

Ordinance No. 2019-35

AN ORDINANCE REPEALING TITLE 4A, CHAPTER 3 OF THE MUNICIPAL CODE OF PARK CITY: OUTDOOR MUSIC PLAZAS

WHEREAS, Park City, Utah, may pass all ordinances and rules, and make all regulations, not repugnant to law, necessary for carrying into effect or discharging all powers and duties conferred by this chapter, and as are necessary and proper to provide for the safety and preserve the health, and promote the prosperity, improve the morals, peace and good order, comfort, and convenience of the city and its inhabitants, and for the protection of property in the city; and

WHEREAS, and the City Council finds that it is in the public interest to clarify, refine and sometimes repeal the written ordinance, rules and regulations as necessary to address changes in circumstances and so that citizens can more easily access correct information;

WHEREAS, a public hearing was duly noticed and held on June 27, 2019; and

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

Section I. Repealer. Municipal Code of Park City Title 4A, Chapter 3: OUTDOOR MUSIC PLAZAS is repealed as shown in Exhibit A.

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

Section III. Effective Date. This ordinance shall become effective upon publication.

PASSED AND ADOPTED by the City Council of Park City, Utah, this 27th day of June, 2019.

PARK CITY MUNICIPAL CORPORATION

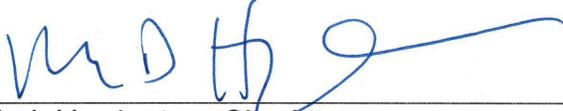


Attest:

Mayor Andy Beerman

Michelle Kellogg, City Recorder

Approved as to form:

A handwritten signature in blue ink, appearing to read 'M D H 9', with a long horizontal flourish extending to the right.

Mark Harrington, City Attorney

4A-3 Public Outdoor Music Plazas

4A-3-1	Title	For	Citation
4A-3-2	Purpose:	Reasonable	Licensing
4A-3-3	Application	Of	Provisions
4A-3-4	Special	Event	Permit;
4A-3-5	Public	Outdoor	Music
4A-3-6		General	Regulations
4A-3-7			Alcohol
4A-3-8	License	Holder;	Program
4A-3-9	On-Going	Compliance	Evaluation
4A-3-10		Transfer	Limitations
4A-3-11	Plaza Licenses In Lieu Of Administrative Permit For Outdoor Music And Outdoor Speakers		

4A-3-1 Title For Citation

This Chapter shall be known and may be referred to as the Public Outdoor Music Plaza Ordinance.

4A-3-2 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 public outdoor music plazas 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 licensing of public outdoor music plazas 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, while providing to those who desire to perform in and patronize public outdoor music plazas the opportunity to do so. The purpose of this Chapter is to prevent and control the adverse effects of public outdoor music plazas and thereby to protect the health, safety, and welfare of the citizens and guests of Park City, protect the citizens from increased noise, preserve the quality of life, and preserve the property values and character of the surrounding neighborhoods.

4A-3-3 Application Of Provisions

This Chapter imposes regulatory standards and license requirements on certain activities, which are characterized as "public outdoor music plazas". 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 public outdoor music plazas. This Chapter is intended to supersede any other related ordinances including, but not limited to, Title 6 Chapter 3, Noise, and Title 15, Land Management Code, of the Municipal Code.

4A-3-4 Special Event Permit; Review Procedure

The public outdoor music plazas identified at Section 4A-3-5 herein may be programmed for public performances and outdoor music, subject to the regulations and conditions of this Chapter and subject to Special Event permitting review pursuant this Title. No Permittee or performer shall accrue any vested rights under this revocable license.

