

## **4 Licensing**

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### **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:

**4-1-1.1 ART.** Original works of fine Art, graphic Art, and aesthetic objects produced by the Artist. It shall not include any artwork produced by any Person other than the Artist displaying the artwork, or any artwork purchased or taken on consignment and held for resale.

**4-1-1.2 ARTIST.** The creator of the Art who exhibits his/her own Art for sale. Artist does not include street musician.

**4-1-1.3 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.

**4-1-1.4 BACKGROUND CHECK CERTIFICATE.** Certificate issued by the Bureau of Criminal Investigation that includes the applicant's name, certificate date of issuance, and date of expiration, and a statement that the certificate holder has met the requirements of the background check.

**4-1-1.5 BEDROOM.** Each room in a hotel, motel, lodge, timeshare project, condominium project, single family residence, or other Nightly Lodging Facility that is intended primarily for the temporary use of transient guests for sleeping purposes.

**4-1-1.6 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.

**4-1-1.7 CITY.** Park City, Utah.

**4-1-1.8 COMMERCIAL VEHICLES AND TRAILERS.** Motor vehicles used for a Business' normal activities, but not used to transport people to, from, and within Park City for a fee. Such vehicles include but are not limited to vehicles used for deliveries, commercial hauling, and snow removal services, as well as cargo rental vehicles, concrete trucks, and dump trucks.

**4-1-1.9 CONDUCTING BUSINESS.** For purposes of this Title the term "Conducting Business" shall include the sale or offering for sale of any goods or merchandise, marketing or promoting, or the offering or performing of any service for valuable consideration of any kind.

**4-1-1.10 CONSULTANT LICENSE.** Any individual, company, or agent Engaging in Business by performing consultant style services such as interior design, landscaping, and similar service jobs within Park City limits without having their Place of Business within the City limits must obtain a Consultant License.

**4-1-1.11 CORPORATE SPONSOR.** Any Business enterprise or combination of Business enterprises which provide funding for any special event in the amount of fifty percent (50%) or more of the funds necessary to promote the event or account for fifty percent (50%) or more of the event operating expenditure budget.

**4-1-1.12 DABC.** The Utah Department of Alcoholic Beverage Control.

**4-1-1.13 DIVISION.** The Park City Business Licensing Division.

**4-1-1.14 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.

**4-1-1.15 ENGAGING IN BUSINESS.** Includes all activities engaged in 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 sale, rental, Gifting, 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, occupation, or other calling, 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.

**4-1-1.16 EXHIBIT.** To display for sale with the intent or expectation of receiving valuable consideration for the item displayed.

**4-1-1.17 FARE.** The consideration or charge of a For-Hire Vehicle to provide service for a passenger within Park City. Consideration may include non-cash value such as participating in a commercial promotional activity such as viewing real estate or timeshare information, merchandise or Art display, or display of movies, videos, or DVDs within or on a vehicle in exchange for the passenger delivery.

**4-1-1.18 FOR-HIRE VEHICLE.** A vehicle used to transport passengers for a fee. For-Hire Vehicles include Shuttles, Taxicabs, limousines, or similar vehicles used for the purposes outlined in this Title.

**4-1-1.19 FOR-HIRE VEHICLE BUSINESS LICENSE.** A Park City Business license issued by Park City authorizing the licensee thereof to conduct a For-Hire Vehicle Business.

**4-1-1.20 FOR-HIRE VEHICLE STICKER.** A sticker issued by the City indicating that the owner of the vehicle has met all requirements to obtain a Business license from the City to conduct a For-Hire Vehicle Business.

**4-1-1.21 GIFTING.** Includes various hospitality, Gifting, 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., and give the product exposure. Gifting is not just the display of goods with the hopes 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, 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.

**4-1-1.22 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, and any other recreational, sports, or entertainment facility.

**4-1-1.23 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.

**4-1-1.24 LICENSE FEE(S).** Fees as defined by the Business License Fee Schedule found at <http://www.parkcity.org/government/municipal-codes-policies-and-fees>.

**4-1-1.25 MAIN STREET BUSINESS IMPROVEMENT DISTRICT.** Main Street Business Improvement District (BID) is defined as all businesses located in the following area:

The BID 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 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.

**4-1-1.26 MOBILE FOOD VENDOR.** Any motorized means of conveyance that is required to be licensed by the State Division of Motor Vehicles from which consumable on-site food service is offered. Mobile Food Vendors are restricted to serving construction sites.

**4-1-1.27 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, or timeshare project.

**4-1-1.28 NON-PROFIT CORPORATION.** A corporation organized for some purpose other than making a profit and, as such, may enjoy a tax exempt status.

**4-1-1.29 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; or profanity, indecent, immoral, loud, or boisterous language or immoral, unruly, disorderly, lewd, obscene conduct is permitted or carried on;

- C. Persons under the age of twenty-one (21) are permitted to purchase or drink beer or liquor;
- D. City, county, state, or federal laws or ordinances are violated by the licensee or his/her agents or patrons with the consent or knowledge of licensee which tend to affect the public health, safety, peace, or morals;
- E. Patrons throw litter or other objects within the licensed premises or from the licensed premises in a manner which tends to affect the public safety or health; or
- F. 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.

**4-1-1.30 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.

**4-1-1.31 PLACE OF BUSINESS.** A place at which one carries on and Engages in Business; each separate location maintained or operated by the licensee within Park City from which Business activity is conducted or transacted.

**4-1-1.32 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, and is engaged primarily in serving meals to the general public. This does not include street vendors or mobile food trucks.

**4-1-1.33 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 orders from being taken from established customers and filled during such delivery visits. Such businesses will include, but not be limited to, dairies and sellers of bulk meats or produce.

**4-1-1.34 SHUTTLE.** A vehicle that travels between fixed locations for a set or predetermined Fare.

**4-1-1.35 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.

**4-1-1.36 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.

**4-1-1.37 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, the United States mail, 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.

**4-1-1.38 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 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.

**4-1-1.39 SQUARE FOOTAGE.** The aggregate number of square feet of area within a Place of Business that is used by a licensee Engaging in Business.

**4-1-1.40 TAXICAB.** A vehicle used to transport passengers for a Fare.

**4-1-1.41 TRANSPORTATION NETWORK COMPANY (TNC).** The Transportation Network Company Registration Act defines a TNC as an entity that:

1. Uses a software application to connect a passenger to a transportation network driver providing transportation network services;
2. Is not a For-Hire Vehicle; and
3. Does not own, control, operate, or manage the vehicle used to provide the transportation network services.

**4-1-1.42 UNIT.** Any separately rented portion of a hotel, motel, condominium, apartment building, single family residence, duplex, triplex, or other residential dwelling without limitation.

**4-1-1.43 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.

## **4-2 General Licensing**

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#### **4-2-1 Unlawful To Operate Without A License**

Unless exempted by state or federal law or by this Title, it shall be unlawful for any Person to engage in Business within Park City, whether on a temporary or permanent basis, without first being issued the license required by this Title. All licenses issued under the provisions of this Title are non-transferable and expire on September 30 of each year.

Unless exempted by state or federal law or by this Title, any Person who engages in Business without being issued a license or paying all necessary fees under this Title shall pay double the specified fee for said license. The payment of such double fee shall not relieve any Person from fully complying with all the requirements of this Code, nor from any other prescribed penalties. Payment of such double fee or any unpaid portion thereof may be compelled by civil action in any court of competent jurisdiction. The acceptance of any portion less than the entire amount of such double fee by any officer or employee of the City shall not constitute a waiver or release of the balance thereof.

Except as otherwise provided in this Title, any Person who temporarily or permanently engages in Business within the City without first obtaining a license as herein provided, or after such license has been revoked, shall be punished by a fine not to exceed the maximum Class "B" misdemeanor fine under state law or by a term of imprisonment up to six months, or by both fine and term of imprisonment as provided in Section 1-1-8 of this Code.

#### **4-2-2 Business Confined To Enclosed Building**

Except as authorized by this Title, all businesses within Park City are to be conducted within a fully enclosed building, except for outdoor dining or other permanent conditional uses which have been given approval under the Land Management Code.

#### **4-2-3 Business Confined To Private Property**

Unless specifically licensed to do so under this or other ordinances, it shall be unlawful for any Person to solicit Business within any public street, sidewalk, alleyway, or within the public parks, golf course, or publicly owned parking areas, unless said Person has received prior approval from the appropriate City department and executed a concession contract with the City.

#### **4-2-4 Use Of Public Property**

The City Council may grant specific temporary licenses to applicants to sell food, alcoholic beverages, or merchandise in City parks or at other locations on public property. In granting these temporary licenses, preferences shall be given to non-profit organizations and civic groups before profit-making businesses are licensed to conduct a temporary Business within the parks or on other City property. Such licenses shall be issued only after receiving the approval of the appropriate City department and execution of a concessions or franchise contract with the City.

#### **4-2-5 Branch Establishments**

A separate license must be obtained for each branch establishment or separate location in which Business is engaged in, within the City, as if such branch establishment or location were a separate Business, and each license shall authorize the licensee to engage only in the Business licensed thereby at the location or in the manner designated in such license, provided, that warehouses and distributing places used in connection with or incident to a Business licensed under this Title shall not be deemed to be separate places of Business or branch establishments.

#### **4-2-6 Separate Businesses, Licensed Premises**

Where two (2) or more Persons conduct separate businesses at the same location, each such Person shall provide individual Utah tax identification numbers if sales transactions are taking place, federal tax identification numbers if only promotion or Gifting is taking place, be responsible for all required licensing, inspections, and sign permits for each such Business, and pay the required License Fees for

such Business. Where a Person has a license pursuant to provisions in the Alcoholic Beverage Licenses Chapter of this Title, that person shall obtain a separate Business license for each licensed premises.

#### **4-2-7 Multiple Licensing**

Any one Person may be issued any of the licenses described and created in this Title and may simultaneously hold more than one (1) license, and/or a regular Park City Business license. The granting of multiple licenses shall not grant privileges not specifically granted by the licenses issued, nor shall the issuance of multiple licenses extend the time limitations imposed on any of these special licenses that are of a temporary nature. Suspension or revocation of one of the multiple licenses shall not act as an automatic suspension of any other license then in effect.

#### **4-2-8 Duty To Display License**

Every licensee licensed pursuant to the provisions of this Title shall display the license in some prominent part of the Place of Business. Type 2 convention sales licenses, and associated temporary occupant load signs and fire permits, shall be displayed on the front door of the Place of Business. Every licensee not having a fixed Place of Business shall carry such license on their Person at all times in a visible position while carrying on the Business for which the license is issued and shall produce the license for inspection when requested to do so by any Person.

#### **4-2-9 Exceptions To Business License**

No Business license shall be required under this Title upon the following Persons or businesses:

- A. Any individual, company, or agent that is exempted under Utah Code Title 58, unless the individual, company, or agent has office space within the limits of Park City;
- B. Traditional hotel/Restaurant offerings including private dinner bookings in Restaurants, existing entertainment such as in Restaurant outlets or lounges etc., or groups utilizing interior signage;
- C. Any Person, firm, or organization, i.e., tournament referees, ski race officials, sport camp instructors, whose contract is for a period of thirty (30) days or less per year, and whose contract relates directly to recreation programs or services in Park City, is not required to obtain a Business license;
- D. No license shall be required for sales of surplus household goods or furnishings at a private residence in the garage or yard. If a garage sale is held more frequently than three (3) days in any one (1) calendar quarter at the same residence, it shall be deemed to be Conducting Business on a regular basis and a regular Business license for the sale of that kind of merchandise is required. If the sale is in a zone that does not permit the sale of merchandise as a permitted or conditional use, further sales are unlawful. Sales tax on all sales is required under state law, and this Title shall not be construed as attempting to waive the requirement that tax be collected.

#### **4-2-10 No Temporary Licenses**

Any Person Engaging in Business on a temporary basis within Park City shall be required to obtain the license required by this Title in the same manner and shall be subject to the same fees as a Person Engaging in Business on a permanent basis within Park City.

#### **4-2-11 Certain Acts Prohibited**

It shall be unlawful for any Person, Business, corporation, partnership, or other entity to attract or attempt to attract people to that Person or that licensee's Place of Business by calling, shouting, hawking, ringing any bells, horn, sounding any siren or other noisemaking device, or by displaying any light or lantern, or by waving, hailing, or otherwise signaling to passersby, or by touching or physically detaining them. It shall be unlawful to pass handbills, flyers, or other advertising material by handing such material to passersby, or placing them on porches or vehicles, or attaching them to light or sign posts or poles.

#### **4-2-12 Licenses Non-Transferable**

No license issued under this Title is transferable from the original licensee to any other Person, partnership, corporation, or other entity. Each year, as a part of the renewal process, the licensee shall indicate the board of directors, or all partners, and if there are any changes from the previous year, the license shall be reviewed as a new application to the extent of the changes in ownership.

#### **4-2-13 Outdoor Sales**

The Finance Department may grant a license to regularly licensed retail and service based Park City businesses, per the Land Management Code, to hold outdoor sales five (5) times a year for a duration of no longer than three (3) days for each outdoor sale; and additionally for up to fifteen (15) individual Sundays per calendar year, either within the Business' own property or on public sidewalks or streets adjoining the Business on the following terms:

- A. **PROMOTION BY MERCHANTS ASSOCIATION.** An association representing tenants in a shopping center or other merchants association representing the businesses in a specific area may apply for an outdoor sale license for the members of that association by providing a list of the merchants participating, and paying a fee which shall be in lieu of and not in addition to the fee assessed against individual businesses.
- B. **SEASONAL PLANTS.** The Finance Department may issue licenses of longer duration to permit the outdoor sale, on a temporary basis, of Christmas trees, landscaping materials, or plants that are of a type and nature that reasonably require the sale to be conducted out of doors. The License Fee for this kind of outdoor sale shall be as set forth in the Business License Fee Schedule and no license shall have duration of more than eight (8) weeks. These licenses may be issued to any Person or Business. Sales shall be confined to commercial zones and to property under the possession and control of the applicant.

#### **4-2-14 Outdoor Speakers On Main Street**

No licensed Business shall permit or cause to exist any speaker or sound amplification equipment on the outside of any premise on Main Street with the exception of those businesses which are allowed to have outside speakers as a part of their conditional use permit for outdoor dining or performances or events approved by staff as part of a Level Three Special Event License or community celebration.

