

**ORDINANCE 09-04**

**AN ORDINANCE ESTABLISHING A LICENSING REQUIREMENT FOR THOSE ENGAGING IN BUSINESS IN THE TOWN OF HIDEOUT**

**WHEREAS**, the Utah State Tax Commission distributes local option sales tax, and resort communities sales tax on a point of sale/point of delivery formula;

**WHEREAS**, the Utah State Tax Commission requires jurisdictions to report to the commission the names, addresses and tax identification information of all businesses engaging in business in the jurisdiction;

**WHEREAS**, the Mayor and Town Council have adopted a local option sales tax and a resort communities sales tax to provide necessary revenues for the Town;

**WHEREAS**, the Mayor and Town Council have determined that it is in the best interests of the citizens of the Town of Hideout to establish a business license requirement to accurately obtain information required by the Utah State Tax Commission;

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF HIDEOUT, UTAH:**

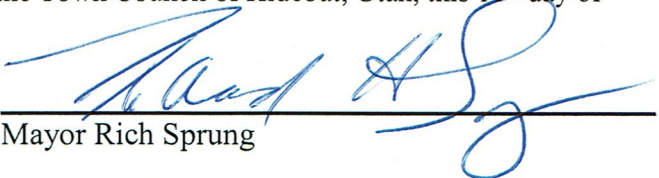
**SECTION I: Repealer.** If any provisions of the Town's Code heretofore adopted are inconsistent herewith they are hereby repealed.

**SECTION II: Enactment.** That the Town Council of Hideout, Wasatch County, State of Utah, does hereby adopt the business license ordinance attached hereto as Exhibit A:

**SECTION III: Severability.** If any section, subsection, sentence, clause or phrase of this ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, said portion shall be severed and such declaration shall not affect the validity of the remainder of this ordinance.

**SECTION IV: Effective Date.** This ordinance, being necessary for the peace, health, safety and welfare of the town, shall become effective immediately upon posting.

**PASSED AND ADOPTED** by the Town Council of Hideout, Utah, this 11<sup>th</sup> day of February, 2009.

  
\_\_\_\_\_  
Mayor Rich Sprung

Attest:

  
\_\_\_\_\_  
Town Clerk

Approved: February 11, 2009  
Posted: February 12, 2009

EXHIBIT A

LICENSING

1. DEFINITIONS.

For the purposes of this ordinance, the terms below convey the following meanings:

**ALCOHOLIC BEVERAGES.** Includes "beer" and "liquor" as they are defined herein.

**BEER.** Any beverage containing not less than one-half of one percent (.5%) of alcohol by weight and obtained by the alcoholic fermentation of an infusion or decoction of any malted grain, or similar products. "Heavy beer" means beer containing more than three point two percent (3.2%) of alcohol by weight. "Light beer" means beer containing not more than 3.2% of alcohol by weight. "Beer" may or may not contain hops or other vegetable products. "Beer" includes ale, stout and porter.

**BEER LICENSE – EVENT, TEMPORARY.** A license issued by the Town to an individual or organization for a maximum period of time of seventy-two (72) consecutive hours to sell beer at an event. Person's holding an event temporary beer license from a local authority are not required to obtain a State on-premise beer license.

**BEER RETAILER.** Any business establishment engaged, primarily or incidentally, in the retail sale or distribution of beer to public patrons, whether for consumption on or off the establishment's premises, and that is licensed to sell beer by the Commission (State of Utah Alcoholic Beverage Control Commission) and Hideout.

**BEER RETAILER - ON PREMISE.** Any beer retailer engaged, primarily or incidentally, in the sale or distribution of beer to public patrons for consumption on the retailer's premises. It includes taverns.

**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.

**COMMISSION.** The State of Utah Alcoholic Beverage Control Commission.

**CONDUCTING BUSINESS.** For purposes of this ordinance the term "conducting business" shall include the sale or offering for sale of any goods or merchandise, or the offering or performing of any service for valuable consideration of any kind.

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

**ENGAGING IN BUSINESS.** Includes all activities engaged in within the corporate limits of Hideout 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 or rental 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 a 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 employer under any contract of personal employment.

**EVENT, FESTIVAL.** Any event held on public or private property in which the general public is invited with or without charge and which creates significant public impacts through any of the following:

- (A) the attraction of crowds,
- (B) necessity for street closures on any arterial street necessary for the safe and efficient flow of traffic in Hideout,
- (C) use of public property,
- (D) use of off-site parking facility,
- (E) use of amplified music in or adjacent to a residential neighborhood,
- (F) use of Town personnel,
- (G) impacts via disturbance to adjacent residents,
- (H) traffic/parking,
- (I) disruption of the normal routine of the community or affected neighborhood; or
- (J) necessitates an event temporary beer or liquor license in conjunction with the public impacts. Neighborhood block parties or other events requiring street closure of any residential street that is not necessary for the safe and efficient flow of traffic in Hideout for a duration of less than one (1) day shall be considered an Event.

