

PARK CITY MUNICIPAL CODE - TITLE 8 CRIMINAL CODE

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TITLE 8 - CRIMINAL CODE

CHAPTER 1 - GENERAL PROVISIONS

8- 1- 1. DESIGNATION.

This Title shall be designated as the Park City Municipal Criminal Code. It is referred to within as "this Code".

8- 1- 2. APPLICATION OF CODE.

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 offenses defined outside this Code; provided such offense was committed after the effective date of this Code.

Any offense committed prior to the effective date of this Code shall be governed by the ordinances of Park City 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.

8- 1- 3. 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.
- (B) Define adequately the conduct and mental state, which constitute each offense and safeguard conduct that is 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.

8- 1- 4. CRIMES ABOLISHED.

No conduct is a crime or an offense unless made so by this Code, or other City ordinances or other State or Federal applicable statutes.

8-1-5. 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 Park City. 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.

8-1-6. PROCEDURE, GOVERNED BY STATE AND CONSTITUTIONAL PROVISIONS.

(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.

8-1-7. JURISDICTION OF OFFENSES.

(A) A person is subject to prosecution in Park City for an offense which he commits, while either within or outside Park City, 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 Park City; or

(2) The conduct outside Park City constitutes an attempt within this municipality; or

(3) The conduct outside Park City constitutes conspiracy to commit an offense within Park City and an act in furtherance of the conspiracy occurs in Park City; or

(4) The conduct within Park City 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 Park City if either the conduct which is an element of the offense, or the result which is such an element, occurs within Park City.

(C) An offense, which is based on an omission to perform a duty imposed by this Code is committed within Park City regardless of the location of the offender at the time of the omission, provided that the duty to be performed was to be performed within the City.

8-1-8. LIMITATION OF ACTIONS.

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

(A) A prosecution for a misdemeanor must be commenced within two (2) years after it is committed;

(B) A prosecution for any infraction must be commenced within one (1) year after it is committed. The prosecution is commenced on the filing of a complaint or information.

8-1-9. FRAUD OR BREACH OF FIDUCIARY OBLIGATION - MISCONDUCT BY PUBLIC OFFICER OR EMPLOYEE.

If the period prescribed in Section 8-1-8 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 (3) 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 (2) years thereafter, but in no case shall this provision extend beyond the period of limitation otherwise applicable by more than three (3) years.

8-1-10. 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.

8-1-11. LESSER INCLUDED OFFENSE FOR WHICH PERIOD OF LIMITATION 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.

8-1-12. JOINDER OF OFFENSES AND DEFENDANTS.

Two or more offenses under this Code or the ordinances of Park City may be charged in the same citation, complaint or information in a separate count for each offense if the offense 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.

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. Such defendants may be charged in one or more counts together or separately and all of the defendants need not be charged in each court.

8- 1-13. PRESUMPTION OF INNOCENCE.

A defendant in a criminal proceeding is presumed to be innocent until each element of the offense charged against him is proved beyond a reasonable doubt.

8- 1-14. GENERAL DEFINITIONS.

The provisions of U.C.A. 76-1-601, as amended, are hereby adopted and incorporated. Unless otherwise provided or a different meaning plainly required, the following terms shall be applicable to this Code, in its entirety, and shall have the meanings designated in this section:

- (A) **ACT**. A voluntary bodily movement and includes speech.
- (B) **ACTOR**. A person whose criminal responsibility is in issue in a criminal action.
- (C) **BODILY INJURY**. Physical pain, illness, or any impairment of physical condition.
- (D) **CONDUCT**. An act or omission.
- (E) **DANGEROUS WEAPON**.

A firearm or an object that in the manner of its use or intended use is capable of causing death or serious bodily injury. The following factors are used in determining whether an object, other than a firearm, is a dangerous weapon:

- (a) The location and circumstances in which the object was used or possessed;

- (b) The primary purpose for which the object was made;
- (c) The character of the wound, if any, produced by the object's unlawful use;
- (d) The manner in which the object was unlawfully used;
- (e) Whether the manner in which the object is used or possessed constitutes a potential imminent threat to public safety;
- (f) The lawful purposes for which the object may be used. .

(F) **DRUG PARAPHERNALIA**. As used herein is defined in U.C.A. 58-37a-3, as amended, which section is adopted and incorporated herein by reference.

(G) **FIREARM**. A pistol, revolver, shotgun, short-barreled shotgun, rifle or short-barreled rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.

(H) **OMISSION**. A failure to act where there is a legal duty to act and the actor is capable of acting.

(I) **PERSON**. An individual, public or private corporation, government, partnership, or unincorporated association.

(J) **POSSESS**. To have physical possession of or to exercise dominion or control over tangible property.

(K) **SERIOUS BODILY INJURY**. Bodily injury that creates or causes serious permanent disfigurement, protracted loss or impairment of the function of any bodily

member or organ or creates a substantial risk of death.

(L) **SINGLE CRIMINAL EPISODE.**

All conduct which is closely related in time and is in incident to an attempt or an accomplishment of a single criminal objective. Nothing in this part shall be construed to limit or modify the joining of offenses and defendants in criminal proceedings.