#### **4-2-15 Vibrant Commercial Storefront In HCB And HRC Districts**

- A. A vibrant commercial storefront is a storefront property which cannot meet four (4) or more of the seven (7) following conditions:
  1. Is a storefront property as defined in Section 15-15-1 in the HRC or HCB Districts of the Land Management Code without a current lease in place or that is not actively advertising, utilizing, or occupying the property in a way that constitutes Engaging in Business for at least 270 days per year, or that is not open and physically occupied during the hours typically consistent with the licensed use of the property for at least the past 30 days; or
  2. Has an approved business license but is not open during typical business hours consistent with its licensed use to the public, or is consistently open for less than five days a week, or under 270 days per year;
  3. There is not an active business license in place, or any pending business license application in the past 30 days; or
  4. Tenants are not actively advertising, utilizing, or occupying the property in a way that fulfills the definition of Engaging in Business 4-1-1.15; or

5. A commercial storefront without signs, displays, or clear indication that they are open or occupied such as having an employee on site, doors open or clearly marked as open to the public, or lights on within the premises; or
  6. Over a Quarterly period cannot provide sales tax receipts, payroll records, quarterly profit/loss statements, or similar financial records that show consistent month-to-month occupation and commercial activity; or
  7. Cannot provide utility bills or meter readings (water, gas, trash, or electric) that are consistent with the use of similarly active licensed businesses.
- B. If a property is not considered a “vibrant commercial storefront” and the property is located in HCB and HRC zones, the property owner or business licensee must provide proof that the property meets one (1) of the following exceptions:
1. There is an open building, planning, or construction permit for repair, rehabilitation, or construction of a building on the parcel and the owner receives a certificate of occupancy for the repair, rehabilitation, or construction within one year from the date the initial permit was issued; or
  2. The owner provides satisfactory evidence that the property is actively being offered for sale, lease, or rent. Satisfactory evidence shall include, but is not limited to, evidence that the owner has hired a real estate agent or other rental agent who advertises and promotes the commercial storefront for rent, lease, or sale, or proof the commercial storefront is offered for sale on multiple listing services or any other comparable real estate listing services.
- C. Failure to maintain a vibrant commercial storefront in the HCB or HRC zone shall result in the following:
1. The Business at the storefront property will not receive local consent or be eligible for a liquor license of any kind including Single Event Temporary Alcoholic Beverage Licenses; and,
  2. The City reserves the right to utilize the area in front of the storefront property to display Art or other educational materials in the pedestrian area in front of the property as approved by the City Council until such a space is occupied by a vibrant commercial storefront.
- D. Any property designation under this Section may be appealed and shall be conducted as set forth in 4-3-15 of this Title.

#### **4-3 General Application Process**

4-3-1 License Application

4-3-2 Specific Additional License Application Requirements

4-3-3 License Application Fee

4-3-4 Code Compliance Inspection

4-3-5 Investigation

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

4-3-7 Issuance Of License Certificate

4-3-8 License Period

4-3-9 License Certificate Renewal

4-3-10 License Renewal Fee, Tax Payment, And Penalty

4-3-11 License Renewal Billing Procedure

4-3-12 Grounds For License Revocation Or Suspension

4-3-13 Alleged License Violation

4-3-14 License Revocation Or Suspension Hearing

4-3-15 License Denial Appeals

#### **4-3-1 License Application**

- A. All Business license applications with a physical location within City limits require a passed Business License Inspection from the Building Department to ensure life safety standards, proper measurements for fee calculation, and Code compliance. A Business License Inspection will only be scheduled if:
1. A Certificate of Occupancy has been issued by the Building Department;
  2. A Letter of Completion has been issued by the Building Department; or
  3. There is already an existing licensed Business occupying the space and a building permit is not required to accommodate the new Business.
- B. Applications for Business licenses shall be made in writing to the Finance Manager or his/her designee. Each application shall include the:
1. Name of the applicant;
  2. Location of the Business;
  3. Payment of the applicable fee and tax to be paid, based on the information recorded on the Business License Inspection;
  4. Name and address of the local Business agent who is authorized to receive service of process and any communication regarding applicant's license;
  5. State sales tax reporting number;
  6. Copy of the Business License Inspection report showing passed;
  7. State contractor's license number, if applicable;
  8. State real estate broker's license number, if applicable; and
  9. Other information, as needed, for the purpose of guidance of the Finance Manager in issuing the license.
- C. Any change in the above information furnished by the applicant shall be forwarded in writing, within ten (10) days of the change, to the Finance Manager or his/her designee. License application forms shall be prepared and kept on file by the Finance Department.

#### **4-3-2 Specific Additional License Application Requirements**

- A. **ALCOHOLIC BEVERAGES.** Applications for all alcoholic beverage licenses must include the following additional information:
1. The street address of the Business location;
  2. Applicant's criminal history obtained from the Utah Bureau of Criminal Identification completed within three (3) years of applications;
  3. Proof of whether the applicant has complied with the requirements specified in the Alcoholic Beverage Control Act;
  4. The location of any other alcoholic beverage licenses held by the applicant;
  5. The name and Utah address for the Business' agent for service of process;
  6. A signature by the applicant stating under oath that the facts contained therein are true; and
  7. If the applicant is a partnership, association, corporation, or limited liability company the applicant shall include a certificate of existence, a copy of the articles of incorporation or the written partnership agreement, and the name, street and mailing address, age, citizenship, and criminal history from the Utah Bureau of Criminal Identification for each officer, partner, or director.

- B. **SINGLE EVENT ALCOHOLIC BEVERAGES.** Applications for a Single Event Alcoholic Beverage License must include the following additional information:
1. The street address of the Business location;
  2. A notarized and detailed statement by the applicant certifying their criminal history;
  3. Proof of whether the applicant has complied with the requirements specified in the Alcoholic Beverage Control Act;
  4. The location of any other alcoholic beverage licenses held by the applicant;
  5. The name and Utah address for the Business' agent for service of process;
  6. A signature by the applicant stating under oath that the facts contained therein are true;
  7. A certificate of existence, a copy of the articles of incorporation, the written partnership agreement, or other applicable documentation showing the entity has been in existence for at least one (1) calendar year prior to the date of application;
  8. The name, contact information, and/or any other information needed by the City to verify each officer, partner, or director meets the requirements set forth in the statutes of Utah and this Title; and
  9. An affirmation indicating each officer, partner, or director meets the licensee qualifications set forth in the statutes of Utah and this Title.
- C. **NIGHTLY RENTALS.** All new and renewal applications for nightly rentals must also contain the following information:
1. Property manager's name;
  2. Street address of each Unit;
  3. The cover letter for this application with information common to all Units managed;
  4. The name, address, and telephone number of a local responsible party who is available by telephone twenty four (24) hours per day; and
  5. Supplements to the application and cover letter with any information that changes.
- D. **SEXUALLY ORIENTED BUSINESSES.** The specific requirements for a Sexually Oriented Business License, Sexually Oriented Business Employee License, and any additional requirements are located in the Sexually Oriented Businesses Chapter of this Title.
- E. **SOLICITORS.** The application for a Solicitor license shall require the following additional information:
1. Date of birth and social security number of the applicant;
  2. Signatures by both the person to be licensed as a Solicitor and by an authorized representative of the Business or businesses for which the licensee will be solicited, referred to as the "primary business" in this Title; and
  3. Disclosure of the existence of any investigations by any local, state, or federal regulatory agency into allegations of fraud, deceit, securities violations, real estate sales or brokerage license suspension proceedings, or any pending charges on any felony, provided, however, that if the applicant is a licensed real estate or securities salesman, the foregoing information concerning the applicant's background may be supplied by providing the date of issuance of that state license by the Utah Department of Commerce and such other information as necessary to correctly identify the applicant with that Department.

#### **4-3-3 License Application Fee**

Each license application shall be accompanied by the Business License Fee required to be paid for the desired license.

#### **4-3-4 Code Compliance Inspection**

- A. **INSPECTIONS FOR CODE COMPLIANCE.** Prior to applying for a license under this Title for a new Business not previously licensed at that location, or an existing Business with a change of Square Footage, use, or location, the applicant shall be required to have the prospective Place of Business inspected prior to application by the Building Department, and if necessary, other government agencies to ensure compliance with building, fire, municipal, and health codes.
- B. **NOTICE OF INFRACTION.** No license can be applied for until the required inspection reveals that the prospective Place of Business is in substantial compliance with the building, fire, and health codes. If during the inspection process any code infractions are found, corrections shall be made and a re-inspection scheduled within a reasonable period as identified by the inspector or Chief Building Official not to exceed thirty (30) calendar days.
- C. **RE-INSPECTIONS.** If a re-inspection is not scheduled within the specified time frame, a new inspection will be required. Once a property is deemed in substantial compliance with all applicable codes, the inspection will be valid for sixty (60) calendar days unless otherwise identified by the inspector or Chief Building Official. In addition to the Business License Fees, all new businesses or Business locations shall pay an inspection fee as set forth in the rate tables in effect at the time of application. A re-inspection fee may be assessed if more than two (2) inspections are required by the City to meet code compliance. Prior to the approval/issuance of any Business license, additional or repeat inspections may be required for locations as identified during the inspection process.
- D. **PERIODIC INSPECTIONS AND LICENSE REVOCATION.** Existing places of Business licensed within the City may be inspected periodically by departments of the City for compliance with building, fire, municipal, and health codes. Floor plans stamped by a design professional will be required if there is a change of occupancy in an existing Business. Written notice shall be given by the Chief Building Official or his/her designee to a licensee upon the finding of any code infractions which notice shall provide for a reasonable period not to exceed sixty (60) days in which to correct such infractions, the failure of which shall result in the revocation of the license by the Chief Building Official or his/her designee and may require the premise be evacuated due to immediate life safety hazards.
- E. **STAMPED FLOOR PLANS REQUIRED FOR CHANGE OF OCCUPANCY.** Floor plans stamped by a design professional will be required if there is a change of occupancy in an existing Business.
- F. **COMPLAINT FILED BY CITY ATTORNEY.** The Finance Manager or his/her designee may request the City Attorney to file a complaint for non-compliance with the required standards against any applicant or any licensee who conducts Business without a license or continues to conduct Business beyond the time limits provided in this Section.

#### **4-3-5 Investigation**

Upon a reasonable belief that the applicant or licensee has a fraud or felony conviction or prior criminal background or pending criminal proceeding, the Finance Manager may refer the application or licensee for investigation to the Police Department. The Finance Manager or his/her designee may at any time

inspect the Business premises during normal Business hours or request Business documents maintained pursuant to this Title to verify a new application or existing licensee.

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

- 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 (BID) 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.

#### **4-3-7 Issuance Of License Certificate**

All license certificates shall be signed by the Finance Manager or his/her designee, under the seal of the City; the signature may be placed mechanically and will contain the following information:

- A. The name of the Person to whom such certificate has been issued;
- B. The name of the Business, if applicable;
- C. The type of license; and
- D. The term of the license with commencement and expiration dates.

#### **4-3-8 License Period**

Renewed license certificates shall be valid October 1 through September 30 of the year of renewal unless revoked pursuant to this Title. New license certificates issued between October 1 and June 30 shall be valid through September 30 of the year of issuance unless revoked. New license certificates issued between July 1 and September 30 may be valid through September 30 of the year following the year of issuance, unless revoked. An applicant applying for a license between July 1 and September 1 shall pay one hundred and twenty-five percent (125%) of the amount otherwise imposed for new licenses issued and the license shall be valid through September 30 of the year following the year of issuance, unless revoked. However, an applicant may elect to pay the prorated fee pursuant to this Title on new applications between July 1 and September 30 if the applicant does not intend to do Business in Park City the following year.

#### **4-3-9 License Certificate Renewal**

Upon receipt of the License Fee, the Division shall issue a license certificate valid through September 30 of the next year.

#### **4-3-10 License Renewal Fee, Tax Payment, And Penalty**

The annual Business License Fee provided in this Title shall be due and payable to the City on or before the first day of October of each year for renewals of licenses for businesses, which were licensed the previous year. Business licenses for previously unlicensed businesses shall be issued for the unexpired portion of the calendar year in which issued unless issued between July 1 and September 30, in which case the license shall be valid until September 30 of the year following the issuance of the license, upon payment of one hundred and twenty-five percent (125%) of the annual License Fee, as set forth in the Business License Fee Schedule.

If the renewal License Fee is not paid on or before October 15 of the year in which the renewal license is due, there shall be a Business license enforcement fee imposed of twenty-five percent (25%) of the License Fee imposed by this Title or twenty-five dollars (\$25.00), whichever is greater.

If the renewal License Fee is not paid in full on or before November 15 of the year in which the renewal fee is due, the Business license enforcement fee shall be increased to fifty percent (50%) of the License Fee imposed by this Title or twenty-five dollars (\$25.00), whichever is greater.

If the renewal License Fee is not paid on or before January 1 of the year in which the renewal fee is due, the Business license enforcement fee shall be increased to one hundred percent (100%) of the License Fee imposed by this Title.

Upon a proper showing that the Business is of such a seasonal nature that Business has not been conducted to date, the Finance Manager or his/her designee may waive the Business license enforcement fee of said renewals.

Any previously licensed Business cited for Engaging in Business in violation of this Title shall have five (5) days from the date of citation to come into compliance with this Title. Failure of the licensee to reach compliance within five (5) days of the date of citation will subject the Business to closure and the licensee to all applicable civil and criminal penalties.

If a licensed Business enlarges its Place of Business or increases its capacity for Conducting Business, i.e., adding Square Footage, increasing number of vending machines, increasing the number of employees, or increasing Hourly User Capacity, an additional License Fee shall be due and payable to the City and shall be prorated on the basis of one-twelfth (1/12th) of the total annual fee on the enlargement or increase for each month remaining in the unexpired portion of the calendar year, including the month in which such increase is accomplished. The additional License Fee for adding Square Footage shall be due and payable on the date the City issues the occupancy permit.

#### **4-3-11 License Renewal Billing Procedure**

On or before September 1 of each year, the Division shall send a statement to each current licensee within the City, which statement shall be upon forms calling for the computation by the licensee of a License Fee for the ensuing year based upon the nature of the Business, Square Footage, employees, and other pertinent factors.

#### **4-3-12 Grounds For License Revocation Or Suspension**

Licenses issued under this Title may be suspended or revoked by the City Council for the following reasons:

- A. **BUSINESS LICENSE**. The following are grounds for revocation or suspension of Business licenses:
  1. Licensee has filed false or fraudulent license tax returns;
  2. Licensee has been convicted of or plead guilty to or paid fines or settlements in criminal or civil actions brought by the State Tax Commission for the collection of, or arising from the non-payment of, taxes imposed by or collected by the State of Utah;
  3. Licensee has permitted its employees, agents, or patrons to engage in illegal activities on the Business premises;
  4. The Business has been the subject of a sufficient number of consumer complaints that it has the effect of tarnishing the reputation of other businesses within Park City.
- B. **SOLICITOR LICENSE**. The following are grounds for revocation or suspension of a Solicitor license:
  1. Violation of any specific provisions or limitations on the license imposed by this Title or by the City Council in issuing the license;
  2. Complaints from the public concerning misrepresentation of the goods or merchandise sold;
  3. Unfair or dishonest Business practices;
  4. Issuance of three (3) or more citations under this Title within any twelve (12) month period;
  5. Any other circumstances which endanger the health or safety of the residents of Park City.
- C. **ALCOHOLIC BEVERAGE LICENSE**. The following are grounds for revocation or suspension of alcoholic beverage related licenses:
  1. The licensee has failed to comply with the requirements of the Alcohol Beverage Control Act, as currently in force or amended in the future, or the requirements of this Title;

2. The licensee or employees of the licensee have been convicted or plead guilty to violations occurring under this Title or any city, county, state, or federal law or ordinance and said violations occurred on the licensed premise, not including violations by patrons;
3. The licensee has attempted to transfer the license to another in violation of this Title;
4. The licensee has become ineligible to hold a license by failing to meet the standards for licensees listed in this Title;
5. The licensee or his/her agents or employees, with the knowledge of the license holder, have been engaged in the sale, distribution, or delivery of controlled substances, as defined by Utah statute, on or from the licensed premises; or
6. The licensee has been denied a license by the State of Utah under the Alcoholic Beverage Control Act as required by this Title or has had said State license revoked or suspended.