**FIREWORKS PERMIT.** A permit issued by the County Fire Marshal for aerial or concession fireworks, pursuant to the Uniform Fire Code on behalf of the Town.

**LICENSEE.** Any person holding any beer or liquor license in connection with the operation of a place of business or private club. This term shall also include beer or liquor handling employee of the licensee. The licensee is responsible for the acts and omissions of its employees.

**LICENSED PREMISE.** Any room, building, structure, or place occupied by any person licensed to sell beer or to allow the consumption or storage of liquor on such premises under Chapter 4; provided that in any multi-roomed establishment, an applicant for an on-premise or off-premise beer license shall designate a room or portion of a building of such business for the consumption or the sale of beer, which portions shall be specifically designated in the application and, in the license issued pursuant thereto, shall be the licensed premises. Multiple dining facilities located in one building, owned or leased by one license applicant and subject to



the same type of beer or liquor license shall not be deemed separate licensed premises, and shall not be required to obtain a separate license for each area.

**LIQUOR.** Includes alcohol, or any alcoholic, spirituous, vinous, fermented, malt or other liquid combination of liquids, a part of which is spirituous, vinous, or fermented, and all other drinks or drinkable liquids, containing more than one half one percent (.5%) of alcohol by volume; and all mixtures, compounds or preparation, whether liquid or not, which contain more than one-half of one percent (.05%) of alcohol by volume, and which are capable of human consumption; except that the term "liquor" shall not include any beverage defined as beer, malt liquor or malted beverage that has an alcohol content of less than four percent (4%) alcohol by volume.

**MONTHLY RENTAL FACILITY - UNDER MANAGEMENT.** Any place where rooms or units are rented or otherwise made available by a manager or management company for residential purposes on a monthly or longer time basis, but not including monthly or longer rental by the owner of the property without management.

**NIGHTLY LODGING FACILITY.** Any place where or 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.

**NUISANCE.** Any licensed premises where: alcoholic beverages are manufactured, sold, kept, bartered, stored, consumed, given away or used contrary to the Alcohol Beverage Control Act, the Utah Liquor Commission Rules and Regulations, or this Code; or 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; or persons under the age of twenty-one (21) are permitted to purchase or drink beer or liquor; or town, county, state or federal laws or ordinances are violated by the licensee or his agents or patrons with the consent or knowledge of licensee which tend to affect the public health, safety, peace, or morals; or patrons are throwing 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 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; or persons who are not members, or guest members of a private club or accompanied by members as their "visitors", as defined by State law, in any private club are permitted to remain in that club without obtaining a permanent or temporary membership.

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

**PLACE OF BUSINESS.** Each separate location maintained or operated by the licensee within Hideout from which business activity is conducted or transacted. A location shall be identified by street address or by building name if a street address has not been assigned. "Place of business" as used in connection with the issuance of beer and liquor licenses means cafes, restaurants, public dining rooms, cafeterias, taverns, cabarets, and any other place where the



general public is invited or admitted for business purposes, including any patios, balconies, decks, or similar areas, and also means private clubs, corporations and associations operating under charter or otherwise wherein only the members, guest members and their visitors are invited. Occupied hotel and motel rooms that are not open to the public shall not be "places of business" as herein defined.

**PRIVATE CLUB.** A non-profit corporation operating as a social club, recreational, fraternal or athletic association, or kindred association organized primarily for the benefit of its stockholders or members and operating under authority of a license granted by the Alcohol Beverage Control Commission in accordance with U.C.A. Section 32A-5-101, et seq.

**RESTAURANT.** A place of business where a variety of hot food is prepared and cooked and complete meals are served to the general public in indoor dining accommodations, or in outdoor accommodation and is engaged primarily in serving meals to the general public.

**RETAILER.** Any person engaged in the sale or distribution of alcoholic beverages to the consumer.

**SELL OR TO SELL.** Any transaction, exchange, or barter whereby, for any consideration, an alcoholic beverage is either directly or indirectly transferred, solicited, ordered, delivered for value, or by any means or any pretexts promised or obtained, whether done by a person as a principal, proprietor, or as an agent, servant or employee unless otherwise defined in this ordinance.

**STREET CLOSURE.** The deliberate blockage of any public street or Town owned parking facility to prohibit the flow of traffic or access of vehicles. Any non-construction street closure shall require an event license.