(M) **VIOLATION.** A violation of the provisions of this Code.

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

(Amended by Ord. 00-19; 14-58)

8- 1-15. CULPABILITY GENERALLY.

The provisions of U.C.A. 76-2-101 through 76-2-104, as amended, dealing with culpability are hereby adopted and incorporated herein by reference.

8- 1-16. CRIMINAL RESPONSIBILITY FOR CONDUCT OF ANOTHER.

The provisions of U.C.A. 76-2-201 through 76-2-205, as amended, dealing with criminal responsibility for conduct of another are hereby adopted and incorporated herein by reference.

8- 1-17. DEFENSES TO CRIMINAL RESPONSIBILITY.

The provisions of U.C.A. 76-2-301 through 76-2-308, as amended, dealing with defenses to criminal responsibility are hereby adopted and incorporated herein by reference.

8- 1-18. JUSTIFICATION EXCLUDING CRIMINAL RESPONSIBILITY.

The provisions of U.C.A. 76-2-401 through 76-2-406, as amended, dealing with justification excluding criminal responsibility are hereby adopted and incorporated herein by reference.

8- 1-19. SENTENCING IN ACCORDANCE WITH CODE.

A person adjudged guilty of an offense under this Code or the ordinances of Park City shall be sentenced in accordance with the provisions of this Code. Ordinances enacted after the effective date of this Code, which involve an offense should be classified for sentencing purposes in accordance with this Code, unless otherwise expressly provided.

8- 1-20. DESIGNATION OF

OFFENSES.

Offenses are designated as misdemeanors or infractions.

8- 1-21. MISDEMEANORS CLASSIFIED.

Misdemeanors are classified into three categories:

- Class A misdemeanor
- Class B misdemeanor
- Class C misdemeanor

An offense designated as a misdemeanor in this Code or in the ordinances of Park City when no other specification as to punishment or category is made, is a Class B misdemeanor.

8- 1-22. CONTINUING VIOLATION.

In all instances where the violation of this Code 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.

8- 1-23. 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) Payment of a fine; or

- (B) Completion of a public work project; or
- (2) Probation; or
- (D) Imprisonment; or
- (E) Removal or disqualification from public or private office.

8- 1-24. MISDEMEANOR CONVICTION - TERM OF IMPRISONMENT.

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

- (A) In the case of a Class A misdemeanor, for a term not exceeding one (1) year.
- (B) In the case of a Class B misdemeanor, for a term not exceeding six (6) months;
- (C) In the case of a Class C misdemeanor, for a term not exceeding ninety (90) days.

8- 1-25. INFRACTION CONVICTION - FINE, FORFEITURE.

A person convicted of an infraction may not be imprisoned but may be subject to a fine, forfeiture, or both. Whenever a person is convicted of an infraction and no punishment is specified, the person may be fined as for a Class C misdemeanor.

8- 1-26. 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 two thousand five hundred dollars (\$2,500) when the conviction is of a Class A misdemeanor, pay a fine not to exceed one thousand dollars (\$1,000) if the conviction is for a Class "B" misdemeanor and seven hundred fifty dollars (\$750.00) when the conviction is for a Class "C" misdemeanor or infraction.

(Amended by Ord. 00-19)

8- 1-27. 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 Park City or for any offense defined outside of this Code over which Park City has jurisdiction, for which no special corporate fine is specified, shall be sentenced to pay an amount, fixed by the court, not to exceed ten thousand dollars (\$10,000) if the conviction is for a Class "A" misdemeanor, five thousand dollars (\$5,000) if the conviction is for a Class "B" misdemeanor and one thousand dollars (\$1,000) if the conviction is for a Class "C" misdemeanor or infraction.

8- 1-28. LIMITATIONS AND SPECIAL PROVISIONS OF SENTENCES.

The provisions of U.C.A. 76-3-401 through 76-3-405, as amended, dealing with limitations and special provisions on sentences are hereby adopted and incorporated herein by reference.

8- 1-29. ATTEMPT.

For the purpose of this Code a person is guilty of an attempt to commit any act made an offense by any ordinance of this municipality if, acting with the kind of culpability otherwise required for the commission of the offense, he engages in conduct constituting a substantial step toward commission of the offense. For purposes of this Code, conduct does not constitute a substantial step unless it is strongly corroborative of the actor's intent to commit the offense.

No defense to the offense of attempt shall arise:

- (A) Because the offense attempted was actually committed; or
- (B) Due to factual or legal impossibility if the offense could have been committed had the attendant circumstances been as the actor believed them to be.

8- 1-30. ATTEMPT - CLASSIFICATION OF OFFENSES.

Criminal attempt to commit:

- (A) Class A misdemeanor is a Class B misdemeanor;
- (B) Class B misdemeanor is a Class C

misdemeanor;

(C) Class C misdemeanor is punishable by a penalty not exceeding one/half the penalty for a Class C misdemeanor;

8- 1-31. CONSPIRACY.

For purposes of this Code a person is guilty of conspiracy when he, intending that conduct constituting an offense under this Code whether he specifically intends to violate this Code or not, agrees with one or more persons to engage in or cause the performance of such conduct and any one of them commits an overt act in pursuance of the conspiracy.