4A-3-5 Public Outdoor Music Plazas

The following locations, dates and times may be programmed for public performances and outdoor music:

1. LOWER SUMMIT WATCH PLAZA

- 1. LOCATION.** On the north end of Summit Watch Plaza. Approved plans are on file with the Special Events Department.
- 2. OPERATION DAYS/HOURS/MONTHS.** This Stage may be programmed a maximum of three (3) days per week from June 1st through Labor Day. Programming is limited to a maximum of three (3) hours per day and shall begin no earlier than 12:00 Noon and conclude no later than 8:30 p.m. A timer device will be installed that shuts the power of the Stage and sound system off at 8:30 p.m.
- 3. TYPE OF MUSIC.** Amplified and acoustic with prerecorded music allowed during breaks. For Amplified Events or Music on Summit Watch Plaza, the program manager shall be responsible to ensure that the sound system maintains the sound at an A weighted sound level adjustment and maximum decibel level of ninety (90), as measured twenty five feet (25') in front of the Stage.

2. MINER'S PLAZA

- ~~1. LOCATION. 415 Main Street.~~
 - ~~2. OPERATION DAYS/HOURS/MONTHS. This Stage may be programmed a maximum of two (2) days per week from June 1st through Labor Day. Programming is limited to a maximum of three (3) hours per day and shall begin no earlier than 12:00 Noon and conclude no later than 8:30 p.m. Programming of this Stage shall not conflict with any City sponsored or duly licensed Special Event as approved by the Special Events Department, including but not limited to dates reserved for the Park City Arts Festival. A timer device will be installed that shuts the power of the Stage and sound system off at 8:30 p.m.~~
 - ~~3. TYPE OF MUSIC. Solo and duo acts with microphones for vocal, with prerecorded music during breaks. For Amplified Events, the program manager shall be responsible to ensure that the sound system maintains the sound at an A weighted sound level adjustment and maximum decibel level of 90, as measured twenty five feet (25') in front of the Stage.~~
- ~~3. TOWN LIFT PLAZA.~~
- ~~1. LOCATION. 825 Main Street.~~
 - ~~2. OPERATION DAYS/HOURS/MONTHS. This Stage may be programmed a maximum of three (3) days per week from June 1st through Labor Day. The maximum duration of programming per day shall not exceed four (4) hours and shall begin no earlier than 12:00 Noon and must conclude no later than 8:30 p.m. Programming of this Stage shall not conflict with any City sponsored or duly licensed Special Event as approved by the Special Events Department, including but not limited to dates reserved for the Park City Arts Festival. A timer device will be installed that shuts the power of the Stage and sound system off at 8:30 p.m.~~
 - ~~3. TYPE OF MUSIC. Amplified and acoustic acts with microphones for vocal, with prerecorded music during breaks. For Amplified Events, the program manager shall be responsible to ensure that the sound system maintains the sound at an A weighted sound level adjustment and maximum decibel level of ninety (90), as measured twenty five feet (25') in front of the Stage.~~
- ~~4. UPPER SUMMIT WATCH PLAZA.~~
- ~~1. LOCATION. On the south end of Summit Watch Plaza. Approved plans are on file with the Special Events Department.~~
 - ~~2. OPERATION DAYS/HOURS/MONTHS. This Stage may be programmed a maximum of three (3) days per week from June 1st through Labor Day. Programming is limited to a maximum of three (3) hours per day and shall begin no earlier than 12:00 Noon and must conclude no later than 8:30 p.m. A timer device will be installed that shuts the power of the Stage and sound system off at 8:30 p.m.~~
 - ~~3. TYPE OF MUSIC. Amplified and acoustic with prerecorded music allowed during breaks. For Amplified Events or Music on the Upper Summit Watch Plaza, the program manager shall be responsible to ensure that the sound system maintains the sound at an A weighted sound level adjustment and maximum decibel level of 90, as measured twenty five feet (25') in front of the Stage.~~

4A-3-6 General Regulations

- ~~A. The program manager, or his/her designee, shall provide on-site management for each event.~~
- ~~B. A sound technician shall provide on-site noise monitoring for each event with music, amplified or otherwise, and any _____ Amplified _____ Event.~~
- ~~C. For Amplified Events or Music, the program manager shall be responsible to ensure that the sound system maintains the sound at an A weighted sound level adjustment and maximum decibel level of 90, as measured twenty five feet (25') in front of the Stage. The data currently available to the City indicates that a maximum decibel level of 90 satisfies the purpose of this ordinance. The City may amend this ordinance consistent with newly _____ acquired _____ data.~~
- ~~D. All _____ events _____ shall _____ be _____ open _____ to _____ the _____ public _____ and _____ free _____ of _____ charge.~~
- ~~E. No event shall exceed 250 people at one time unless a separate Special Event Permit is granted for that event.~~
- ~~F. The Police Department or other proper City official shall have access at all times to all public outdoor music plazas under this Chapter, and may make periodic inspection of said premises whether the officer or official is in~~