#### **4-3-13 Alleged License Violation**

Upon receiving a written complaint from any Person alleging a violation of any provision of this Title the licensee or an agent of the licensee, and the City or anyone designated by the City Manager with the assistance of such other departments of the City as the City Manager may direct, shall conduct an investigation of the allegations of the complaint. The City shall not investigate consumer or product liability complaints. Upon completion of the investigation, the City Manager may dismiss the matter as being without merit, settle the matter based upon the negotiations the City Manager or his/her designee may have undertaken with the licensee, or issue an order to show cause to the licensee requiring the licensee to come forward and answer the allegations of the order to show cause.

The order to show cause may be based upon an affidavit filed by the City Manager, City Attorney, or anyone else the City Manager has designated to file such action, and said order to show cause shall specifically set forth the ordinance Sections alleged to have been violated and generally describe the acts in violation. In the event an order to show cause is issued to the licensee, the City Council shall determine whether to refer the matter to a Licensed Hearing Examiner, or to hear the matter directly. The order to show cause shall be issued at least fourteen (14) calendar days prior to the date set for the administrative hearing, but the hearing shall be commenced in any event, within one (1) year of the service of the order to show cause upon the licensee unless otherwise agreed by the parties. Within ten (10) days from the date of the service of the order to show cause, the licensee shall file with the City a written response to the allegations contained therein.

If the matter is to be heard by the City Council, the City Council may elect one of its members to act as presiding officer for the hearing. The presiding officer shall rule on all matters of controversy, which arise during the hearing. The City Council may designate one or more of its members to act as a hearing panel, in which event the hearing panel shall follow the same procedural requirements as the Licensed Hearing Examiner is required by this Chapter to follow.

#### **4-3-14 License Revocation Or Suspension Hearing**

In all administrative license revocation or suspension proceedings, a hearing shall be conducted as follows:

The presiding officer or Licensed Hearing Examiner shall regulate the course of the hearing to obtain full disclosure of relevant facts and afford all parties the reasonable opportunity to present their positions. The presiding officer or Licensed Hearing Examiner may determine the length of the hearing and may prevent the calling of witnesses or admission of documentary evidence where such witnesses or evidence are irrelevant, immaterial, unduly repetitious, or unnecessary due to the receipt of other evidence.

Technical rules of evidence required in court proceedings shall not apply, and the presiding officer or Licensed Hearing Examiner shall not exclude evidence solely because it is hearsay. The presiding officer

or Licensed Hearing Examiner may afford to all parties the opportunity to present evidence, argue, respond, conduct cross-examination, and submit rebuttal evidence within the time frame of the hearing established by said officer.

All testimony presented at the hearing shall be given under oath administered by a person duly authorized to administer oaths. The hearing shall be recorded by electronic means or by means of a certified shorthand reporter. The record thus created shall be preserved by the City Council until such time as it is clear that no court proceedings or further administrative proceedings will be held concerning the matters which are the subject of the hearing, but a minimum of one (1) year. The recording may be transcribed at the request of any party, at the expense of the requesting party.

The licensee shall have the right to appear at the hearing in person or by counsel, or both. Subpoenas and other orders to secure the attendance of witnesses or the production of evidence shall be issued by the City Council when requested by any party, or may be issued by the presiding officer or hearing examiner on his/her own motion. The mere issuance of subpoenas shall not operate to require the admissibility of evidence or testimony subpoenaed.

Upon request, both the City and the licensee shall be entitled to discovery of the other's list of witnesses to be called at the hearing, including the names and addresses of such witnesses. The parties shall be entitled to have copies of, or have access to any documents to be used by either side during the course of the hearing. No other formal discovery shall be required. The standard of proof required for any action adverse to the licensee shall be that of proof by a preponderance of the evidence.

The presiding officer, if the City Council hears the matter itself, or the Licensed Hearing Examiner, shall prepare written findings of fact. In the case of a Licensed Hearing Examiner, the Examiner shall submit said findings to the City Council. The City Council shall either accept or reject the findings of fact, or enter its own findings, and shall state the basis from the record for which the findings diverge from the Licensed Hearing Examiner's recommended findings. The City Council shall prepare written conclusions of law and an order.

The Order formally entered by the City Council may be to:

- A. Dismiss the action against the licensee;
- B. Suspend the license for a specified period;
- C. Place the licensee on probation upon such conditions as the City Council may order;
- D. Permanently revoke the license in question; or
- E. Any combination of the above.

Any licensee aggrieved by an order of the City Council entered pursuant to this Section may maintain an action for relief therefrom in any court of competent jurisdiction, where said court deems itself the appropriate forum for the appeal from the City Council's action. The licensee shall be required to follow orders and procedures of the appropriate court with regard to time for filing.

Nothing herein shall be construed to require a showing that the licensee shall have been first convicted in a court of law of any violation of any law, rule, or regulation. All notices required by this Section may be made by personal service or by certified mail, mailed to the licensee's address as it appears in the Business regulation records of the City, postage prepaid, certified, return receipt requested.

#### **4-3-15 License Denial Appeals**

A license denial by the Finance Manager or his/her designee may be appealed within ten (10) days to the City Council by written notice of appeal. The request is to be filed with the Recorder. The City Council

shall hear the appeal within thirty (30) days of notice of appeal, unless both parties agree to an extension. The City Council shall conduct a de novo review in a public hearing. The City Council shall issue a written decision within ten (10) days of the hearing.

#### **4-4 Licensing Fees**

4-4-1 Records To Be Maintained

4-4-2 Regulatory And Service Enhancement Fees

4-4-3 Revenue Measure

4-4-4 Exceptions To Business License Fee

4-4-5 License Fees Declared To Be A Debt And May Be Forwarded To A Collection Agency

4-4-6 License Fee Adjustment To Avoid Burdening Interstate Commerce

4-4-7 Refund Of Fee

#### **4-4-1 Records To Be Maintained**

It shall be the duty of every Person liable for the payment of any License Fee imposed by this Title to keep and preserve for a period of three (3) years such books and records as will accurately reflect the factors used in determining the amount of the License Fee for which he/she may be liable under this Title.

#### **4-4-2 Regulatory And Service Enhancement Fees**

There is hereby imposed and levied an annual Business License Fee in the amounts described in the Fee Schedule, found at <http://www.parkcity.org/government/municipal-codes-policies-and-fees>.

#### **4-4-3 Revenue Measure**

The revenue License Fee provided for in this Title is imposed to raise revenue for an enhanced level of municipal services. The fees are in addition to and not a substitute for other regulatory ordinances of Park City. The revenues raised through the revenue fee shall be used to defray the costs incurred by the City in operating, maintaining, and replacing the City transit system.

#### **4-4-4 Exceptions To Business License Fee**

No Business License Fee shall be required under this Title upon the following Persons or businesses:

- A. Any Person engaged in Business for solely religious, charitable, or other types of strictly non-profit purposes who is tax exempt in such activities under the laws of the United States and the State of Utah; nor shall any revenue License Fee be imposed on any Person engaged in a Business specifically exempted from municipal taxation and fees by the laws of the United States or the State of Utah; nor shall any revenue License Fee be imposed on any Non-Profit Corporation duly incorporated according to the provisions of the Utah Revised Nonprofit Corporation Act.
- B. Any Person who obtains an exemption from the City Council by petitioning the Council for a waiver of the fees.

#### **4-4-5 License Fees Declared To Be A Debt And May Be Forwarded To A Collection Agency**

Any license or tax due and unpaid under this Title and all penalties thereon shall constitute a debt to Park City and may be collected by court proceedings in the same manner as any other debt, or may be turned over to a collection agency, which remedy shall be in addition to all other existing remedies.

#### **4-4-6 License Fee Adjustment To Avoid Burdening Interstate Commerce**

The Business License Fee imposed by this Title shall not be applied so as to place an undue burden on interstate commerce. In any case, where the License Fee is believed by a licensee or applicant for a license to place an undue burden upon interstate commerce, such licensee or applicant may apply to the Finance Manager or his/her designee for an adjustment of the fee so as to relieve such burden. The applicant shall, by supporting other information as the Finance Manager or his/her designee may deem necessary in order to determine the extent, if any, of such undue burden. The Finance Manager or his/her

designee shall then conduct an investigation, comparing the subject Business with other businesses of like nature and shall make findings of fact from which he/she shall determine whether the License Fee is discriminatory, unreasonable, or unfair as to the licensee or applicant from the standpoint of its impact on interstate commerce and shall recommend to the City Council an appropriate License Fee under the circumstances; the City Council shall fix the License Fee in such amount. If the regular License Fee has already been paid, the City Council shall order a refund of any amount over and above the amount of the License Fee fixed, if any. In fixing the fee to be charged, the Finance Manager or his/her designee may use any method which will assure that the fee assessed shall be uniform with that assessed on Business of like nature, provided that the amount assessed shall in no event exceed the regular fee prescribed in this Title.

#### **4-4-7 Refund Of Fee**

Unless otherwise provided herein, no Business License Fee is refundable for any reason whatsoever, once the license has been issued by the City, except when the license was issued in error. If a license is denied, applicant shall be entitled to a refund of the amount paid in excess of twenty-five dollars (\$25.00). The sum of twenty-five dollars (\$25.00) shall be retained to offset application processing costs.

#### **4-5 Business License Regulations**

4-5-1 Regulation Of Vending Machines And Mechanical Devices

4-5-2 Regulation Of Contractors And Builders

4-5-3 Regulation Of Nightly Rentals

4-5-4 Regulation Of Restaurants, Food Service, Taverns, Etc.

4-5-5 Regulation Of Building Material, Hardware, And Lumber

4-5-6 Regulation Of Automotive Services

4-5-7 Regulation Of Transportation Service, Passenger, And Snow Removal Operators

#### **4-5-1 Regulation Of Vending Machines And Mechanical Devices**

It shall be unlawful to install, or permit to be installed, any kind of mechanical device operated by coin, token, or currency, which sells goods, merchandise, food, beverages, candy, or entertainment services without first having paid the applicable fee on that mechanical device. Further, it shall be unlawful for any Person to permit a machine to be placed on or within his/her premises or Place of Business any such mechanical device on which the fee has not been paid.

#### **4-5-2 Regulation Of Contractors And Builders**

All general contractors and subcontractors, including but not limited to, builders, electricians, plumbers, and back flow device technicians, with their principal Place of Business within Park City, shall be assessed a regulatory License Fee each year as set forth in the rate tables. Said fee must be paid and a Business license issued prior to engaging in any construction within the City unless exempted from licensure by state law.

No contractor shall be issued a Business license under this Section unless and until he/she has provided a certified statement that he/she is currently licensed with the Utah Department of Commerce, including the state license number(s) and date of expiration. If said state license expires prior to December 31 of the year, each contractor must provide proof of renewal within ten (10) days of renewal or shall forfeit the City license for the balance of the year.

Contractors are required to obtain a separate office Business license.

#### **4-5-3 Regulation Of Nightly Rentals**

All nightly rental Units must be licensed before being offered for rent.

- A. **LICENSEE.** The licensee for rentals under this Section shall be both the local representative and the owner. The local representative shall be deemed the responsible party.
- B. **MANAGEMENT STANDARDS.** The authorized lodging must be properly managed. As a condition to holding a valid license, the licensee agrees to provide or arrange for adequate property management services. In the event an owner's association exists, it shall be responsible for property maintenance. In the event an owner agrees to be responsible for property maintenance, the licensee must present a statement to that effect signed by the owner. The minimum services and management regulations required include:
1. Snow removal during winter months to a level that allows safe access to the building over the normal pedestrian access to the Unit;
  2. Snow removal service to off-street parking facilities associated with the rental property so that off-street parking is at all times available for occupant use;
  3. Summer yard maintenance, including landscaping, weed control, and irrigation to a level that is consistent with the level of landscaping and maintenance on adjoining and nearby properties;
  4. Structural maintenance to preserve substantial code compliance as described herein is required;
  5. Routine upkeep, including painting and repair to a level that is consistent with the level of maintenance on adjoining or nearby properties;
  6. Trash collection which ensures that trash cans are not left at the curb for any period in excess of twenty-four (24) hours; the property must be kept free from accumulated garbage and refuse;
  7. Housekeeping service as a part of hotel or property management company included in property management license;
  8. Parking. On-street parking for nightly rental uses shall not result in an obstruction to traffic and pedestrian circulation or public safety;
  9. Outdoor Displays of Goods and Merchandise. No outdoor display of goods and merchandise shall be permitted as part of any nightly rental use;
  10. Signs. Unless expressly permitted under the Municipal Sign Code, no signs will be permitted for nightly rental uses;
  11. Commercial Uses Prohibited. Nightly rentals may not be used for commercial uses not otherwise permitted in the zone. Nightly rentals may not be converted to Corporate Sponsor or Business houses which are used primarily to distribute retail products or personal services to invitees for marketing or similar purposes, regardless of whether such products or services are charged for.
- C. **NOISE AND OCCUPANCY CONTROL.** The licensee and the owner of rentals under this Section are responsible for regulating the occupancy of the Unit and noise created by the occupants of the Unit. Violation of the Noise Ordinance, violation of occupancy loads, failure to use designated off-street parking, illegal conduct, or any other abuse, which violates any law regarding use or occupancy of the premises, is grounds for revocation. Failure to collect and deposit sales tax is also a violation of the license and grounds for revocation.
- D. **REVIEW CRITERIA.** In determining whether or not a Business license for rental authorized under this Section shall be issued, the application shall be reviewed to see if, in addition to standards and conditions applicable to issuance of all Business licenses, the following conditions and standards are met:

1. The Unit is located within a zone and subzone designated as allowing rentals for the period which the license is applied for;
2. The access to the rental Unit and the layout of the Unit is such that noise and physical trespass from the proposed rental Unit is not likely to be a substantial intrusion to the adjoining properties. If the proposed rental Unit is a single family home or duplex and shares an access, hallway, common wall, or driveway with another dwelling, written consent of the owner of the other dwelling is required;
3. The applicant must designate a responsible party. The responsible party must be a property management company, realtor, lawyer, owner, or other individual who resides within Summit County, or, in the case of a company, has offices in Summit County. The responsible party is personally liable for the failure to properly manage the rental. The responsible party must be available by telephone, or otherwise, twenty-four (24) hours per day, and must be able to respond to telephone inquiries within twenty (20) minutes of receipt of such inquiries by that party's answering machine, paging device, or answering service. The responsible party is also designated as the agent for receiving all official communications under this Title from Park City. If the licensee is a property management company or individual other than the owner, such company or individual must comply with applicable state law, including the Securities Division Real Estate Division in the Utah Code, as amended, which requires those who receive valuable consideration to lease property to have a state license;
4. The application must bear a sales tax collection and accounting number for the rental operation. This number may be the sales tax accounting number used by the property management company responsible for that Unit, or may be specific to the Unit, but no license will be effective until the sales tax number is provided.

#### **4-5-4 Regulation Of Restaurants, Food Service, Taverns, Etc.**

Outdoor dining areas connected with any food service establishment shall be assessed at a rate lower than the rest of the establishment as listed in the Business License Fee Schedule.

Catering services shall be licensed at the rate established in the rate tables per employee unless the operation is a Solicited Delivery, part of a full service Restaurant, or part of a Restaurant operation, in which case catering is included in that license.

#### **4-5-5 Regulation Of Building Material, Hardware, And Lumber**

Lumber stores shall be assessed at the retail rate by square foot of space under roof, including retail areas, lumber storage, and shop space, but shall not be assessed for uncovered yard space.

#### **4-5-6 Regulation Of Automotive Services**

Car rental businesses shall be assessed at a rate per car for rental purposes as of October 1 of each license year, as established in the rate tables.