8- 1-32. CONSPIRACY - CLASSIFICATION OF OFFENSES.

Conspiracy to commit:

(A) Class A misdemeanor is a Class B misdemeanor;

(B) Class B misdemeanor is a Class C misdemeanor;

(C) Class C misdemeanor is punishable by a penalty not exceeding one/half the penalty for a Class C misdemeanor.

8- 1-33. APPEARANCE REQUIRED BY CITATION - FAILURE TO APPEAR AS MISDEMEANOR.

Person(s) receiving misdemeanor citations shall appear before the magistrate designated in the citation on or before the time and date specified in the citation. Any person who willfully and without just cause fails to

appear before a court pursuant to a citation issued under this provision is guilty of a Class B misdemeanor, regardless of the disposition of the charge upon which said person was originally cited.

CHAPTER 2 - OFFENSES INVOLVING PERSONS AND PUBLIC PEACE

8- 2- 1. ASSAULT.

Assault is:

(A) an attempt, with unlawful force or violence, to do bodily injury to another; or

(B) a threat, accompanied by a show of immediate force or violence, to do bodily injury to another; or

(C) an act, committed with unlawful force or violence, that causes bodily injury to another.

8- 2- 2. CRIME OF STALKING.

(A) As used in this section:

(1) 'Course of conduct' means repeatedly maintaining a visual or physical proximity to a person or repeatedly conveying verbal or written threats or threats implied by conduct or a combination thereof directed at or toward a person;

(2) 'Immediate family' means a spouse, parent, child, sibling, or any other person who regularly resides in the household or who regularly resided in the household within the prior six months;

(3) 'Repeatedly' means on two or more occasions.

(1) intentionally or knowingly engages in a course of conduct directed at a specific person that would cause a reasonable person:

(a) to fear bodily injury to himself or a member of his immediate family; or

(b) to suffer emotional distress to himself or a member of his immediate family.

(2) has knowledge or should have knowledge that the specific person:

(a) will be placed in reasonable fear of bodily injury to himself or a member of his immediate family; or

(b) will suffer emotional distress or a member of his immediate family will suffer emotional distress; and

(3) whose conduct:

(a) induces fear in the specific person of bodily injury to himself or a member of his immediate family; or

(b) causes emotional distress in the specific person or member of his immediate

(B) A person is guilty of stalking who:
family.

(C) A person is also guilty of stalking who intentionally or knowingly violates a stalking injunction issued pursuant to U.C.A. Title 77, Chapter 3a, Stalking Injunctions, or intentionally or knowingly violates a permanent criminal stalking injunction.

(Amended by Ord. No. 02-17)

8-2-3. HARASSMENT.

A person is guilty of harassment if, with intent to frighten, annoy, or compel the conduct of another, he communicates in writing or verbally, including telephone communication, a threat to commit any violent felony. Harassment is a Class C misdemeanor.

8-2-4. TERRORISTIC THREAT.

A person commits terroristic threat if he threatens to commit any offense involving violence with intent:

(A) To cause action of any sort by a governmental official or volunteer agency, or employee or agent thereof, organized to deal with emergencies; or

(B) To place a person in fear of serious bodily injury.

(C) To prevent or interrupt the occupation of a place of assembly; or aircraft, automobile, or other form of

conveyance, but shall not include a facility of public transportation operated by a common carrier.

8- 2- 5. CUSTODIAL INTERFERENCE.

(A) A person whether a parent or other, is guilty of custodial interference if, without good cause, he takes, entices, conceals, or detains a child under the age of sixteen (16) from his parent, guardian, or other lawful custodian:

- (1) Knowing he has no legal right to do so; and
- (2) With intent to hold the child for a period substantially longer than the visitation or custody period previously awarded by a court of competent jurisdiction.

(B) A person, whether a parent or other, is guilty of custodial interference if, having actual physical custody of a child under the age of sixteen (16) pursuant to a judicial award of any court of competent jurisdiction which grants to another person visitation or custody rights, and without good cause he conceals or detains the child with intent to deprive the other person of his lawful visitation or custody rights.

(C) A person is guilty of custodial interference if without good cause he takes, notices, conceals, or detains an incompetent or other person under the age of sixteen (16) who has been committed by authority of law to the custody of another person or institution from the other person or institution, knowing he has no legal right to

do so.

8- 2- 6. UNLAWFUL DETENTION.

A person commits unlawful detention if he knowingly restrains another unlawfully so as to interfere substantially with his liberty.

8- 2- 7. PROTECTIVE ORDER VIOLATION.

Any person who has been restrained from abusing or contacting another or ordered to vacate a dwelling or remain away from the premises of the other's residence, employment, or other place as ordered by the court under a protective order or ex parte protective order issued under U.C.A. 30-6, or 78-3a, who violates that order within Park City, after having been properly served with it is guilty of a Class B misdemeanor.

8- 2- 8. RECKLESS SKIING AND SNOWBOARDING PROHIBITED.

(A) **DEFINITIONS.**

(1) Injury. Any personal injury, death, or property damage or loss suffered by a skier, snowboarder, observer, ski area operator, ski area or other person lawfully within the boundaries of a ski area.