**SQUARE FOOTAGE.** The aggregate number of square feet of area within a place of business that is used by a licensee in engaging in its business.

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

**VENUE.** The location or locations upon which an event or festival is held, as well as the ingress and egress route when included in the event or festival license.

**WHOLESALE.** Any person other than a licensed manufacturer engaged in importation for sale or in the sale of beer, malt liquor, or malted beverages in wholesale or jobbing quantities to retailers.

## **2. UNLAWFUL TO OPERATE WITHOUT A LICENSE.**

Unless exempted by state or federal law, after March 1, 2009, it shall be unlawful for any person to engage in business within the Town of Hideout, whether on a temporary or permanent basis, without first procuring a Town business license. All Town business licenses are non-transferrable and expire on December 31st of each year.



**3. NO TEMPORARY LICENSES.**

Any person engaging in business on a temporary basis within the Town of Hideout shall be required to obtain the Town business license in the same manner as a person engaging in business on a permanent basis within the Town of Hideout.

**4. LICENSE APPLICATION.**

Applications for business licenses shall be made in writing to the Mayor or his/her designee. Each application shall state the name of the applicant, the location of the business, the type of business, the name, phone number and address of the person who will receive notice or information from the Town, and the state sales tax reporting number attributable to the business. Any change in the above information furnished by the applicant shall be forwarded in writing, within ten (10) days of the change, to the Mayor or his/her designee.

**5. LICENSE ISSUANCE.**

Upon receipt by the Mayor or his or her designee of a completed license application, the Mayor or his or her designee shall issue the license and transmit it to the person designated on the application. All license certificates shall be signed by the Mayor or his or her designee, under the seal of the Town, signature may be placed mechanically, and 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 business, or identification of event;
- (D) Other regulatory information, if applicable;
- (F) Fees paid; and
- (G) The term of the license with commencement and expiration dates.

**6. LICENSE PERIOD.**

Business License certificates shall be valid through December 31, of the year of renewal unless revoked pursuant to this Ordinance. The license period for other licensing i.e. events, shall be as approved and written.

**7. APPLICATION AND ADMINISTRATIVE FEE.**

Each license application shall be accompanied by the business/event license application and annual administrative fee required to be paid for the issuance of the license desired, and any other regulatory fee, if applicable.

The business/event license application and annual administrative fees are as follows:

Application fee: \$50.00  
Annual Administrative Fee: \$50.00

**8. 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 Town, 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 \$25.00 shall be retained to offset application processing costs.

**7. SEPARATE BUSINESSES, LICENSED PREMISES.**

Where two or more persons conduct separate businesses at the same location, each such person shall obtain a separate license for each such business and pay the required license fee for such business.

**8. DOUBLE FEE FOR FAILURE TO OBTAIN REQUIRED LICENSE.**

Unless exempted by state or federal law or by this Chapter, any person who engages in business prior to submitting a completed application and payment of all fees 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.

**9. 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 Town may refer the application or licensee for investigation to the County Sheriff's Department. A Town designee may at any time inspect the business premises during normal business hours or request business documents to verify a new application or existing Licensee.

**10. DUTY TO DISPLAY LICENSE.**

Every licensee licensed pursuant to the provisions of this Ordinance shall keep the license displayed and exhibited while the same is in force in some conspicuous part of the place of business. Every licensee not having a fixed place of business shall carry such license at all times 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.

**11. BRANCH ESTABLISHMENTS.**

A separate license must be obtained for each branch establishment or separate location in which business is engaged in, within the Town, 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 Ordinance shall not be deemed to be separate places of business or branch establishments.

**12. INSPECTIONS FOR COMPLIANCE/NOTICE OF INFRACTION/ LICENSE REVOCATION/COMPLAINT FILED BY TOWN ATTORNEY.**

Prior to the issuance of a license to engage in a new business not previously licensed at that location, or an existing business with a change of location, the applicant shall be required to permit inspections to be made of the prospective place of business of the applicant by the appropriate departments of the Town or other governmental agency to ensure compliance with building, fire, and health codes. No license shall be granted unless any required inspections reveal that the prospective place of business is in substantial compliance with the building, fire, and health codes. 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.

Existing places of business licensed within the Town may be inspected periodically by departments of the Town for compliance with building, fire, and health codes. Written notice shall be given by the Town 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 Town designee.

The Town designee may request the Town Attorney to file a complaint against any applicant or any licensee who continues to conduct business beyond the time limits provided in this section for non-compliance with the required standards.

### **13. REGULATION OF SPECIFIC BUSINESSES.**

Additional regulation may be necessary for the following types of businesses.