#### **4-5-7 Regulation Of Transportation Service, Passenger, And Snow Removal Operators**

License certificates shall take the form of a sticker to be placed on each licensed vehicle. The City shall design stickers that are suitable for this use and are non-removable without the sticker being destroyed. Various kinds of stickers may be used to show the term of a license if issued for less than one (1) year. The sticker shall be displayed on snow removal vehicles, passenger service vehicles, Shuttles, and taxis at all times. If no sticker is displayed, it is prima facie evidence that no license was issued. Delivery and service vehicles with a Business location in Park City on which a License Fee is issued based on Square Footage shall be exempt.

1. Ready-mix concrete trucks, ore hauling trucks, dump trucks, drilling apparatus trucks, cranes, concrete pumping trucks, and other truck-based construction or excavation equipment shall be assessed as set forth in the rate tables per Business engaged in such Business.
2. Businesses which utilize trucks in construction activity are subject to both the fee provisions of this Title and also those for contractors except that an unlimited number of trucks, not exceeding nine thousand pounds gross vehicle weight (9,000 lbs. GVW), may be used in the construction activity without any charge applied to the vehicle.

#### **4-6 Alcoholic Beverage Licenses**

##### 4-6-1 Policy

##### 4-6-2 Local Consent

##### 4-6-3 Beer License

##### 4-6-4 Liquor License

##### 4-6-5 Single Event Alcoholic Beverage License

##### 4-6-6 Insurance Requirements

##### 4-6-7 Referral Of License Application To Chief Of Police

##### 4-6-8 Referral Of Application To Building Department And Planning Department

##### 4-6-9 Referral Of Application To Health Department

##### 4-6-10 Periodic Inspection Of Premises By Chief Of Police And Code Enforcement Officials

##### 4-6-11 Emergency Suspensions By Police

##### 4-6-12 Offenses Of Licensee

##### 4-6-13 Offenses By Patrons

##### 4-6-14 Citations/Violations

#### **4-6-1 Policy**

It is the policy of Park City Municipal Corporation to permit the operation of establishments serving alcoholic beverages in a manner consistent with the provisions of the Alcoholic Beverage Control Act and related provisions of State Law. It is also the policy of Park City Municipal Corporation to place the primary responsibility for maintaining order and preventing breaches of the peace within establishments selling and serving alcoholic beverages on the owners and managers of those establishments.

#### **4-6-2 Local Consent**

- A. The issuance of a Park City alcoholic beverage license pursuant to this Chapter shall constitute local consent for the purpose of any license issued by the State of Utah under the Alcoholic Beverage Control Act.
- B. Retained Council Authority:
  1. All Single Event Alcoholic Beverage Licenses effective during the applicable Sundance Film Festival annual Level Three Special Event License period shall require City Council approval no later than the last regularly scheduled meeting in the month of December.
  2. An emergency meeting may be held by Council to hear no more than twelve (12) late applications. All applications must be complete and submitted no later than the first Friday in January to be heard no later than the second Thursday in January. No more than the first twelve (12) complete applications to be submitted will be heard. A higher fee, pursuant to the Fee Schedule, will be required due to the expedited nature of the emergency meeting.

#### **4-6-3 Beer License**

It shall be unlawful for any Person to engage in the Business of the sale of beer at retail or wholesale within the City without first procuring the necessary relevant City beer license as required. In addition to the City license, a State beer license shall be required for all sales of beer for on-premise consumption or

for purchase or sale of beer in a container exceeding two liters. A separate license shall be required for each place of retail sale, for each separate premise, except that separate licenses are not required for each retail beer dispensing outlet located in the same building or on the same resort premise owned or operated by the same applicant. No beer license may be transferred, assigned, or subleased in any manner. Licenses are invalidated by transfer or attempted transfer. All licensees shall comply with the provisions of the Alcoholic Beverage Control Act and this Title.

#### **4-6-4 Liquor License**

No Person shall operate a Place of Business which allows customers, members, guests, visitors, or other Persons to possess, consume, or store liquor on the premises of the Place of Business without a liquor license issued by the City. A separate license shall be required for each Place of Business. No liquor license may be transferred, assigned, or subleased in any manner. All licensees shall comply with the provisions of the Alcoholic Beverage Control Act and this Title.

#### **4-6-5 Single Event Alcoholic Beverage License**

- A. **Single Event Alcoholic Beverage License Required.** It shall be unlawful for any Person to sell beer or liquor at any event within the City without first procuring a Single Event Alcoholic Beverage License as required by this Title.
1. No alcoholic beverages may be served at any event(s) at which natural Person(s) or entities (including, but not limited to corporations, partnerships, unincorporated associations, or joint ventures) will be Engaging in Business unless a Single Event Alcoholic Beverage License is secured prior to the event. A City issued Single Event Alcoholic Beverage License is required if Engaging In Business at an event, even if a State Department of Alcoholic Beverage Control license is not required.
  2. In addition to the City license, a State Temporary Beer Event Permit, or Single Event Permit shall be required for all sales of beer or liquor at any event. No license may be transferred, assigned, or subleased in any manner. Licenses are invalidated by transfer or attempted transfer. All licensees shall comply with the provisions of the Alcoholic Beverage Control Act and this Title.
  3. A Single Event Alcoholic Beverage License shall grant a bona fide association, corporation, church, or political organization, or a recognized lodge, chapter, or other local unit that is conducting a convention, civic, or community enterprise the privilege to store, sell, service, and consume alcoholic beverages in accordance with (i) an applicant's State liquor license or (ii) in case of Business activity where a State liquor license is not required.
  4. The privileges granted by this license shall be limited by the type of temporary license or permit the applicant obtains from the State as follows:
    - a. Where an applicant obtains a State Temporary Beer Event Permit, this license shall carry the privileges and responsibilities granted State Temporary Beer Event Permit holders and shall authorize the storage, sale, service, and consumption of beer for a period not to exceed thirty (30) days. A State Temporary Beer Event Permit may authorize multiple sales outlets on different properties under one State Temporary Beer Event Permit. No Person, entity, or association shall in any one (1) calendar year operate under a Single Event Alcoholic Beverage License for more than a total of ninety (90) days; or
    - b. Where an applicant obtains a State Single Event Permit, this license shall carry the privileges and responsibilities granted State Single Event Permit holders and shall authorize for a period not to exceed one-hundred and twenty (120) consecutive hours or five (5) consecutive days the storage, sale, service, and

consumption of liquor. In any one (1) calendar year an applicant may obtain up to twelve (12) licenses provided that all such licenses in the calendar year are for seventy-two (72) hours or fewer. If any license issued to an applicant within one (1) calendar year exceeds seventy-two (72) hours, applicant may obtain no more than four (4) Single Event liquor licenses for that one (1) calendar year.

5. Unless otherwise provided for in this Title, Single Event Alcoholic Beverage Licenses shall be valid only if a licensee has received a State liquor license from the Utah Alcoholic Beverage Control Commission for the same event. All licensees must notify the Finance Manager or his/her designee immediately if their State license is denied, revoked, or suspended for any reason. In the event an applicant is not required to obtain a State Temporary Beer Event Permit or State Single Event Permit, the privileges granted by a Single Event Alcoholic Beverage License shall be contingent upon the type of alcoholic beverages to be served at the event as established by the Single Event Alcoholic Beverage License application. Applicants serving only beer at an event shall receive the privileges and shall be subject to the limitations described in (4)(a) above. Applicants serving any liquor at an event shall receive the privileges and shall be subject to the limitations described in (4)(b) above.
  6. Subject to the limitations set forth in (4)(a) and (4)(b), a Single Event Alcoholic Beverage License shall authorize the storage, sale, service, and consumption of alcoholic beverages in conjunction with a Special Event, convention, civic or community event and pursuant to the Utah Alcoholic Beverage Control Act and the ordinances of Park City.
  7. No Person under the age of twenty-one (21) shall sell or serve alcohol under a Single Event Alcoholic Beverage License.
- B. **Single Event Alcoholic Beverage License Application.** Applications for a Single Event Alcoholic Beverage License shall be made on behalf of a bona fide association, corporation, church, or political organization, or a recognized lodge, chapter, or other local unit, in writing, to the Finance Manager or his/her designee and include the information as required in this Title. Applications may take up to ten (10) business days to process. As provided by this Title, applicants may not store, sell, serve, or otherwise facilitate the consumption of alcoholic beverages by others until applicant has procured a license as required by this Chapter and, if required, a State issued license.
- C. **Regulatory Single Event Alcoholic Beverage License Fee.** The regulatory liquor License Fee shall be set by resolution as listed in the Business License Fee Schedule for all Single Event Alcoholic Beverage Licenses. The regulatory License Fees shall be used by the City to defray, in part, the costs of alcohol related enforcement and responding to alcohol related offenses within Park City. This fee may be waived by the Finance Manager or his/her designee for Single Event Licenses issued to Persons participating in community sponsored events, or in events sponsored by or for the benefit of non-profit, civic, religious, or charitable organizations.

#### **4-6-6 Insurance Requirements**

No alcoholic beverage license may be issued, including a Single Event Alcoholic Beverage License, until the applicant presents the Finance Manager or his/her designee proof of liquor liability insurance coverage in the amount of one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate or more as may be required by the Finance Manager or his/her designee based on factors such as the nature, size, and location of an event.

#### **4-6-7 Referral Of License Application To Chief Of Police**

All applications filed in accordance with this Chapter shall be referred to the Chief of Police or his/her designee for inspection and report. Within ten (10) business days of the date the City receives a complete

application the Police shall conduct an investigation. In conducting an investigation and making a recommendation, the Chief of Police or his/her designee may base a decision upon factors such as:

- A. Whether the applicant meets the licensee qualifications under this Title or State Code;
- B. Any criminal violations or charges against the applicant where the criminal violation at issue would make an applicant ineligible for a license under state statute or this Title;
- C. Compliance with state alcoholic beverage laws and this Title;
- D. The nature and kind of Business to be conducted by the applicant;
- E. The nature and kind of entertainment that will occur on the premises if licensed;
- F. Policies and safety protections the applicant has in place to restrict minors from accessing the portion or portions of a premises where alcoholic beverages are sold;
- G. Policies and safety protections the applicant has in place to prevent minors from gaining access to and/or consuming alcoholic beverages;
- H. The proximity of the premises to any community location, school, or church.

The Chief of Police or his/her designee shall, upon completion of such investigation, submit a recommendation as to whether the license should be granted. If recommending denial of a Single Event Alcoholic Beverage or an alcoholic beverage license application, the Chief of Police or his/her designee shall submit a detailed report of the investigation, record the recommendation on the application, and sign the application. If recommending approval of an alcoholic beverage license application, the Chief of Police or his/her designee shall record such recommendation on the application, sign the application, and may, at his/her sole discretion, submit a detailed report of the investigation.

#### **4-6-8 Referral Of Application To Building Department And Planning Department**

The Finance Manager or his/her designee shall refer the application to the Building and Planning Departments for review by the Building Official to ensure compliance with the applicable building codes, to determine the maximum number of occupants the premises may safely accommodate at one time, given the location and number of emergency exits, and to ensure compliance with the Land Management Code. The Building and Planning Departments shall, within ten (10) business days after receiving such application, submit to the Finance Manager or his/her designee a recommendation to approve or deny the application.

#### **4-6-9 Referral Of Application To Health Department**

The Building Department may refer any application filed in accordance with this Chapter to the County Health Department which may inspect all premises to be licensed to assure compliance with all laws and regulations of the State of Utah, and the ordinances, rules, and regulations of Park City governing the sanitary preparation, storage, distribution, or sale of beer and food.

#### **4-6-10 Periodic Inspection Of Premises By Chief Of Police And Code Enforcement Officials**

The Chief of Police or designee and Code Enforcement Officials shall be permitted to have access to all premises licensed or applying for license under this Chapter, and may make periodic inspections of said premises and may report his/her findings to the Finance Manager or his/her designee.

#### **4-6-11 Emergency Suspensions By Police**

Licenses under this Chapter may be suspended by the Chief of Police or designee without prior hearing provided there is probable cause to believe violations of this Chapter or state law are occurring, and the conditions are such that the public health and safety are endangered. Such temporary suspension shall occur only if the management or the licensee fails to remedy the situation within fifteen (15) minutes of notification by the Chief of Police or his/her designee that a suspension will occur if the conditions complained of are not remedied in a manner that eliminates the immediate danger to public health and safety. No emergency suspension by the Chief of Police or his/her designee shall extend beyond the ordinary close of business on the day on which the suspension was given.

#### **4-6-12 Offenses Of Licensee**

It shall be unlawful for the holder of any license issued under this Chapter or any employee or agent of the holder to cause or permit to be caused on his/her premises any of the following acts:

- A. **SALE DURING REVOCATIONS.** To sell any beer or liquor during any period of a license revocation or suspension.
- B. **FAILURE TO CONTROL NUISANCES OR NOISE.** To permit or provide either live or recorded amplified music without first having closed all exterior doors and windows of the licensed premises to control noise. Doors may be opened to provide ingress and egress, but shall not be blocked in the open position to provide ventilation. Doors shall be equipped with automatic closing devices to keep them in the closed position except to permit ingress and egress of patrons.
- C. **OUTDOOR SPEAKERS.** To permit or cause to exist any loud speaker or sound amplification equipment on any outdoor balcony, deck, patio, or garden associated with the licensed premises other than speaker systems or sound amplification equipment in conjunction with approved outdoor dining.

#### **4-6-13 Offenses By Patrons**

It shall be unlawful for any Person within a licensed premise under this Chapter, whether as a guest, patron, invitee, supplier, or in any other capacity other than as an employee of the license holder or as the licensee to commit or perform any of the following within the licensed premises:

- A. To enter or remain in any licensed premises after being ordered to leave the premises by the licensee or the agent or employees of the licensee.
- B. To enter or remain in any licensed premises while intoxicated.

#### **4-6-14 Citations/Violations**

The commission of any act or offense listed in this Chapter shall be a Class "B" misdemeanor. Both the license holder and/or an employee or agent and the patron of the licensed premises may be charged from the same incident, as the offenses of the licensee and the offenses of the patron are separate offenses. The licensee shall be civilly responsible for all violations permitted or caused by the agent or employee of the licensee and the criminal acts of the employees or agents committed on the premises in the course of employment shall be deemed the acts of the licensee for purposes of revocation, suspension, or non-renewal by the City.

#### **4-7 Convention Sales And Commercial Hospitality**

4-7-1 General

4-7-2 Types Of Convention Sales And Hospitality Licenses

4-7-3 Applications

4-7-4 Review Of Applications

4-7-5 Umbrella Organizers

4-7-6 State Tax Number

4-7-7 Responsibility Of Host Business To Ensure Licensing And Compliance With The Uniform Building And Fire Codes

#### **4-7-1 General**

The Finance Department may issue licenses for a period not to exceed two (2) weeks for temporary use of convention, meeting, event, and other assembly rooms within any licensed convention, meeting, or assembly facility for the purpose of temporary exhibiting, marketing, displaying, Gifting, or promoting of goods or services.

#### **4-7-2 Types Of Convention Sales And Hospitality Licenses**

- A. **TYPE 1** – Convention Sales License. This type of license will be available year round except for during the dates of the Sundance Film Festival and in a space other than convention space. Each point of sale requires a separate license. Vendors selling tangible goods are required to provide a temporary state sales tax number on their application.
- B. **TYPE 2** – Sundance Film Festival Convention Sales and Hospitality License. This type of license will only be available during the dates of the Sundance Film Festival. Each vendor, identified by Federal ID number, is required to obtain a separate license. Vendors selling tangible goods are required to provide a temporary state sale tax number on their application.
- C. **TYPE 3** – Convention Sales License. This type of license will be available year round except for during the dates of the Sundance Film Festival and in a licensed convention space. A single license is required for the organizer along with a list of all participants and their temporary state sales tax numbers.