(2) Ski Area. Any area designated by a Ski Area Operator to be used for skiing, Nordic, freestyle, or other type of ski jumping and snowboarding, including any geographic area, terrain, and ski slopes served by a passenger ropeway.

(3) Ski Area Operator. Those persons, and their agents, officers, employees, or representatives, who operate a ski area.

(4) Skier. Any person present in a ski area for the purpose of engaging in the sport of skiing, Nordic, freestyle, or other types of ski jumping using skis, sled, tube, snowboard or any other device.

(5) Passenger Ropeway. A device, excluding an elevator, used to transport passengers along a level, inclined path by means of a haul rope or other flexible element that is driven by a power unit that remains essentially at a single location. Passenger ropeways include an aerial tramway; an aerial lift, including a detachable grip lift and chair lift; a conveyor; a funicular; a surface lift, including a J-bar, T-bar, or platter pull; and a rope tow.

(6) Ski Patrol. Those employees of a ski area who are employed to provide first aid or other medical attention to skiers injured on the mountain, or any person who as a volunteer sanctioned by the ski area carried out these functions.

(7) Snowboarder. Any person present in a ski area for the purpose of engaging in the sport of snowboarding.

(B) RECKLESS SKIING OR SNOWBOARDING PROHIBITED. No

person shall ski or snowboard in a reckless or negligent manner so as to endanger the life, limb, or property of any person, or so as to display a willful or wanton disregard for other persons or property. The primary duty shall be on the skier or snowboarder to avoid collision with any person or object below him. Each skier or snowboarder shall be presumed to have seen and understood skier information posted near base area ski lifts, on the passenger tramways, on trail maps, and/or on such ski slopes or trails as such person is skiing or snowboarding. The duty is on the skier or snowboarder to locate and ascertain the meaning of all signs posted.

(C) SKIER'S OR SNOWBOARDER'S DUTY TO INJURED PARTY IN THE EVENT OF A COLLISION. Any skier or snowboarder involved in a collision resulting in injury to any person shall immediately stop at the scene of such collision and provide such care and treatment to any injured person as is reasonably necessary. Such assistance may include warding off other skiers while waiting for aid or contacting ski area personnel or ski patrol to advise that aid is necessary.

(D) SKIER'S OR SNOWBOARDER'S DUTY OF NOTIFICATION IN EVENT OF COLLISION. Any skier or snowboarder involved in a collision with another person in which injuries result must give his or her name, address, and phone number to a member of the ski patrol, or other employee of the ski area, before leaving the vicinity of the collision. If it is necessary to leave the vicinity in order to secure aid for an injured person, the skier or snowboarder shall give his or her name and

address as required herein after such aid is secured and before leaving the ski area.

(E) **PENALTY**. It is a Class B misdemeanor to violate any provision of this ordinance.

(F) **TRAIL BOARDS REQUIRED**. Ski area operators shall post trail boards at one or more prominent locations within each ski area which shall include the duties of skiers and snowboarders and prohibition against reckless skiing and snowboarding as defined by this ordinance.

(G) **ENFORCEMENT**. The Park City Police Department, upon notification from a ski area operator, its designee, or an injured skier or snowboarder, shall have authority to investigate violations of this section and issue citations or make arrests.

(H) Violations of this section that occur within ski area boundaries which extend into neighboring jurisdictions shall be referred to the appropriate authority for investigation and prosecution.

(Created by Ord. No. 08-06)

8-2-9. SKIING IN CLOSED AREAS PROHIBITED

(A) **DEFINITIONS**.

(1) Ski Area. Any area designated by a ski area operator to be used for skiing, Nordic, freestyle, or other type of ski jumping or snowboarding.

(2) Ski Area Operator. Those persons, and their agents, officers, employees or representatives, who operate a ski area.

(3) Skier. Any person present in a ski area for the purpose of engaging in the sport of skiing, Nordic, freestyle, or other types of ski jumping using skis, sled, tube, snowboard or any other device.

(4) Closed Area. An area designated by the ski area operator as inaccessible by signs, ropes, flags, or other indicia of closure, including, but not limited to, the existence of nature features impeding entrance to the area. A closed area can be anywhere within a ski area.

(B) **SKIING AND SNOWBOARDING IN CLOSED AREAS PROHIBITED**. It shall be unlawful for any skier or snowboarder to negligently or intentionally go onto or upon any closed area. In the event a closed area is closed from one direction, but not all directions, entering the area from the closed direction is a violation of this ordinance.

(C) **PENALTY**. Any person violating the provisions of this ordinance shall be guilty of a Class B misdemeanor.

(D) **ENFORCEMENT**. The Park City Police Department, upon notification from a ski area operator, shall have authority to investigate violations of this section and issue citations or make arrests.

(Created by Ord. No. 08-05)

CHAPTER 3 - OFFENSES INVOLVING PROPERTY

8- 3- 1. THEFT.

A person commits theft if he obtains or exercises unauthorized control over the property of another with a purpose to deprive him thereof. The possession of property recently stolen, when the party in possession fails to make a satisfactory explanation shall be deemed prima facie evidence of guilt.

8- 3- 2. THEFT OF SERVICES.