~~uniform or plain clothes.~~

- ~~G. All events shall take place only on authorized Stages and shall have clean-up services directly following each event so as to leave the plazas in a clean and litter free manner.~~

4A-3-7 Alcohol

~~It is unlawful for the Permittee or any person or business to allow the sale, storage, supply, or consumption of alcoholic beverages at the public outdoor music plazas, unless licensed pursuant to Title 4, Alcoholic Beverage Licenses, as applicable.~~

4A-3-8 License Holder; Program Board

- ~~A. The Permittee(s) will hire a program manager who must be approved by the City; the City will not unreasonably withhold approval of the program manager. The program manager will be responsible for general management of each public outdoor music plaza and on-site oversight for each event. Agreements with the individual property owners will be provided to the City Special Events Department by the program manager.~~
- ~~B. The Permittee(s) shall schedule events in accordance with the regulations set forth in this Chapter. Nothing herein shall allow the City to regulate the content or otherwise censor plaza productions or speech. The Permittee(s) shall at all times hold the City harmless and indemnify the City from all claims, actions, and liability arising from the Permittee(s)' use of the public outdoor music plazas. The Permittee(s) shall maintain their own liability insurance, with the City listed as an additional insured in a form approved by the City Attorney.~~
- ~~C. Nothing in this Chapter shall be interpreted to create a contract or implied contract between the City and any performer, or public outdoor music plaza owner.~~

4A-3-9 On-Going Compliance Evaluation

- ~~1. Permittee(s) shall post a phone number at each Venue so that individuals may phone in comments. Based upon such comments, the Special Events staff may issue additional conditions consistent with the intent of this Chapter to the program manager, including decreasing DB levels in three (3) DB increments with at least three (3) days between each reduction. A summary of, and recommended response to comments will be forwarded to the City Council within seven (7) days of the end of each month of operation, or sooner if requested by the program manager to resolve any issue.~~
- ~~2. The Police Chief, or his/her designee, may suspend the permits granted herein and schedule a revocation hearing before the City Council at the next regularly scheduled City Council meeting for any of the following causes:~~
- ~~1. Any violation of this Chapter as evidenced by a citation issued by the Police Department.~~
 - ~~2. Any violation of law or City ordinance.~~
 - ~~3. Upon any other evidence that the program manager or entertainer constitutes a hazard or nuisance to the health, safety, or welfare of the community.~~

4A-3-10 Transfer Limitations

~~The Special Event Permit(s) granted under this Chapter are not transferable without the written consent of the Mayor. It is unlawful for an individual to transfer a public outdoor music plaza Special Event Permit without City approval as provided herein. If any transfer of the controlling interest in a public outdoor music plaza permit occurs without City approval, the permit is immediately null and void and the public outdoor music plaza shall not operate until a separate new permit has been properly issued by the City as herein provided. The City will not unreasonably withhold consent of transfer provided the proposed licensee is a non-profit organization within Park City, meets all the criteria of this Chapter, and demonstrates experience managing Special Events.~~

4A-3-11 Plaza Licenses In Lieu Of Administrative Permit For Outdoor Music And Outdoor Speakers

~~The Special Event Permits granted under this Chapter are in lieu of any administrative conditional permit (CUP) for outdoor music, including outdoor speakers, pursuant to Title 15 of the Municipal Code, Land Management Code. The Planning Department shall not issue any outdoor music permits in the Historic Commercial Business (HCB) zoning district north of Heber Avenue. The City may still issue outdoor music permits in conjunction with an approved Special Event Permit.~~