#### **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 publically 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 at the time of 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 applications for locations within the Main Street Business Improvement District (BID) boundaries shall require a deposit receipt with Republic Services in the amount of one hundred dollars (\$100), to be submitted at time of application, 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 of forty-five dollars and fifty-eight cents (\$45.58) to be paid at time of application.
8. The loading operations of each Type 2 convention sales license shall be permitted by the Parking Division with three (3) different permits: Red, Green, and Blue, depending on the type of loading: Red, large-scale operations; Green, food and beverage; and Blue, musical equipment. Any violation of the regulations specified on each permit may result in the revocation of the Type 2 convention sales license or the inability to obtain a Type 2 convention sales license in the future.
9. Large scale load-out operations for Type 2 convention sales licenses will not be permitted until Day 6 (Tuesday) of the Sundance Film Festival.

#### **4-7-4 Review Of Applications**

Upon a reasonable belief that the applicant or licensee has a fraud or felony conviction or prior criminal background or pending criminal proceeding, the Finance Manager may refer the application or licensee for investigation to the Police Department.

The Finance Manager or his/her designee shall refer the application to the Building and Planning Departments for review. The Chief Building Official or his/her designee will ensure compliance with the applicable building codes and fire codes including, but not limited to, determination of the maximum number of occupants the premises may safely accommodate at one time given the location and number of emergency exits. The Planning Director or his/her designee will ensure compliance with the Land Management Code.

#### **4-7-5 Umbrella Organizers**

For Type 1 and 2 convention sales licenses, if multiple vendors are sharing a space, an umbrella organizer may obtain a convention sales license for the entire space as long as each individual vendor provides an individual tax identification number. The umbrella organizer will be charged a License Fee for the umbrella license as well as a fee for each vendor listed on the application. All vendors included in the umbrella license must be located under one physical address. The umbrella organizer is also responsible for having an appropriate Business license.

#### **4-7-6 State Tax Number**

The applicant must provide an individual Utah tax identification number if sales transactions are taking place, federal tax identification numbers if only promotion or Gifting is taking place, as part of the license application to assist in verifying the collection and reporting of sales tax.

#### **4-7-7 Responsibility Of Host Business To Ensure Licensing And Compliance With The Uniform Building And Fire Codes**

Businesses which make all of or a portion or portions of their licensed Business locations available to other Persons for the purpose of Engaging in Business shall be responsible to ensure that such Persons obtain Business licenses and/or convention sales licenses, and possess federal tax numbers and Utah state sales tax numbers listed in Park City if sales transactions are taking place. In the event a licensed hotel, motel, inn, or bed-and-breakfast Business fails to require such a showing, that Business shall be liable for payment of all License Fees and penalties payable by the person Engaging in Business at their licensed location. If such Business is not currently licensed for assembly use, the Business shall obtain the necessary inspection and permit from the Building Department. Nothing herein shall relieve the sub-letting/guest Business from their individual responsibility to obtain the necessary licenses.

#### **4-8 For-Hire Vehicles**

##### **4-8-1 For-Hire Vehicle Operation Requirements**

- 4-8-2 Drug Free Workplace Requirement
- 4-8-3 License Requirements For Operators
- 4-8-4 Compliance Responsibility
- 4-8-5 Background Check Requirement
- 4-8-6 State Motor Vehicle Endorsement Or Commercial Driver License Required And Background Check Certificate Required For Application
- 4-8-7 Compliance With City, State, And Federal Laws
- 4-8-8 Identifying Design
- 4-8-9 Display Of Charges
- 4-8-10 Receipts For Payment Of Fare
- 4-8-11 Hiring Vehicle With Intent To Defraud
- 4-8-12 Refusing To Pay Legal Fare
- 4-8-13 Direct Route Required
- 4-8-14 Prohibited Solicitation Procedures
- 4-8-15 Solicitation Of Hotel Business Prohibited
- 4-8-16 Engaging In Liquor Or Prostitution Traffic Prohibited

#### **4-8-1 For-Hire Vehicle Operation Requirements**

- A. No Person shall operate or permit a For-Hire Vehicle owned or controlled by such Person to be operated as a vehicle for hire upon the streets of Park City without first having obtained a valid For-Hire Vehicle Business License from the City in accordance with the procedures in this Title, except as provided below in Section I.
- B. No Person shall operate or permit a For-Hire Vehicle owned or controlled by such Person to be operated as a vehicle for hire upon the streets of Park City without first having obtained commercial transportation insurance coverage for at least one million dollars (\$1,000,000) per vehicle if the vehicle provides Taxicab service, has a seating capacity of fifteen (15) passengers or fewer, including the driver, and is not operated on a regular route. If the vehicle seats sixteen (16) or more passengers, including the driver, the owner is to provide proof of commercial transportation insurance coverage for at least five million dollars (\$5,000,000) per vehicle. Proof of this commercial insurance shall be required prior to the issuance of the For-Hire Vehicle permit.
- C. No Person shall operate or permit a For-Hire Vehicle owned or controlled by such Person to be operated as a vehicle for hire upon the streets of Park City without first having obtained a Park City For-Hire Vehicle Sticker.
- D. No Person who has been convicted of or plead guilty to three (3) or more moving violations within the preceding three hundred sixty-five (365) days shall be permitted to operate a For-Hire Vehicle upon the streets of Park City.
- E. No Person who has been found to be in violation of the Park City Parking Code three (3) or more times within the preceding three hundred sixty-five (365) days shall be permitted to operate a For-Hire Vehicle on Park City streets.
- F. All vehicles that have been licensed by the City shall be issued a For-Hire Vehicle Sticker that shall be used as an identifying marking. The For-Hire Vehicle Sticker must be placed on the bottom left corner of the rear window of the vehicle on the driver's side. The For-Hire Vehicle Sticker shall be issued by the City and include the date of expiration.

- G. All For-Hire Vehicles shall have in the driver's possession a copy of the current vehicle registration, copy of the Business license, and proof of insurance as required by this Code, and the driver shall have a "P" endorsement on their Utah State driver license if operating a vehicle that seats sixteen (16) or more. Failure to produce any of this information may result in the issuance of a citation.
- H. The following items shall be prominently displayed in the passenger compartment of the For-Hire Vehicle:
  - 1. The Fare schedule; and
  - 2. Contact information, including a telephone number, for the owner or responsible party of the For-Hire Vehicle.
- I. For the purpose of this Chapter, the term 'operate for hire upon the streets of Park City' shall not include:
  - 1. The transporting by a For-Hire Vehicle properly licensed in a jurisdiction outside the corporate limits of the City; or
  - 2. The transporting by a For-Hire Vehicle of a passenger or passengers where the trip shall originate with the passenger or passengers being picked up outside the corporate limits of the City and the destination is either within or beyond the City corporate limits.
- J. The term 'operate for hire upon the streets of Park City' means and shall include the soliciting or picking up of a passenger or passengers within the corporate limits of the City, whether the destination is within or outside of the corporate limits of the City.
- K. All office space must comply with the Land Management Code and this Title.

#### **4-8-2 Drug Free Workplace Requirement**

- A. Consistent with the Utah Code, as amended, all For-Hire Vehicle licensees shall adopt and implement a drug free workplace policy prior to obtaining a Business license from the City. All For-Hire Vehicle licensees shall certify that the licensee has adopted such a policy prior to being issued a For-Hire Vehicle Business License from the City.
- B. The licensee shall publish and provide a written policy statement to all employees informing them that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees who violate the policy.
- C. The licensee shall notify all employees that as a condition to employment, the employee shall abide by the terms of the drug free workplace policy statement and shall notify the employer within five (5) calendar days if he/she is convicted of criminal drug or alcohol related violations.
- D. The drug free workplace policy shall include the establishment of a drug free awareness program to make employees aware of:
  - 1. The dangers of drug and alcohol abuse in the workplace;
  - 2. The licensee's policy of a drug free workplace;
  - 3. Any available drug counseling, rehabilitation, and employee assistance programs; and
  - 4. Any penalties or disciplinary action that may be imposed upon an employee for violation of the drug free workplace policy.

- E. The licensee shall notify the City within ten (10) calendar days after receiving notice that an employee has been convicted of a criminal drug violation in the workplace.
- F. The licensee shall make an ongoing, good faith effort to maintain a drug free workplace.

#### **4-8-3 License Requirements For Operators**

It is unlawful for any Person to operate a For-Hire Vehicle upon the streets of the City without having a valid Park City For-Hire Vehicle Business License.

#### **4-8-4 Compliance Responsibility**

The licensee shall not be relieved of any responsibility for compliance with the provisions of this Title, whether the licensee leases or rents For-Hire Vehicles to drivers, or whether the licensee pays salary, wages, or any other form of compensation.

#### **4-8-5 Background Check Requirement**

- A. All drivers shall obtain an original background check report from the Utah Bureau of Criminal Investigation (BCI). All drivers shall also obtain a driver license record report from the Utah Driver License Division showing "Valid" as license status. The City shall be permitted to further investigate any information that is relevant to such background checks in order to determine the accuracy of the information. This investigation may include, but is not limited to, requiring the applicant driver to provide additional information. Drivers who possess a current Salt Lake City Vehicle Operator's Certificate (VOC) may submit their VOC in lieu of a BCI Identification Record.
- B. The Park City Police Department shall review the Identification Record of each driver and identify if the driver has engaged in a disqualifying criminal offense, as set forth by this Section. A driver is deemed to have engaged in a disqualifying criminal offense if the driver has been convicted, or found not guilty by reason of insanity, of any of the crimes listed in this Section, or of a conspiracy or attempt to commit any such crime, or has been released from prison, in any jurisdiction within the five (5) years preceding the request for the certificate. Disqualifying offenses shall include:
  - 1. Murder;
  - 2. Assault or aggravated assault;
  - 3. Kidnapping or hostage taking;
  - 4. Rape, aggravated sexual abuse, or other sex crime, including, but not limited to, unlawful sexual activity with or sexual abuse of a minor, enticing a minor over the internet, unlawful sexual intercourse or conduct, object rape or sodomy, forcible sexual abuse, aggravated sexual assault, sexual exploitation of a minor, incest, lewdness, or obscene acts, sex acts for hire, or solicitation of sex;
  - 5. Stalking;
  - 6. Unlawful possession, use, sale, distribution, or manufacture of an explosive or weapon;
  - 7. Extortion;
  - 8. Robbery, burglary, theft, bribery;
  - 9. Distribution of, or intent to distribute, a controlled substance;
  - 10. Felony arson;
  - 11. Felony involving a threat;
  - 12. Felony involving willful destruction of property;
  - 13. Felony involving dishonesty, fraud, or misrepresentation;
  - 14. Possession or distribution of stolen property;
  - 15. Felony involving importation or manufacture of a controlled substance;

16. Illegal possession of a controlled substance punishable by a maximum of imprisonment of more than one year;
  17. Reckless driving, driving while under the influence of alcohol or a controlled substance, or being in or about a vehicle while under the influence of alcohol or a controlled substance with the intent of driving;
  18. Felony involving a driving offense.
- C. If a driver's criminal record discloses arrests for a disqualifying offense without indicating disposition, the Police Department must investigate and make a determination as to whether the arrest resulted in a disqualifying offense as provided under this Section.
  - D. Prior to making a final decision to deny a Background Check Certificate, the Police Department shall advise the driver that the Identification Record discloses a disqualifying offense. If the driver's Identification Record inaccurately contains a disqualifying offense, the driver may seek to complete or correct the Information Record by contacting the local jurisdiction responsible for the information and the BCI within thirty (30) days following notice of the disqualifying information. The driver must also notify the Police Department and indicate their intent to correct any inaccurate information. The Police Department must then receive a copy of the BCI record or certified true copy of the information from the appropriate court before granting a Background Check Certificate. If no such notification is received within the thirty (30) day period, the Police Department shall make a final determination based on available information.
  - E. Any Person who complies with the Background Check Certificate requirements shall have a continuing obligation to disclose to the Police Department within twenty-four (24) hours if he/she is convicted of any disqualifying criminal offense, or otherwise fails to comply with the provisions of this Section, at any time while he/she possesses a Background Check Certificate.
  - F. Failure to comply with the continuing obligation to notify the Finance Manager or his/her designee within twenty-four (24) hours of: a disqualifying conviction pursuant to Subsection (B) above, or the accumulation of three (3) moving violation convictions during the past three hundred sixty-five (365) days is a Class "A" misdemeanor.

#### **4-8-6 State Motor Vehicle Endorsement Or Commercial Driver License Required And Background Check Certificate Required For Application**

- A. Before any application is accepted by the Finance Manager, the applicant shall be required to show that such applicant has a current motor vehicle license issued by the state.
- B. A For-Hire Vehicle that seats sixteen (16) or more passengers shall require the driver to have a valid CDL license with a Class C or a P endorsement.
- C. Before any application is accepted by the Finance Manager, the applicant shall be required to show that such applicant has a valid Background Check Certificate.

#### **4-8-7 Compliance With City, State, And Federal Laws**

Every driver licensed under this Chapter shall comply with all city, state, and federal laws. Failure to do so may result in the suspension or revocation of a Business license by the City.

#### **4-8-8 Identifying Design**

- A. Each For-Hire Vehicle shall bear on the outside of each rear or front door, in painted letters not less than five-sixteenths inch (5/16") stroke and more than two and one quarter inches (2¼") in height, the name of the licensee and the company number, which number shall also be painted or placed on the rear of the For-Hire Vehicle.
- B. The identifying design shall be permanent. The use of magnetic or removable signs is prohibited.

- C. A City representative will inspect each vehicle at the time of licensing or license renewal to ensure compliance with this Section. The City representative will then witness the application of the For-Hire Vehicle Sticker.

#### **4-8-9 Display Of Charges**

All rates to be charged for the use of a For-Hire Vehicle shall be posted on the inside of the vehicle in such a manner as to be plainly visible to all passengers.

#### **4-8-10 Receipts For Payment Of Fare**

The driver of any For-Hire Vehicle shall, upon demand by the passenger, render to such passenger a receipt for the amount charged, either by a mechanically printed receipt or by specially prepared receipt, on which shall be the name of the owner, Business license number, amount of charges, and date of transaction.

#### **4-8-11 Hiring Vehicle With Intent To Defraud**

It is unlawful for any Person to hire any vehicle defined in this Chapter with intent to defraud the Person from whom it is hired of the value of such service.

#### **4-8-12 Refusing To Pay Legal Fare**

It is unlawful for any Person to refuse to pay immediately the legal Fare of any of the vehicles mentioned in this Chapter.

#### **4-8-13 Direct Route Required**

Any For-Hire Vehicle driver employed to carry a passenger to a definite point shall take the most direct route possible that will carry the passenger safely and expeditiously to his/her destination, unless otherwise directed by the passenger.

#### **4-8-14 Prohibited Solicitation Procedures**

- A. No driver shall solicit patronage by:
1. Using a tone of voice that a reasonable Person would consider to be loud or annoying;
  2. Using a sign;
  3. Engaging in any activity or behaving in a manner that would annoy a reasonable Person or obstruct the movement of any Persons;
  4. Following any Person for the purpose of soliciting patronage.
- B. The driver of any For-Hire Vehicle shall remain in the driver's compartment or immediately adjacent to their vehicle at all times when on duty and such vehicle is upon the public streets. The driver of a For-Hire Vehicle is permitted to leave the driver's compartment when actively aiding passengers in loading or unloading the vehicle.