(A) A person commits theft if he obtains services which he knows are available only with compensation by deception, threat, force, or any other means designed to avoid the due payment therefor.

(B) A person commits theft if, having control over the disposition of services of another, to which he knows he is not entitled, he diverts such services to his own benefit or to the benefit of another who he knows is not entitled thereto.

(C) As used in this section "services" includes, but is not necessarily limited to, labor, professional service, public utility, including governmental utility service, and transportation services, restaurant, hotel, motel, tourist cabin rooming house and like accommodations, the supplying of equipment tools, vehicles, or trailers for temporary use, telephone or telegraph service, cable television, computer service, gas, electricity, water or steam, and the like, admission to entertainment, exhibitions, sporting events, or other events for which a

charge is made.

8- 3- 3. CRIMINAL MISCHIEF.

(A) A person commits criminal mischief if he intentionally damages, defaces, or destroys the property of another or he recklessly or willfully shoots or propels a missile or other object at or against a motor vehicle, bus airplane, boat, locomotive, train, railway car or caboose, whether moving or standing.

(B) Criminal mischief is defined herein as a Class B misdemeanor if the actor's conduct causes or is intended to cause pecuniary loss in excess of two hundred and fifty dollars (\$250) and a Class C misdemeanor if the actor's conduct causes or is intended to cause the loss of less than two hundred and fifty dollars (\$250).

8- 3- 4. CRIMINAL TRESPASS.

(A) A person is guilty of criminal trespass if:

(1) He enters or remains unlawfully on property; and:

(a) intends to cause annoyance or injury to any person thereon or damage to any property thereon; or

(b) intends to commit any crime, other than theft or a felony; (c) is reckless as to whether his presence will cause fear for the safety of another.

(2) Knowing his entry or presence is unlawful, he enters or remains on property as to which notice against entering is given by:

(a) personal communication to the actor by the owner or someone with apparent authority to act for the owner; or

(b) fencing or other enclosure obviously designed to exclude intruders; or

(c) posting of signs reasonably likely to come to the attention of intruders.

(B) A violation of Subsection (A)(1) is a Class C misdemeanor unless it was committed in a dwelling in which event it is a Class B misdemeanor. A violation of Subsection (A)(2) is an infraction.

(C) It is a defense to prosecution under this section:

(1) That the property was open to the public when the actor entered or remained; and

(2) The actor's conduct did not substantially interfere with the owner's use of the property.

8-3-5. RESELLING OF A SKI LIFT TICKET

(A) DEFINITIONS.

(1) Ski Area Operator. Those

persons, and their agents, officers, employees, or representatives, who operate a ski area.

(2) Skier. Any person present in a ski area for the purpose of engaging in the sport of skiing, Nordic, freestyle, or other types of ski jumping using skis, sled, tube, snowboard or any other device.

(3) Ski Lift. A device, excluding an elevator, used to transport passengers along a level, inclined path by means of a haul rope or other flexible element that is driven by a power unit that remains essentially at a single location. Passenger ropeways include an aerial tramway; an aerial lift, including a detachable grip lift and chair lift; a conveyor; a funicular; a surface lift, including a J-bar, T-bar, or platter pull; and a rope tow.

(4) Ski Lift Ticket. Any annual pass, day pass, promotional pass, punch card, badge, pin, coupon, or other device which then entitles the bearer to the use, benefit, or enjoyment of any ski lift.

(5) Snowboarder. Any person present in a ski area for the purpose of engaging in the sport of snowboarding.

(B) **RESELLING OF A SKI LIFT TICKET PROHIBITED.** Any person not authorized by the ski area operator, who, with the intent to profit therefrom, resells or offers to resell any ski lift ticket, which then

entitles the bearer to the use, benefit, or enjoyment of any ski lift is in violation of this section.

(C) **PENALTY**. Any person violating the provisions of the Ordinance shall be guilty of a Class B misdemeanor.

(D) **ENFORCEMENT**. The Park City Police Department, upon notification from a ski area operator or its designee shall have authority to investigate violations of this section and issue citations.

(E) **VIOLATIONS**. Violations of this section that occur within ski area boundaries which extend into neighboring jurisdictions shall be referred to the appropriate authority for investigation and prosecution.

(Created by Ord. No. 13-08)

8.3.6. AFFORDABLE HOUSING FRAUD

(A) **DEFINITIONS**.

(1) 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.

(2) Deed Restricted Affordable Housing Unit. Any housing unit that has deed restrictions recorded against the unit preserving affordability.

(3) 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.

(4) Maximum Resale Value. Maximum Resale Value is based on the resale formula established in the applicable deed restriction.

(B) **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:

(1) 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;

(2) When dealing with a deed restricted affordable housing unit, knowingly:

(a) 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;

(b) Obtains or facilitates financing of a deed restricted affordable housing unit at an amount greater than the deed restricted affordable housing unit at an amount greater than the deed restricted maximum resale value;

(c) Closes an escrow or facilitates a transfer of the property without fully complying with all requirements related to a transfer of the property;

(d) Leases an affordable unit without fully complying with the requirements set forth in the deed restrictions;

(e) Fails to occupy his or her deed restricted affordable housing unit as his or her primary residence; or

(f) Fails to file or cause to be filed annually a signed and notarized affidavit of compliance, or provide false information on the affidavit

of compliance;

(3) 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

(4) Received 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.

