable security equal to or greater than \$10,000 must be approved by City Council prior to acceptance of the donation.
- B. Before any donation of a negotiable security may be accepted, the City Manager or designee must determine, in consultation with the finance department, that the proposed donation is in accordance with applicable law and the proposed donation is either:
  - 1. Not subject to conditions or specifications; or
  - 2. Subject to conditions or specifications approved pursuant to applicable provisions of this Chapter.
- C. A negotiable security may be held or sold at a marketable rate and the proceeds of such sale used consistent with any accepted donor conditions or specifications and, if there are no such conditions or specifications, in accordance with subsection C of this section or any other applicable provisions of this Chapter.
- D. A donation of money, a cash equivalent, or proceeds of the sale of a negotiable security shall be delivered to the finance department and deposited in a fund or account designated by the finance director or designee.

### **2-7-6 DONATIONS OF REAL PROPERTY**

- A. All donations of real property require City Council approval. Except as otherwise provided in subsection B of this section, the Council may accept a donation of real property that:
  - 1. Is consistent with the policy and objectives of any applicable master plan;
  - 2. Is free of any mortgage or liens against the property;
  - 3. Does not create an unfunded financial liability for the City;
  - 4. Does not have any hazardous waste or condition that would cause the City to become a potentially responsible party as provided in the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA), as amended;
  - 5. Will be transferred to the City in conformity with applicable City ordinances and policies; and
  - 6. Is located within the City, the City's annexation policy area, or the City's watershed protection area.

- B. If the requirements of subsection A of this section cannot be met, the City Manager, or the City Manager's designee, in consultation with the finance department, may recommend to the City Council that the real property donation nevertheless be accepted, subject to any conditions the City Manager, or designee, deems prudent. The City Council shall thereafter determine whether to accept or reject the proposed donation or propose additional/different conditions.

**2-7-7 NONMONETARY DONATIONS (EXCEPT REAL PROPERTY):**

All nonmonetary donations less than \$5,000 may be accepted by the City Manager or the City Manager's designee in consultation with the finance department. All nonmonetary donations equal to or greater than \$5,000 must be approved by City Council prior to acceptance of the donation.

**2-7-8 OWNERSHIP OF IMPROVEMENTS**

Any donated improvement made on public property becomes City property and is subject to the laws, policies, and procedures of the City.

**2-7-9 DONATION AGREEMENT**

- A. The City shall not accept a donation of money, a cash equivalent, or a negotiable security equal to or greater than \$10,000 unless the donor enters into a donation agreement approved by the City Manager or City Manager's designee. The City has the discretion to require a donation agreement before accepting a donation of less than this amount.
- B. The City shall not accept a donation of real property unless the donor enters into a donation agreement approved by the City Manager or designee.
- C. The City shall not accept a non-monetary donation equal to or greater than \$5,000 unless the donor enters into a donation agreement approved by the City Manager or designee. The City has the discretion to require a donation agreement before accepting a donation of less than this amount.
- D. The City may enter into a donation agreement with a donor that provides a framework under which the donor may make, under the agreement, multiple donations to the City over a specified period of time. Such agreement does not need to identify the total number of donations to be made and does not need to identify each donation with specificity. However, the parameters and the framework the City and the donor will use to identify and approve each separate donation must be set out in the agreement. Any agreement providing for multiple donations over a specified period of time cannot take effect unless it is first approved by the City Manager or designee.
- E. The City Manager, City Attorney, and Finance Manager, of their respective designees, with cause specified in writing, may jointly waive any of the requirements in this section with respect to a particular donation.

## **2-7-10 DONATION ACKNOWLEDGMENT**

When required by applicable law or internal revenue service regulations, the finance department shall provide a letter to each donor that formally acknowledges the donation. The letter must include a statement that because the City is subject to the provisions of the Government Records Access and Management Act, the City cannot guarantee anonymity of a donor.

## **2-7-11 TAX LIABILITY**

The City shall make no representation or guarantee as to the tax implications of any donation made to the City. Information provided by the City, its officials, employees, or agents in connection with a donation is not intended to be a substitute for professional advice. Each donor is responsible for documenting the value of the donation for tax purposes.

## **2-7-12 USE OF EXCESS FUNDS**

Any excess funds for which the donor has not provided a specific disposition in the donation agreement shall be transferred to a City fund pursuant to the City's budget process upon the earlier of either:

- A. The expiration of five years after the date the City took possession of the donation;  
or
- B. The City's fulfillment of the purpose of the donation.

## **2-7-13 DAMAGED, LOST, STOLEN, OR WORN DONATIONS**

- A. The City is not obligated to replace any donation or improvement that is lost, stolen, damaged, or worn.
- B. Except as otherwise provided in a donation agreement, the City may remove any donated improvement for reasons including safety, deterioration, neglect, vandalism, or the City's inability to finance ongoing maintenance or repairs.

## **2-7-14 CONFLICTS OF LAW**

If any provision of this Chapter conflicts with a provision of an applicable state or federal law or regulation, such law or regulation shall control.