#### **4-8-15 Solicitation Of Hotel Business Prohibited**

It is a violation of this Chapter for any driver of a For-Hire Vehicle to solicit Business for any hotel, motel, or other nightly lodging Business, or to attempt to divert patronage from one hotel, motel, or other nightly lodging Business to another.

#### **4-8-16 Engaging In Liquor Or Prostitution Traffic Prohibited**

It is unlawful for any For-Hire Vehicle driver to sell intoxicating liquor or to knowingly transport Persons for the purpose of buying liquor unlawfully, or to solicit Business for any house of ill repute or prostitute. It is also unlawful for any For-Hire Vehicle driver to permit any Person to occupy or use his/her vehicle for the purpose of prostitution, lewdness, or assignation, with knowledge or reasonable cause to know that the same is or is to be used for such purposes, or to direct, take, or transport, or to offer or agree to direct, take, or transport, any Person to any building or place, or to any other Person, with knowledge or

reasonable cause to know that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation.

#### **4-9 Street Vendors**

##### 4-9-1 General

##### 4-9-2 Sales At Construction Sites

##### 4-9-3 Sales Within Public Right-of-Way

##### 4-9-4 Terms And Conditions

#### **4-9-1 General**

It shall be unlawful to sell food, flowers, agricultural products, ice cream, candy, popcorn, or other goods or merchandise from push carts, mobile wagons, or motor vehicles on private or public property except as authorized and licensed under this Title.

#### **4-9-2 Sales at Construction Sites**

At bona fide construction sites a license, as described in Section 4-5-4 of this Title, may be obtained to sell food from motor vehicles located on private property. Licensees must list the construction sites they intend to serve on the license application, and update the list as needed throughout the year.

Licensees shall not remain at any one site for more than a two (2) hour period per day.

#### **4-9-3 Sales Within Public Right-of-Way**

In order to control vending within any public right-of-way in Park City, except at construction sites, only those vendors who have obtained the grant of a franchise from the City may obtain Business licenses to operate such businesses. Absent such a franchise, vending within any public right-of-way is strictly prohibited.

#### **4-9-4 Terms and Conditions**

Licensed vendors shall be subject to the following terms and conditions:

- A. **HEALTH DEPARTMENT APPROVAL.** All vendors serving food or garden produce for human consumption from any cart, wagon, or motor vehicle must have the means of preparing, keeping, and serving the foods approved by the Summit County Health Department. This approval, in writing, must be submitted as part of the license application. Withdrawal of Health Department approval for sanitary or health violations is grounds for revocation of the City license.
- B. **LIMITATION ON LOCATIONS.** Vending from motor vehicles, which shall include any motorized means of conveyance that is required to be licensed by the State Division of Motor Vehicles, shall be restricted to the sale of food at construction sites or, if a franchise has been obtained from the City, in the Single Family Zone, the RD-MPD Zones within Park Meadows, all Historic Residential Zones (HR-1, HR-2, HRC, HRM), and Sullivan Lane, as designated on the Official Zoning Map of Park City. Street vending is prohibited in locations included in any special event boundary. Street vending on City rights-of-way during construction or other situations creating a public health or safety concern may be prohibited by the City Engineer or Chief of Police. The City will inform any franchise holder of these limitations and the duration of their effect.
- C. **VENDORS REQUIRED TO MOVE LOCATION.** It shall be unlawful for any street vendor to obstruct pedestrian or vehicular traffic on streets or sidewalks. It shall also be unlawful for any street vendor to remain in a fixed location for more than one hour at a time. Vendors shall move a distance of at least fifty feet (50') from their prior location every hour during which they are

Conducting Business. It shall be unlawful for any street vendor to conduct Business in a location that impairs reasonable pedestrian or vehicular access to any adjoining building, alley, yard, or other property.

- D. **FRANCHISE AGREEMENT.** The City, in its sole discretion, may determine the number of franchises to award based upon public necessity, demand of service, pedestrian and vehicular traffic compatibility, competition, and public safety. Any violation of the franchise agreement is grounds for Business license revocation, in addition to any other remedy at law.

#### **4-10 Solicitors**

4-10-1 Solicitor Of Goods Or Merchandise

4-10-2 Terms And Conditions Of Solicitation Licenses

4-10-3 Art Exhibition For Sale On Public Property

4-10-4 Exemptions

#### **4-10-1 Solicitor Of Goods Or Merchandise**

Unless authorized and licensed by this Chapter, Solicitors of goods or merchandise are prohibited from Conducting Business within Park City.

#### **4-10-2 Terms And Conditions Of Solicitation Licenses**

The Finance Department may issue a license to a Solicitor of goods and services, accommodations, franchises, investments, or any interest in real property or time intervals in the use or ownership of property, subject to the following terms and conditions:

- A. The Solicitor makes contact with the public at a location other than at the regular Place of Business at which the goods and services are actually sold or performed;
- B. The Solicitor shall only contact the public on a door-to-door basis;
- C. No solicitation activities shall be conducted on public streets, sidewalks, or public property;
- D. The Solicitor shall not enter any premises in which a "No Solicitors Allowed" sign, or the equivalent thereof, has been posted;
- E. The Solicitor may only carry goods or merchandise for display, not for sale, but the Solicitor may deliver previously ordered goods or merchandise;
- F. No Solicitor shall give or pass handbills, literature, or other printed matter to passersby or place them on cars, buildings, driveways, doorways, or porches. The licensee, including the primary Business signing the license application, shall be responsible for any littering caused by that licensee's handbills being discarded or not being picked up;
- G. It shall be unlawful for any Person to solicit from any motor vehicle by means of calling or hailing from inside or on the vehicle, or to use any sound amplification equipment to broadcast solicitations from the vehicle. Persons offering others free transportation in exchange for listening to a sales solicitation shall, by clearly printed signs, all lettering to be legible from at least ten feet (10') away by Persons of twenty-twenty (20/20) vision, attached to the outside of both sides of the vehicle, identify the vehicle as a point at which sales solicitations will be made and display the name of the Business for which the solicitation will be made;

- H. The Solicitor shall inform each buyer of the right to cancel a home solicitation sale pursuant to state law; and
- I. The Business or businesses which have signed the application for a Solicitor license shall be jointly liable for the conduct of that Solicitor while engaged in conduct intended to further the Business interests of the primary Business.

#### **4-10-3 Art Exhibition For Sale On Public Property**

It is the purpose and object of this Chapter that the City establishes reasonable and uniform regulations governing the registrations and manner of operations of Artists using Available City Property in Park City. This Chapter shall be construed to protect the legitimate and important governmental interests recognized by this Chapter in a manner consistent with constitutional protections provided by the United States and Utah Constitutions. The purpose of these regulations is to provide for the regulation and registration of Artists within the City in a manner which will protect the property values of surrounding businesses and neighborhoods and residents from adverse secondary effects, while providing to those who desire to Exhibit their works of Art for sale the opportunity to do so. This Chapter also aims to prevent and control the adverse effects of Artists who Exhibit their artistry in public places, including without limitation, creating visual blight and aesthetic concerns; blocking reasonable access and sight easements to businesses; preventing the free flow of vehicular and pedestrian traffic in the City's narrow, historic Main Street sidewalks; and forcing citizens to be exposed to unwanted and unwelcome messages, with no avenue of escape. These strong substantial and compelling governmental interests compete with public and private interests in freedom of expression and the private commercial interests of Artists and the interest of the public. Therefore, the City desires in reasonable time, place, and manner, regulations which are content neutral, to balance those interests, and thereby protect the health, safety, and welfare of the citizens and guests of Park City, preserve the quality of life, and preserve the property values and character of the surrounding neighborhoods.

- A. **EXHIBIT FOR SALE ON SIDEWALKS PROHIBITED.** No Artist may Exhibit for sale his/her Art on public streets, sidewalks, or public property other than specifically designated Available City Property as set forth in this Title. It is unlawful to Exhibit Art for sale on publicly owned sidewalks. Furthermore, it is unlawful to Exhibit Art for sale without a license under this Chapter or the Special Events Title in park strip areas, pocket parks, and City-operated or otherwise public parks.
- B. **TERMS AND CONDITIONS.**
  - 1. **REGISTRATION REQUIRED.** Any Person or groups of Persons intending or expecting to receive valuable consideration for the exhibition of Art shall be registered with the City as an Art vendor before such Exhibit. The registration shall be valid each weekend Friday through Sunday, and all holidays or Special Events as approved by the Special Events Department.
  - 2. **APPLICATION FOR REGISTRATION.** An application for registration to use Available City Property for the Exhibit of Art for sale shall be filed with the Finance Department upon a form provided by the Finance Department, which shall include the following information:
    - a. The name, address, and telephone number of the applicant;
    - b. The name, address, and telephone number of a responsible Person whom the City may notify or contact at any time concerning the applicant's Art; and
    - c. A brief description of the type of Art to be displayed for sale.

3. **REGISTRATION LIST.** The Finance Department shall forward the registration to the Special Events Manager. Use of space by a licensee within Available City Property shall be subject to the designation of the City's Planning and Zoning Administrator in accordance with the standards set forth in this Title.
- C. **USE OF PROPERTY/HOLD HARMLESS.** By way of application to the City, all Artists accept the Available City Property "as is" and the City makes no representations regarding fitness for particular purpose or otherwise regarding the suitability of said property. Anyone using Available City Property for Art Exhibit shall indemnify, defend, and hold the City and its officers and employees harmless for any loss or damage, including attorney's fees, arising out of the use of such property. This obligation shall not extend to any claims for loss, damages, or injury sustained by any Person or Persons, or damage to property, or to expenses, including reasonable attorney's fees, incurred thereby, resulting from actions or omissions not within the Artist's reasonable control or to the acts or omissions to act by the City, its officers, and employees, or other third Persons.
- D. **NUMBER AND SPACING OF ARTISTS PER AVAILABLE CITY PROPERTY.** The number of Exhibit areas for Artists that may Exhibit at the same time on any Available City Property is twelve (12), unless otherwise determined by the Special Events Manager upon a finding of no harm or interference with the open space nature of the area, and upon giving notice to the City Council.
- E. **LOCATION RESTRICTIONS.** The Planning and Zoning Administrator, in designating areas within Available City Property, shall take into consideration the interests, (i) of providing Artists reasonable opportunities for self-expression, (ii) of providing reasonable opportunities for the public to experience the Artists' work, (iii) of the public to peaceably enjoy the intended open space of the City's parks, and (iv) of adequately maintaining park vegetation and properties. No Artist may Exhibit Art for sale within Available City Property except within areas designated by the Planning and Zoning Administrator.
1. **SPECIAL EVENTS.** No Artist shall Exhibit Art for sale within one hundred feet (100') of the boundary of a location in a Special Event License issued by the City under Title 4A. However, during special events, Artists may Exhibit at a location included in a Special Event License if the Special Event Licensee grants written permission. Furthermore, the City expressly reserves the right to relocate Artists in a manner that does not diminish capacity to other Available City Property during the period of a special event.
  2. **EXCEPTION.** The restrictions of this Chapter notwithstanding, nothing herein shall prohibit the City from authorizing Persons to temporarily Exhibit Art for sale, or conduct outdoor sales on public property, or other such areas as the City may deem appropriate, pursuant to Park City Municipal Code, or during Special Events or Level Three Special Events. Special Event vendors shall not be governed by this Chapter, but shall be governed by the Special Events Title of the Park City Municipal Code.
- F. **SPACE RESTRICTIONS.** No Artist may Exhibit Art for sale directly on the surface of any City facility or structure, including sidewalks, or on top of a trash receptacle. No Artist's Exhibit may exceed ten feet (10') in height from the ground or ten feet by ten feet (10' x 10') in area, including a tent or other structure. Exhibits should be off the ground in a manner so as not to damage the lawn, vegetation, or other public property. No Artist shall use any area other than the area immediately beneath the surface of the display area for the storage of items for Exhibit. Artists may have a container for gratuity. Set up shall not begin prior to 8:00 a.m. each day. All Art, stands, and other equipment, associated debris, and structures shall be removed from

Available City Property no later than 6:00 p.m. each night. Upon finding parking conflicts, the Special Events Manager may temporarily designate and/or prohibit parking at certain locations.

- G. **RIGHTS GRANTED.** The approval of any location for use by Artists shall not be construed as granting the user any property right or interest to or in any property owned by the City. The rights granted by this Chapter are subject to the provisions of this Chapter and other applicable law. Artists exhibiting their Art shall be present at all times when on Exhibit. No agent, employee, or other representative shall sell any Art of an Artist.
- H. **VIOLATION/REMOVAL.** If at any time the City determined that an Artist's use of Available City Property or the Exhibit placed thereon is not in compliance with the requirements of this Chapter or other applicable law, a civil notice of such violation shall be issued to the Artist by an authorized City official. If, after receipt of such citation, an Artist fails or refuses to remove any such Exhibit in violation, the City may, after consultation with the City Attorney or his/her designee, impound such Exhibit. Although prior notice of such impoundment shall not be required, the City shall take reasonable efforts to promptly notify the Artist following impoundment. The owner of any impounded Exhibit shall be responsible for the expense of removal and storage of such Exhibit. If the owner fails to reclaim the impounded Exhibit and pay the expenses of removal and storage within thirty (30) days after notice of impoundment, the Exhibit may be deemed unclaimed property and may be disposed of pursuant to law.
- I. **EMERGENCY REMOVAL.** In the event that a City official or the City Police or Fire Department determines that an Artist's use of Available City Property or the Exhibit placed thereon constitutes an immediate physical threat to public life, safety, or health, the Exhibit may be removed from the City property immediately, without any prior notice or hearing. This provision shall not be enforced in any way related to the content or expression of the material Exhibit by the Artist. The City shall use reasonable care not to damage the Art.
1. **NOTICE AND HEARING.** In the event of such emergency removal, the City shall immediately contact the Artist or his/her representative if the Artist has filed with the City's Finance Department the name, address, and telephone number of the Artist's representative whom the City may notify or contact at any time regarding the Artist's Exhibit. The City shall inform the Artist or his/her representative of the removal and the reason(s) therefore. If requested by the Artist or his/her representative, the City shall hold an expedited hearing before the City Manager or his/her designee to determine whether the removed Exhibit constituted an immediate threat to the public's life, safety, or health. In the event that the City Manager or his/her designee determined that the Exhibit did not constitute such an immediate threat, the City shall forthwith, at its own expense, replace the Exhibit at its location.
- J. **PENALTIES.** Any violation of this Chapter shall constitute a civil violation and may subject the Artist to revocation, suspension, or non-renewal of rights granted hereunder by the City. Three (3) or more violations within a one (1) year period shall constitute a Class "B" misdemeanor.
- K. **SALES TAX.** All Artists are responsible for individually filing all necessary reporting forms and sales tax, if any, in accordance with state law.