C. 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.

D. ENFORCEMENT. The Park City Police Department shall have authority to investigate violations of this section and issue citations.

(Created by Ord. No. 14-47)

CHAPTER 4 - OFFENSES INVOLVING PUBLIC PEACE AND WELFARE

8- 4- 1. OBSCENE OR PROFANE LANGUAGE.

It shall be unlawful for any person to use insulting, obscene, or profane language in a place or under circumstances, which could cause a breach of the peace or good order of Park City.

8- 4- 2. INTOXICATION.

A person is guilty of intoxication, a Class C misdemeanor, if he or she is under the influence of intoxicating liquor, a controlled substance, or any substance having the property of releasing toxic vapors, to a degree that the person may endanger himself or another in a public place or in a private place where he unreasonably disturbs other persons.

8- 4- 3. INTERFERENCE WITH A PUBLIC SERVANT.

Every person shall be guilty of a misdemeanor who:

(A) Attempts by means of any threat, force, intimidation, distraction, or violence to deter, interfere with, or prevent a police officer, fireman, building official, meter reader, or any other city employee charged with the enforcement of any law, from performing any official duty imposed upon said officer, fireman, or other employee by law; or

(B) Willfully resists, delays, or obstructs a police officer fireman or building official, or fails to comply with a lawful command of a police officer, fireman, or building official in the discharging or attempted discharge of his or her official duty.

8- 4- 4. INTERFERENCE WITH

ARRESTING OFFICER.

A person within Park City is guilty of interference with an arresting officer if he has knowledge, or by the exercise of reasonable care should have knowledge, that a peace officer is seeking to effect a lawful arrest or detention of that person or another and interferes with the arrest or detention by:

- (A) use of force or any weapon;
- (B) the arrested person's refusal to perform any act required by lawful order;
 - (1) necessary to effect the arrest or detention; and
 - (2) made by a peace officer involved in the arrest of detention; or
- (C) the arrested person's or another person's refusal to refrain from performing any act that would impede the arrest or detention.

8- 4- 5. OBSTRUCTION OF JUSTICE.

A person shall be guilty of a obstruction of justice if, with intent to hinder, prevent, or delay the discovery, apprehension, prosecution, conviction, or punishment of another for the commission of a crime, he/she:

- (A) Conceals an offense from a magistrate, knowing it has been committed;
- (B) Harbors or conceals the offender;
- (C) Provides the offender a weapon,

transportation, disguise, or other means for avoid discovery or apprehension;

(D) Warns such offender of impending discovery or apprehension; or

(E) Conceals, destroys, or alters any physical evidence that might aid in the discovery, apprehension, or conviction of such person; or

(F) Obstructs by force, intimidation, distraction, or deception anyone from performing an act which might aid in the discovery, apprehension, prosecution or conviction of such person.

8- 4- 6. DISTURBING GOVERNING BODY OR OFFICIAL MEETING.

A person is guilty of a disturbing the governing body or official meeting if:

(A) He intentionally interferes with the condition of any meeting of the City Council, Planning Commission, Board of Adjustment, or any other public body created by ordinance while that meeting is in session with the intention of preventing or delaying the official action of that public body; or

(B) He intentionally commits any disorderly conduct in the immediate view and presence of the governing body of Park City or its boards and commissions which tends to interrupt its proceedings or impair the respect of its authority; or

(C) Intentionally disturbs an official meeting or commits any disorderly conduct

in immediate view and presence of participants in an official meeting which tends to interrupt its proceedings. "Official meeting" as used in this section, means any lawful meeting of municipal officials for the purpose of carrying on governmental functions.

8- 4- 7. ESCAPE.

It shall be unlawful for any person convicted of any offense against the ordinances of Park City, or under arrest for the commission of any offense against the ordinances of Park City, or the laws of the State of Utah, or in lawful custody to escape from such custody.

8- 4- 8. RIOT.

Any use of force or violence disturbing the public peace, or any threat to use such force or violence by two or more persons acting together and without authority of law, if accompanied by immediate power of execution is a riot. It shall be unlawful for any person to participate in any riot.

8- 4- 9. FAILURE TO AID PEACE OFFICER.

A person is guilty of failure to aid a peace officer if, upon command by a peace officer identifiable or identified by him as such, he unreasonably fails or refuses to aid the peace officer in effecting an arrest or in preventing the commission of any offense by another person.

8- 4-10. DISTURBING THE PEACE.

It shall be unlawful for any person

maliciously or willfully to disturb the peace or quiet of another or of any neighborhood or family, by loud or unusual noise or by discharging firearms of any description, or by tumultuous, lascivious or offensive conduct, or by threatening, inducing, quarreling, challenging to fight or fighting or by use of profane or blasphemous language.

8- 4-11. FALSE INFORMATION TO LAW ENFORCEMENT OFFICER.

A person is guilty of giving false information to a law enforcement officer if he:

(A) Knowingly gives or causes to be given false information to any law enforcement officer with a purpose of inducing the officer to believe that another has committed an offense; or

(B) Knowingly gives or causes to be given information to any law enforcement officer concerning the commission of an offense, knowing that the offense did not occur or knowing that he has no information relating to the offense or danger.