#### **4-10-4 Exemptions**

The licensing provisions of this Chapter shall not apply to the following kinds of activities that would otherwise fall within the purview of this Chapter:

- A. **POLITICAL ACTIONS.** No license shall be required to solicit signatures on petitions of a political nature or to canvass or solicit funds on behalf of candidates for office or ballot issues. Campaign literature may be delivered to homes, subject to the delivery conditions set forth below under Unsolicited Deliveries.
- B. **RELIGIOUS ACTIONS.** No license shall be required of Persons exercising their right to express their religious views, provided however, that no Person shall use this exemption to sell merchandise. Delivery of any publication or material shall be subject to the delivery conditions set forth below under Unsolicited Deliveries.
- C. **CIVIC GROUPS.** No license shall be required of local civic organizations, such as Boy Scouts, Girl Scouts, historic preservation groups, schools, museums, not-for-profit organizations, or other charities. Delivery of any publication or material shall be subject to the delivery conditions set forth below under Unsolicited Deliveries.
- D. **WHOLESALE SOLICITATION.** No license shall be required of Persons who are soliciting Business on a wholesale basis only who are exempt under any provision of the Utah Code or any successor provision. For purposes of this Chapter, the solicitation of orders to place advertising in periodicals or for later broadcasts shall be deemed wholesale solicitation, and exempt from licensing.
- E. **SOLICITED DELIVERIES.** No license shall be required of any Person making a Solicited Delivery.
- F. **UNSOLICITED DELIVERIES.** No license shall be required of any Person making an Unsolicited Delivery. However, any Person making an Unsolicited Delivery of any kind shall not cause unsolicited material to be stacked, piled, or accumulated on any driveway, porch, automobile, building, yard, doorway, stairwell, or doorknob, without the prior express consent of the occupant of the premises. It shall be unlawful for any Person to deliver any unsolicited material to a residence where that Person's previously delivered material remains uncollected. Additionally, any Person making such an Unsolicited Delivery to a residence, who finds prior uncollected material there, shall properly dispose of that Person's uncollected material.
- G. **STATE LICENSEES.** Solicitors who hold valid state issued licenses to act as real estate brokers or salesmen, stock brokers, or insurance agents or salesmen need not obtain a separate Solicitor license from the City, but shall conduct their solicitation activities in accordance with the provisions of this Code.
- H. **DELIVERY PROHIBITION.** It shall be unlawful for any Person to deliver any unsolicited material to any Person, residence, or premises where the occupant thereof has requested that such delivery cease or where such occupant has posted his/her desire not to receive such unsolicited material.

#### **4-11 Sexually Oriented Businesses**

4-11-1 Title For Citation

4-11-2 Purpose: Reasonable Licensing Procedures

4-11-3 Application Of Provisions

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- 4-11-22 Escort Service Operation Requirements
- 4-11-23 Adult Business, Design Of Premises
- 4-11-24 Semi-Nude Entertainment Business; Interior Design
- 4-11-25 Alcohol Prohibited
- 4-11-26 Severability
- 4-11-27 Compliance By Present Licensees

#### **4-11-1 Title For Citation**

This Chapter shall be known and may be referred to as the Sexually Oriented Business Licensing Ordinance.

#### **4-11-2 Purpose: Reasonable Licensing Procedures**

It is the purpose and object of this Chapter that the City establish reasonable and uniform regulations governing the licensing and manner of operations of Sexually Oriented Businesses and their Employees in Park City. This Chapter shall be construed to protect the governmental interests recognized by this Chapter in a manner consistent with constitutional protections provided by the United States and Utah Constitutions. The purpose of these regulations is to provide for the regulation and licensing of Sexually Oriented Businesses within the City in a manner which will protect the property values of surrounding businesses and neighborhoods, and residents from the potential adverse secondary effects of Sexually Oriented Businesses, while providing to those who desire to patronize Sexually Oriented Businesses the opportunity to do so. Sexually Oriented Businesses are frequently used for unlawful sexual activities, including prostitution. Licensing of Sexually Oriented Businesses and Employees is a legitimate and reasonable means of ensuring that operators and Employees of Sexually Oriented Businesses comply with reasonable regulations and operators do not knowingly allow their businesses to be used for illegal sexual activity or solicitation. There is convincing documented evidence that Sexually Oriented Businesses, because of their nature, have a deleterious effect on both the existing neighboring businesses and surrounding residential areas, causing increased crime and downgrading of property values. The purpose of this Chapter is to control the adverse effects of Sexually Oriented Businesses and thereby to protect the health, safety, and welfare of the citizens and guests of Park City, protect the citizens from increased crime, preserve the quality of life, preserve the property values and character of the surrounding neighborhoods, and deter the spread of urban blight.

#### **4-11-3 Application Of Provisions**

This Chapter imposes regulatory standards and license requirements on certain Business activities, which are characterized as "Sexually Oriented Businesses". It is not the intent of this Chapter to suppress any speech activities protected by the First and Fourteenth Amendments to the United States Constitution and the Constitution of the State of Utah, but to impose content-neutral regulations which address the adverse secondary effects of Sexually Oriented Businesses. Nothing in this Chapter is intended to supersede or

nullify any other related ordinances including, but not limited to, the Municipal Code of Park City, Utah, or the Park City Land Management Code.

#### **4-11-4 Definitions**

For the purpose of this Chapter only the following words shall have the following meanings:

- A. **ADULT BUSINESS**. An Adult Theater, Adult Motion Picture Theater, Adult Bookstore, Adult Video Store, or Escort Service.
- B. **ADULT BOOKSTORE or ADULT VIDEO STORE**. A Business which:
  - 1. Holds itself out as such a Business; or
  - 2. For more than thirty percent (30%) of the retail floor or shelf space of the premises, offers for sale or rental, for any form of consideration, any one or more of the following: books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations the central theme of which depicts or describes Specified Sexual Activities or Specified Anatomical Areas, or instruments, devices, or paraphernalia which are designated for use in connection with Specified Sexual Activities, except for legitimate medically-recognized contraceptives.
- C. **ADULT MOTION PICTURE THEATER**. A Business which:
  - 1. Holds itself out as such a Business; or
  - 2. As its principal Business, regularly shows films, motion pictures, video cassettes, slides or similar photographic reproductions which are primarily characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas.
- D. **ADULT THEATER**. A Business which:
  - 1. Holds itself out as such a Business; or
  - 2. Regularly features Persons who appear in a state of nudity or live performances which are primarily characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities.
- E. **BUSINESS PREMISES**. The real property upon which the Sexually Oriented Business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the Sexually Oriented Business, the grounds, private walkways, and parking lots and/or parking areas adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a Business license.
- F. **EMPLOYEE**. A Person who performs any service on the premises or renders any services directly related to the operation of any Sexually Oriented Business on a full time, part time, contract basis, or independent basis, whether or not the Person is denominated an employee, independent contractor, agent, or otherwise, whether or not on a temporary or permanent basis, and whether or not said Person is paid a salary, wage, or other compensation by the operator of said Business. "Employee" shall also include a licensee's designated agent. "Employee" does not include a Person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises, nor does "Employee" include a Person exclusively on the premises as a patron or customer.

- G. **ESCORT**. Any Person who, for consideration, accompanies other Persons to or about social affairs, entertainments, or places of amusement, or consorts with others about any place of public resort or within any private quarters, or who agrees or offers to privately model lingerie or to privately perform a striptease for another Person.
- H. **ESCORT SERVICES**. A Business, contractor, agency, or Person which:
1. Holds itself out as such a Business; or
  2. For a fee, commission, hire, reward, or profit, furnishes or offers to furnish the names of Persons or who introduces, furnishes, or arranges for Persons, who may accompany other Persons to or about social affairs, entertainments, or places of amusement, or who may consort with others about any place of public resort, or within any private quarters.
- I. **NUDITY or STATE OF NUDITY**. A state of dress in which the areola of the female breast, or male or female genitals, pubic region, or anus are covered by less than the covering required in the definition of Semi-Nude.
- J. **OBSCENE**. Any material or performance is Obscene if:
1. The average Person, applying contemporary community standards, finds that, taken as a whole, it appeals to prurient interest in sex;
  2. It is patently offensive in the description or depiction of Nudity, sexual conduct, sexual excitement, sado-masochistic abuse, or excretion; and
  3. Taken as a whole, it does not have serious literary, artistic, political, or scientific value.
- K. **OPERATOR**. The manager or other natural Person principally in charge of a Sexually Oriented Business.
- L. **SEMI-NUDE**. A state of dress in which a Person wears opaque clothing covering:
1. Only the male or female genitals, pubic region, anus, by an opaque cover that is four inches wide in the front and five inches wide in the back tapering to one inch at the narrowest point; and if applicable,
  2. The nipple and areola of the female breast.
- M. **SEMI-NUDE ENTERTAINMENT BUSINESS**. A Business, including an Adult Theater, where Employees perform or appear in the presence of patrons of the Business in a state of Semi-Nudity. A Business shall also be presumed to be a Semi-Nude Entertainment Business if the Business holds itself out as such a Business.
- N. **SEXUALLY ORIENTED BUSINESS**. Semi-Nude Entertainment Businesses and Adult Businesses as defined by this Chapter.
- O. **SPECIFIED ANATOMICAL AREAS**. The human male or female pubic area or anus with less than a full opaque covering, or the human female breast from the beginning of the areola, papilla, or nipple to the end thereof with less than full opaque covering.
- P. **SPECIFIED SEXUAL ACTIVITIES** means:
1. Acts of:
    - a. Masturbation;
    - b. Human sexual intercourse; or

- c. Sodomy
2. Manipulating, caressing, or fondling by any Person of:
  - a. The genitals of a human;
  - b. The pubic area of a human; or
  - c. The breast or breasts of a human female.
3. Flagellation or torture by or upon a Person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound, or otherwise physically restrained on the part of the one so clothed.

#### **4-11-5 Obscenity And Lewdness - Statutory Provisions**

Notwithstanding anything contained in this Chapter, nothing in this Chapter shall be deemed to permit or allow the showing or display of any matter, which is contrary to applicable federal or state statutes prohibiting obscenity.

Notwithstanding anything contained in this Chapter, nothing in this Chapter shall be deemed to permit or allow conduct or the showing or display of any matter which is contrary to the provisions of the Park City Criminal Code regarding 'Lewdness'.

Provided, however, that for the purpose of this Sexually Oriented Business Chapter, the definition of private parts shall be construed to mean Nudity as defined in this Chapter.

#### **4-11-6 Business License Required, Employee License Required**

It shall be unlawful for any Person to engage in a Sexually Oriented Business within the boundaries of Park City, Utah, as specified herein, without first obtaining a Sexually Oriented Business license from Park City Municipal Corporation. Providing Escort Services within Park City shall be considered Engaging in Business. The Business license shall specify the type of Sexually Oriented Business for which it is obtained. It shall be unlawful of any Employee of a Sexually Oriented Business to perform any services in the boundaries of Park City, Utah, without first obtaining a Sexually Oriented Business Employee license from Park City Municipal Corporation. Any Person operating as an independent contractor in Park City, Utah, shall obtain both a Sexually Oriented Business license and an Employee license from Park City Municipal Corporation.

#### **4-11-7 Exemptions From License Requirements**

The provisions of this Chapter shall not apply to any sex therapist or similar individual licensed by the State of Utah to provide bona fide sexual therapy or counseling, licensed medical practitioner, licensed nurse, psychiatrist, psychologist, nor shall it apply to any educator licensed by the State of Utah for activities in the classroom.

#### **4-11-8 Artistic Modeling**

The City does not intend to unreasonably or improperly prohibit legitimate modeling or exhibitions, which may occur in a State of Nudity for purposes protected by the First Amendment or similar State protections.

#### **4-11-9 Business Categories; Single License**

It is unlawful for any Business Premises to operate or be licensed for more than one category of Sexually Oriented Business. The categories of Sexually Oriented Businesses are:

- A. Adult Bookstore or Adult Video Store;
- B. Adult Motion Picture Theater;
- C. Adult Theater;

- D. Semi-Nude Entertainment Businesses; and
- E. Escort Service.

#### **4-11-10 Business License Application**

Before any Applicant may be licensed to operate a Sexually Oriented Business in Park City, Utah, pursuant to this Chapter, the applicant shall submit to the Business License Clerk, on a form to be supplied by the Park City Business License Clerk, the following:

- A. The correct legal name of each applicant, corporation, partnership, limited partnership or entity doing Business under an assumed name.
- B. If the applicant is a corporation, partnership, or limited partnership, or individual or entity doing Business under an assumed name, the information required below for individual Applicants shall be submitted for each partner and each principal of an Applicant and for each officer or director. Any holding company, or any entity holding more than ten percent (10%) of an Applicant, shall be considered an Applicant for purposes of disclosure under this Chapter.
- C. All corporations, partnerships, or non-corporate entities included on the application shall also identify each individual authorized by the corporation, partnership, or non-corporate entity to sign the checks for such corporation, partnership, or non-corporate entity.
- D. For all Applicants the application must also state:
  - 1. Any other names or aliases used by the individual;
  - 2. Present physical address and telephone number of the Business Premises;
  - 3. Any internet websites that the Business operates;
  - 4. Present residence and telephone number;
  - 5. Utah driver license or identification number; and
  - 6. Social security number.
- E. Acceptable written proof that any individual is at least twenty-one (21) years of age;
- F. In the event the applicant is not the owner of record of the real property upon which the Business or proposed Business is or is to be located, the application must be accompanied by a notarized statement from the legal or equitable owner of the possessory interest in the property specifically acknowledging the type of Business for which the applicant seeks a license for the property. In addition to furnishing such notarized statement, the applicant shall furnish the name, address, and phone number of the owner of record of the property, as well as the copy of the lease or rental agreement pertaining to the premises in which the service is or will be located;
- G. A description of the services to be provided by the Business, with sufficient detail to allow reviewing authorities to determine what Business will be transacted on the premises, together with a schedule of usual fees for services to be charged by the licensee and any rules, regulations or employment guidelines under or by which the Sexually Oriented Business intends to operate. This description shall also include:
  - 1. The hours that the Business or service will be open to the public and the methods of promoting the health and safety of Employees and patrons and preventing them from engaging in illegal activity;

2. The methods of supervision preventing the Employees from engaging in acts of prostitution or other related criminal activities;
  3. The methods of supervising Employees and patrons to prevent employees and patrons from charging or receiving fees for services or acts prohibited by this Chapter or other statutes or ordinances;
  4. The methods of screening Employees and customers in order to promote the health and safety of Employees and customers and prevent the transmission of disease, and prevent the commission of acts of prostitution or other criminal activity.
- H. Each applicant is required to attach to the application form the additional items listed under Section 4-11-12.
- I. Each applicant is required to meet with the Police Chief or his/her designee.

#### **4-11-11 Employee License Application**

- A. Applications for an Employee license to work and/or perform services in a Sexually Oriented Business, whether original or renewal, must be made to the Park City Business License Clerk by the Person to whom the Employee license shall be issued. Each application for an Employee license shall be accompanied by payment of the application fee in full. Application forms shall be supplied by the Park City Business License Clerk. Applications must be submitted to the office of the Park City Business License Clerk during regular working hours. Each applicant shall be required to give the following information on the application form:
1. The correct legal name of the applicant, and any other names or aliases used by the applicant or by which the applicant is known;
  2. Present residence address and telephone number;
  3. Present Business name, address, and telephone number;
  4. Utah driver license or identification number;
  5. Social security number;
  6. Age, date, and place of birth; and
  7. Height, weight, hair color, and eye color.
- B. Each applicant shall provide acceptable written proof that the applicant is at least twenty-one (21) years of age;
- C. Each applicant is required to attach to the application form the additional items listed under Section 4-11-12.
- D. Each applicant is required to meet with the Police Chief or his/her designee and sign a statement of understanding of the applicable laws and regulations.

#### **4-11-12 Additional Application Requirements**

Attached to the application form for any license under this Chapter shall be the following:

- A. Two (2) color photographs of the applicant clearly showing the individual's face and the individual's fingerprints on a form provided by the Park City Police Department. For Persons not

residing in Park City, the photographs and fingerprints shall be on a form from the law enforcement jurisdiction where the Person resides. Fees for the photographs and fingerprints shall be paid by the applicant directly to the issuing agency;

- B. A statement detailing the license or permit history of the applicant for the five (5) year period immediately preceding the date of the filing of the application, including whether such applicant possessed or previously possessed any liquor licenses. The statement shall list all other jurisdictions in which the applicant owned or operated, or presently owns or operates a Sexually Oriented Business. The statement shall also state whether the applicant has ever had a license, permit, or authorization to do Business denied, revoked, or suspended in this or any other county, city, state, or territory. In the event of any such denial, revocation, or suspension, state the date, the name or issuing or denying jurisdiction, and state in full the reasons for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application; and
- C. A statement detailing all criminal convictions, pleas of no contest except those which have been expunged, and pleas that are currently being held in abeyance and have not yet been dismissed, for the applicant, individual, or entity subject to disclosure under this Chapter for five (5) years prior to the date of the application. This disclosure shall include identification of all ordinance violations, excepting minor traffic offenses, any traffic offense designated as a felony shall not be construed as a minor traffic offense; stating the date, place, nature of each conviction, plea of no contest, except those which have been expunged, and plea that is currently being held in abeyance and has not yet been dismissed, and sentence of each conviction or other disposition; identifying the convicting jurisdiction and sentencing court and providing the court identifying case numbers or docket numbers.

#### **4-11-13 Consent For Background Check**

Submission of an application for a Sexually Oriented Business license or Employee license shall constitute voluntary consent for criminal background checks by the Park City Police Department, the Utah Bureau of Criminal Identification, and the Federal Bureau of Investigation pursuant to any proceeding involving the Sexually Oriented Business license or Employee license.

#### **4-11-14 False Or Misleading Information; Disclosure**

It is unlawful to knowingly:

- A. Submit false or materially misleading information on a Sexually Oriented Business license or Employee license application;
- B. Provide false or materially misleading information to a Park City Business License clerk or Police Chief or his/her designee for the purpose of obtaining a Sexually Oriented Business license; or
- C. Fail to disclose or omit information for the purpose of obtaining a Sexually Oriented Business license or Employee license.

#### **4-11-15 Employment Or Persons Without Permits Unlawful**

It is unlawful for any Sexually Oriented Business operating in or engaging employees in Park City, Utah, to employ, retain, or contract, or for any individual to be employed or contracted by a Sexually Oriented Business in the capacity of a Sexually Oriented Business Employee in Park City, Utah, unless that Employee first obtains and possesses a Sexually Oriented Business Employee license from Park City Municipal Corporation. It is not sufficient that the owner or employee of Sexually Oriented Business has a Business license in any other location or jurisdiction.

For purposes of this Chapter, all owners, corporations, partnerships, or anyone who has any ownership interest in the Sexually Oriented Business doing business in Park City, Utah, shall be criminally liable as a party to any violation of this Chapter. In addition, any manager or Person with supervisory status over the unlicensed Employee doing Business in Park City, Utah, shall be criminally liable as a party to any violation of this Chapter.

Any Employee who knowingly, intentionally, recklessly, or with criminal negligence introduces, furnishes, arranges, transports, assists, or refers, or offers to introduce, furnish, arrange, transport, assist, or refer any unlicensed Employee to provide, or for the purpose of providing, Escort Services in Park City, Utah, shall be criminally liable.

#### **4-11-16 Single Location And Name**

- A. Conducting Business, as defined in this Title, under a license issued pursuant to this Chapter at any location other than the licensed Business Premises is unlawful. Any location to which telephone calls are automatically forwarded by such Business shall require a separate license.
- B. It is unlawful for any Sexually Oriented Business to do Business under any name other than the Business name specified in the application.

#### **4-11-17 License - Issuance Conditions**

- A. The Park City Business License clerk or his/her designated representative, shall refer all applications for licenses to the Police Chief for his investigation and recommendations.
- B. The Police Chief shall recommend the approval of a license pursuant to this Chapter unless he/she finds one or more of the following:
  - 1. The applicant is under twenty-one (21) years of age;
  - 2. The applicant is overdue in payment to the City of taxes, fees, fines, or penalties assessed against the applicant or imposed upon the applicant in relation to a Sexually Oriented Business;
  - 3. The applicant has falsely answered a material question or request for information as authorized by this Chapter;
  - 4. The applicant has violated a provision of this Chapter or similar provisions found in statues or ordinances from any jurisdiction within two (2) years immediately preceding the application. A criminal conviction for a violation of a provision of this Chapter or similar provisions from any jurisdiction, whether or not being appealed, is conclusive evidence of a violation, but a conviction is not necessary to prove a violation;
  - 5. The Business Premises to be used has been disapproved by the Summit County Health Department, the Fire Marshal, the building officials, or the zoning officials as not being in compliance with applicable laws and ordinances of the City. If any of the foregoing reviewing agencies cannot complete their review within the thirty (30) day approval or denial period, the agency or department may obtain an extension of time of no more than fifteen (15) days for review;
  - 6. All required License Fees have not been paid;
  - 7. All applicable sales and use taxes have not been paid;

8. An applicant for the proposed Business is in violation of or not in compliance with this Chapter or similar provisions found in state statutes or ordinances from any other jurisdiction;
  9. An applicant has been convicted or pled nolo contendere to a crime involving:
    - a. Prostitution; exploitation of prostitution; aggravated promotion of prostitution; aggravated exploitation of prostitution; solicitation of sex acts; sex acts for hire; compelling prostitution; aiding prostitution; sale, distribution, or display of material harmful to minors; sexual performance by minors; contributing to the delinquency of a minor; possession of child pornography; lewdness; obscenity; indecent exposure; any crime involving sexual abuse or exploitation of a child; sexual assault or aggravated sexual assault; rape; forcible sodomy; forcible sexual abuse; incest; harboring a runaway child; any felony; any violation under the Utah Controlled Substances Act or substantially similar state or federal statute; any crime of violence; criminal attempt, conspiracy, or solicitation to commit any of the foregoing offenses or offenses involving similar elements from any jurisdiction, regardless of the exact title of the offense; for which:
      - i. Less than two (2) years have elapsed from the date of conviction, if the conviction is of a misdemeanor offense, or less than five (5) years if the convictions are of two (2) or more misdemeanors within the five (5) years; or
      - ii. Less than five (5) years have elapsed from the date of conviction if the offense is a felony;
    - b. The fact that a conviction is being appealed shall have no effect on the disqualification pursuant to this Chapter.
  10. An applicant has not provided the Park City Business License Clerk with a complete application. An application is not complete until the applicant has provided all applicable requirements of Sections 4-11-10, 4-11-11, and 4-11-12; met with the Police Chief or his/her designee; and paid all fees.
- C. The Police Chief shall make a report of his findings to the Park City Business License Clerk together with his recommendation, if any, within forty-five (45) days of receipt of a completed application including payment of all fees. If the Police Chief or his/her designee cannot complete his/her review within the forty-five (45) day approval or denial period, the Police Chief or his/her designee may obtain an extension of time of no more than fifteen (15) days for his/her review. The total time for the City to approve or deny a license shall not exceed sixty (60) days from the receipt of a completed application and payment of all fees.

#### **4-11-18 Possession And Display Of Employee License**

It is unlawful for any individual licensed pursuant to this Chapter to fail to, at all times while engaged in licensed activities within the corporate boundaries of the City, carry their Park City Municipal Corporation Sexually Oriented Business license on their Person. If the individual is Semi-Nude, such license shall be visibly displayed within the same room as the Employee is performing. When requested by police, City licensing or other enforcement personnel or health official, it is unlawful to fail to show the appropriate licenses while engaged in licensed activities within the corporate boundaries of the City.

#### **4-11-19 Changes In Information**

Any change in the information required to be submitted under this Chapter for a Sexually Oriented Business license shall be given, in writing, to the Park City Business License Clerk, within fourteen (14) days after such change.

#### **4-11-20 Transfer Limitations**

Sexually Oriented Business licenses granted under this Chapter are not transferable. It is unlawful for an individual to transfer a Sexually Oriented Business license. It shall be unlawful for a Sexually Oriented Business license held by a corporation, partnership, or other non-corporate entity to transfer any part in excess of ten percent (10%) thereof, without filing a new application and obtaining prior City approval. If any transfer of the controlling interest in a Sexually Oriented Business licensee occurs, the license is immediately null and void and the Sexually Oriented Business shall not operate in Park City, Utah, until a separate new license has been properly issued by the City as herein provided.

#### **4-11-21 General Regulations**

It is unlawful for any Sexually Oriented Business to:

- A. Allow Persons under the age of eighteen (18) years, or the age of twenty one (21) years if required by applicable liquor ordinance, on the Business Premises, except that in Adult Businesses, which exclude minors from less than all of the Business Premises, minors shall not be permitted in excluded areas;
- B. Allow, offer, or agree to conduct any Escort Services with Persons under the age of eighteen (18) years;
- C. Allow, offer, or agree to allow any alcohol being stored, used, or consumed on or in the Business Premises;
- D. Allow the outside door to the premises to be locked while any customer is in the Business Premises;
- E. Allow, offer, or agree to gambling on the Business Premises;
- F. Allow, offer, or agree to any Employee of a Sexually Oriented Business touching any patron or customer;
- G. Allow, offer, or agree to illegal possession, use, sale, or distribution of controlled substances on the Business Premises;
- H. Allow Sexually Oriented Business Employees to possess, use, sell, or distribute controlled substances, while engaged in the activities of the Business;
- I. Allow, offer, or agree to commit prostitution, solicitation of prostitution, solicitation of a minor or committing activities harmful to a minor to occur on the Business Premises, or in the event of an Escort or Escort Services, the Escort or Employee committing, offering, or agreeing to commit prostitution, attempting to commit prostitution, soliciting prostitution, soliciting a minor, or committing activities harmful to a minor;
- J. Allow, offer, commit, or agree to any specified sexual activity in the presence of any customer or patron;
- K. Allow, offer, or agree to allow a patron or customer to commit Specified Sexual Activities in the presence of an Employee or on the Business Premises;
- L. Allow, offer, or agree to any Employee of a Sexually Oriented Business appearing before any customer or patron in a State of Nudity, unless licensed as an Adult Theater;

- M. Allow, offer, or agree that any Employee of a Sexually Oriented Business should appear before any customer or patron in a State of Partial Nudity without their employee license on their Person or in their immediate control.
- N. Allow, offer, or agree to commit an act of lewdness as defined in Section 8-4-20 of this Code; or
- O. Not permit the Police Department or other proper City official to have access at all times to all premises licensed or applying for a license under this Chapter, or to make periodic inspection of said Business Premises whether the officer or official is in uniform or plain clothes.

#### **4-11-22 Escort Service Operation Requirements**

It is unlawful for any Business or Employee providing Escort Services contracted for or provided in Park City, to fail to comply with the following requirements:

- A. All businesses licensed to provide Escort Services pursuant to this Chapter shall provide to each patron a written contract in receipt of consideration for services. The contract shall clearly state the type of services to be performed, the length of time such services shall be performed, the total amount such services shall cost the patron, and any special terms or conditions relating to the services to be performed. The contract need not include the name of the patron. The Business Operator shall keep and maintain a copy of each written contract entered into pursuant to this Section for a period of not less than one (1) year from the date of provision of services. The contracts shall be numbered and entered into a register listing the contract number, name, names of all Employees involved in the contract and pecuniary compensation paid.
- B. All Escort Services licensed pursuant to this Chapter shall maintain an open office at which at least one (1) responsible Employee conducts the affairs of the Business and acts as manager and licensee's designated agent and may be personally contacted during all hours Escorts are working. The address and phone number of the Business Premises shall appear and be included in all patron contracts and published advertisements.
- C. Escort Services shall not advertise in such a manner that would lead a reasonably prudent Person to conclude that Specified Sexual Activities would be performed by the Escort. The Business Operator shall keep and maintain copies of all published advertisements for a period not less than one (1) year from the date of publishing.

#### **4-11-23 Adult Business, Design Of Premises**

- A. In addition to the general requirements of disclosure for a Sexually Oriented Business, any applicant for a license as an Adult Business shall also submit a diagram, drawn to scale, of the Business Premises of the license. The design and construction, prior to granting a license or opening for Business shall conform to the following:
  - 1. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms;
  - 2. Restrooms may not contain any video reproduction equipment or any of the Business merchandise. Signs shall be posted requiring only one (1) Person be allowed in the restroom per stall and only one (1) Person in any stall at a time and requiring that patrons shall not be allowed access to manager's station areas;
  - 3. For businesses which exclude minors from the entire premises all windows, doors, and other apertures to the premises shall be darkened or otherwise constructed to prevent

anyone outside the premises from seeing the inside of the premises. Businesses, which exclude minors from less than all of the premises shall be designed and constructed so that minors may not see into the area from which they are excluded;

4. The diagram must show marked internal dimensions, all overhead lighting fixtures and ratings for illumination capacity.
- B. It shall be the duty of licensee and licensee's Employees to insure that the views from the manager's station of all areas specified in Section (A)(1) above remain unobstructed by any doors, walls, merchandise, display racks or any other materials, at all times that any patron is present in the premises, and to insure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.
- C. The premises shall at all times be equipped and operated with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1) foot candle measured at floor level. It shall be the duty of licensee and licensee's Employees present on the premises to insure that the illumination described above is maintained at all times that any patron is present in the premises.

#### **4-11-24 Semi-Nude Entertainment Business; Interior Design**

Adult Theaters shall require that the performance area shall be separated from the patrons by a minimum of three feet (3'), which separation shall be delineated by a physical barrier at least three feet (3') high. It is unlawful for Business Premises licensed for Semi-Nude Entertainment to:

- A. Permit a bed, sofa, mattress, or similar item in any room on the premises, except that a sofa may be placed in a reception room open to the public or in any office to which patrons are not admitted, and except that in an Adult Theater such items may be on the stage as part of a performance;
- B. Allow any door on any room used for the Business, except for the door to an office to which patrons shall not be admitted, outside doors and restroom doors to be lockable from the inside;
- C. Provide any room in which the Employee or Employees and the patron or patrons are alone together without a separation by a solid physical barrier at least three feet (3') high and six inches (6") wide. The patron or patrons shall remain on one side of the barrier and the Employee or Employees shall remain on the other side of the barrier;

#### **4-11-25 Alcohol Prohibited**

It is unlawful for any Business licensed pursuant to this Chapter to allow the sale, storage, supply, or consumption of alcoholic beverages on the Business Premises. It is unlawful for any Person to possess or consume any alcoholic beverage on the Business Premises of any Sexually Oriented Business.

#### **4-11-26 Severability**

In the event that any provision of this Chapter is declared invalid for any reason, the remaining provisions shall remain in effect.

#### **4-11-27 Compliance By Present Licensees**

Any Person, firm, or corporation which held any Business license from Park City which lawfully permits the activities regulated hereby or was doing Business on the effective date of this amendment, shall have forty-five (45) days from the effective date of this amendment to submit the application required in this Chapter or be deemed as operating as Sexually Oriented Business without a license. Additionally,

Employees of Business designated by this Chapter who are required to obtain an Employee license shall have forty-five (45) days from passage of this amendment to submit application for an employee license or be deemed as operating without a license.