8- 4-12. FALSE NAME OR ADDRESS TO LAW ENFORCEMENT OFFICER.

A person commits a Class C misdemeanor if, with intent of misleading a law enforcement officer as to his identity, he knowingly gives a false name or address to a law enforcement officer in the lawful discharge of his official duties.

8- 4-13. IMPERSONATION OF OFFICER.

A person is guilty of impersonation of an officer who:

(A) impersonates a public servant or a peace officer of this municipality with intent to deceive another or with intent to induce another to submit to his pretended official authority or to rely upon his pretended official act.

(B) falsely states he is a public servant or a peace officer with intent to deceive another or to induce another to submit to his pretended official authority or to rely upon pretended official act; or

(C) displays or possesses without authority any badge, identification card, other form of identification, any restraint device, or the uniform of any state or local government entity, or a reasonable facsimile of any of these items, with the intent to deceive another or with the intent to induce another to submit to his pretended official authority or to rely upon his pretended official act.

8- 4-14. DISORDERLY CONDUCT.

A person is guilty of disorderly conduct if:

(A) A person refuses to comply with the lawful order of the police to move from a public place or knowingly creates a hazardous or physically offensive condition, by any act which serves no legitimate purpose; or

(B) Intending to cause public inconvenience, annoyance, or alarm, or

recklessly creating a risk thereof, a person;

- (1) Engages in fighting or in violent, tumultuous, or threatening behavior; or
- (2) Makes unreasonable noises in a public place; or
- (3) Makes unreasonable noises in a private place which can be heard in a public place; or
- (4) Engages in abusive or obscene language or makes obscene gestures in a public place; or
- (5) Obstructs vehicular or pedestrian traffic.

(C) "Public place" for the purpose of this section, means any place to which the public or a substantial group of the public has access and includes but is not limited to streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, shops, plazas, parking lots, public parks, cemeteries, and similar areas open to the public or a substantial group of the public.

(D) Disorderly conduct is a Class C misdemeanor if the offense continues after a request by a person to desist. Otherwise it is an infraction.

(Amended by Ord. 00-19)

8- 4-15. DISRUPTING A MEETING OR PROCESSIONS.

A person is guilty of disrupting a meeting or procession if, intending to prevent or disrupt a lawful meeting, procession or gathering, he obstructs or interferes with the meeting, procession, or gathering by physical action, verbal utterance, or any other means.

8- 4-16. DISRUPTING THE OPERATION OF A SCHOOL.

A person is guilty of disrupting the operation of a school if the person, after being asked to leave by a school official, remains on school property for the purpose of encouraging or creating an unreasonable and substantial disruption or risk of disruption of a class, activity, program, or other function of a public or private school within Park City. For purposes of this section "school property" includes property being used by a public or private school for a school function.

8- 4-17. FAILURE TO DISPERSE.

A person is guilty of failure to disperse when he remains at the scene of a riot, disorderly conduct, or an unlawful assembly after having been ordered to disperse by a peace officer. This section shall not apply to a person who attempted to but was unable to leave the scene of the riot or unlawful assembly.

8- 4-18. GIVING A FALSE ALARM.

A person is guilty of giving a false alarm if he initiates or circulates a report or warning

of any fire, impending bombing, or other crime or catastrophe, knowing that the report or warning is false or baseless and is likely to cause evacuation of any building, place of assembly, or facility of public transport, to cause public inconvenience or alarm or action by any sort by any official or volunteer agency organized to deal with emergencies. The offense shall be committed if the false alarm is given verbally or by activating an electronic or mechanical alarm device or system.

8- 4-19. TELEPHONE HARASSMENT.

A person is guilty of telephone harassment and subject to prosecution if, with intent to annoy or alarm another, he:

- (A) Makes a telephone call, whether or not a conversation ensues, without purpose of lawful communication; or
- (B) Makes repeated telephone calls at extremely inconvenient hours or in offensively coarse language; or
- (C) Insults, taunts, or challenges another in a manner likely to provoke a violent or disorderly response.

8- 4-20. LEWDNESS.

(A) A person is guilty of lewdness if in a public place or place open to public view, he or she performs an act of sexual intercourse or sodomy, makes an intentional exposure of his or her genitals, pubic area, buttocks, or the female breast, engages in trespassing voyeurism, urinates or defecates, or performs any other act of lewdness under

circumstances which he or she should know will likely cause affront or alarm. As used in this section, public place means any place to which the public or a substantial group of the public has access. It includes commercial establishments and anyplace to which admission is gained by payment or a membership or admission fee, however designated, notwithstanding its designation as a private club or by words of like import. Exposure of genitals, pubic area or buttocks means less than a fully opaque covering, or a showing of the female breast below a point immediately above the top of the areola.

(B) DRAMATIC WORKS

EXCEPTION. This section shall not be construed to prohibit:

- (1) Plays, operas, musicals, or other dramatic works, which are not Obscene;
- (2) Classes, seminars, and lectures held for serious scientific or educational purposes; or
- (3) Exhibitions or dances which are not Obscene.

8- 4-21. DRINKING BEER OR LIQUOR AND OPEN CONTAINER ON A PUBLIC STREET PROHIBITED.

No person shall drink beer or liquor on a public street and no person on a public street shall keep, carry, or possess any container containing beer or liquor if the container has been opened, the seal thereon broken, or the contents of the container partially consumed.

8-4-22. PUBLIC URINATION.

A person is guilty of public urination if the person urinates or defecates:

(A) In a public place, other than a public restroom; and

(B) Under circumstances which the person should know will likely cause affront or alarm to another.

Public urination is a class C misdemeanor.

(Amended by Ord. 00-19)

CHAPTER 5 - OFFENSES RELATING TO MINORS

8- 5- 1. SALE OF TOBACCO TO MINORS.

It shall be unlawful for any person to sell, give, or furnish any cigar, cigarette, or tobacco in any form, to any person under nineteen (19) years of age.

8- 5- 2. POSSESSION OF TOBACCO BY MINOR.

It shall be unlawful for any person under the age of nineteen (19) years to purchase, accept, or have in his or her possession any cigar, cigarette, or tobacco in any form. Possession of tobacco by a minor is an infraction.

8- 5- 3. PROCURING A PROHIBITED ARTICLE FOR A MINOR.

It shall be unlawful for any person to procure for any person under disability by

reason of age any article which such person under such disability is forbidden by law to purchase or have in his possession.

8- 5- 4. UNLAWFUL TO MISREPRESENT AGE.

It shall be unlawful for any person under a disability by reason of age to make any false statement or to furnish, present, or exhibit any fictitious or false registration card, identification card or note or other document, or to furnish, present or exhibit such document or documents issued to a person other than the one presenting the same for the purpose of gaining admission to prohibited premises, or for the purpose of procuring the sale, gift, or delivery of prohibited articles including beer, liquor, or tobacco.

8- 5- 5. UNLAWFUL PURCHASE POSSESSION, OR CONSUMPTION BY MINOR.

(A) It is unlawful for any person under the age of 21 years to purchase, attempt to purchase, solicit another person to purchase, possess, or consume any alcoholic beverage or product, unless specifically authorized by this title.

(B) It is unlawful for any person under the age 21 years to misrepresent his age, or for any other person to misrepresent the age of a minor, for the purpose of purchasing or otherwise obtaining an alcoholic beverage or product for a minor.

(C) It is unlawful for any person under the age of 21 years to possess or consume any alcoholic beverage while riding in a

limousine or chartered bus.

(D) When a person who is at least 13 years old, but younger than 18 years old, is found by the court to have violated this section, the provisions regarding suspension of the driver's license under Utah Code Annotated Section 78-3a-506 apply to the violation.

(E) When the court has issued an order suspending a person's driving privileges for a violation of this section, the Utah Driver License Division shall suspend the person's license under the provisions of Utah Code Annotated Section 53-3-219.

(F) When the Department of Public Safety receives the arrest or conviction record of a person for a driving offense committed while his license is suspended pursuant to this section, the department shall extend the suspension for an additional like period of time.

(G) A violation of this section is a class B misdemeanor.

(Amended by Ord. 00-19)

CHAPTER 6 - OFFENSES RELATING

8-6-1. DISCHARGE OF FIREARMS PROHIBITED.

It shall be unlawful for any person, other than a law enforcement officer engaged in the performance of his official duties, to discharge firearms of any description within the corporate limits of Park City, excepting at a regularly licensed shooting gallery, at the Park City police target range, or at a

regularly organized gun club shooting range, where the range and facilities have been approved by the Chief of Police or his designated agent.

(Amended by Ord. 14-58)

CHAPTER 7 - OFFENSES RELATING TO DRUGS

8-7-1. POSSESSION OF CONTROLLED SUBSTANCES.

No person shall knowingly or consciously possess or use a controlled substance as defined in the Utah Controlled Substances Act, U.C.A. 58-37-1-21, unless it is obtained pursuant to a valid prescription or order or directly from a practitioner authorized to prescribe such substances, while acting in the course of his professional practice, or except as otherwise authorized by the Controlled Substance Act.

(Amended by Ord. 00-19)

8-7-2. POSSESSION OF DRUG PARAPHERNALIA.

(A) It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce a controlled substance into the human body in violation of the Utah Controlled Substances Act. Any person who violates this subsection is guilty of a class B misdemeanor.

(B) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, any drug paraphernalia, knowing that the drug paraphernalia will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce a controlled substance into the human body in violation of the Utah Controlled Substances Act. Any person who violates this subsection is guilty of a class A misdemeanor.

(C) Any person 18 years of age or over who delivers drug paraphernalia to a person under 18 years of age who is three years or more younger than the person making the delivery is guilty of a third degree felony.

(D) It is unlawful for any person to place in this state in any newspaper, magazine, handbill, or other publication any advertisement, knowing that the purpose of the advertisement is to promote the sale of drug paraphernalia. Any person who violates this subsection is guilty of a class B misdemeanor.

(E) Drug paraphernalia possessed or delivered in violation of this section shall be subject to seizure and forfeiture to the city.

(Amended by Ord. 01-46)