(A) **CONTRACTORS AND BUILDERS.** No contractor shall be issued a business license under this section unless and until he has provided a certified statement that he is currently licensed with the State of Utah Department of Business Regulation, including the state license number(s) and date of expiration. If said State license expires prior to December 31st of the year, each contractor must provide proof of renewal within ten (10) days of renewal or shall forfeit the Town license for the balance of the year.

Contractors are required to obtain a separate office business license.

(B) **NIGHTLY RENTAL.** All nightly rental units must be licensed before being offered for rent.

(1) **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.

(2) **APPLICATION PROCEDURE.** All new and renewal applications must contain the property manager's name, a sales tax collection and accounting number, the street address of each unit, the name and address of a local responsible party who is available by telephone twenty four (24) hours per day and all other information requested on the application forms. The application includes a cover form, which contains information common to all units managed, and unit forms, which contain information on each unit managed. It is the licensee's duty to supplement both forms as information changes or as units change from one manager to another.

(4) **MANAGEMENT STANDARDS.** The 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:

- (a) Snow removal during winter months to a level that allows safe access to the building over the normal pedestrian access to the unit.
  - (b) 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.
  - (c) 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.
  - (d) Structural maintenance to preserve substantial code compliance as described above is required.
  - (e) Routine upkeep, including painting and repair to a level that is consistent with the level of maintenance on adjoining or nearby properties.
  - (f) Trash collection which insures that trash cans are not left at the curb for any period in excess of twenty-four (24) hours and the property must be kept free from accumulated garbage and refuse.
  - (g) Housekeeping service as a part of hotel or property management company: included in property management license.
  - (h) Parking. On-street parking for nightly rental uses shall not result in an obstruction to traffic and pedestrian circulation or public safety.
  - (i) Outdoor Displays of Goods and Merchandise. No outdoor display of goods and merchandise shall be permitted as part of any nightly rental use.
  - (j) Signs. As permitted by the Town Council.
  - (k) Commercial Uses Prohibited. Nightly rentals may not be used for commercial uses not otherwise permitted by the Town Council. 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.
- (5) **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. Complaints in regard to noise or 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.



(6) **COLLECTION OF SALES TAX.** Failure to collect and deposit sales tax is also a violation of the license and grounds for revocation.

(7) **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:

(a) The unit is located in an area zoned appropriate for rentals, for the period which the license is applied for.

(b) Building Inspection of the unit may be required. The applicant shall bear the cost of any such inspection and any re-inspection, which may be required. The cost shall be determined by the prevailing hourly rate of the Hideout Building official.

(c) 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 units 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.

(d) 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 Wasatch or Summit County, or, in the case of a company, has offices in Wasatch or 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, 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 from Hideout officials. 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 U.C.A. Section 61-2-2, as amended, which requires those who receive valuable consideration to lease property to have a state license.

(e) The application must bear a Utah State sales tax number and accounting number for the rental operation. 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 Utah State sales tax number is provided.



(C) **RESTAURANTS, FOOD SERVICE, TAVERNS, ETC.**

- (1) Application for outdoor dining areas connected with any food service establishment shall be reviewed, assessed and approved separately than the rest of the establishment.
- (2) Catering services shall be licensed separately.
- (3) All food service business are subject to state and local inspection.

(D) **REGULATORY LICENSE FEE.**

The business license application and fees shall be accompanied by a regulatory license fee of \$100 for those businesses identified above.

**14. EXEMPTIONS.**

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

- (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 in subsection (F) below.
- (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 in subsection (F) below.
- (C) **CIVIC GROUPS.** No licensing 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 in subsection (F) below.
- (D) **WHOLESALE SOLICITATION.** Persons who are soliciting business on a wholesale basis only who are exempt under the provision of U.C.A. Section 10-8-80 or any successor provision. For purposes of this Ordinance, 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 solicitors license from the Town, but shall conduct their solicitation activities in accordance with the provisions of this Ordinance.

(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.

## 15. BEER AND LIQUOR LICENSING

### (A) POLICY.

It is the policy of the Town of Hideout to permit the operation of establishments serving beer and liquor 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 the Town of Hideout to place the primary responsibility for maintaining order and preventing breaches of the peace within establishments selling and serving beer and liquor on the owners and managers of those establishments.

### (B) LICENSE REQUIREMENTS.

It shall be unlawful for any person to engage in the business of the sale of beer at retail or wholesale within the Town without first procuring a beer license as required by this Ordinance. In addition to the Town 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 Ordinance.

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 Town. 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, Utah Alcoholic Beverage Control Commission rules and regulations, and this Ordinance.



**(C) LICENSE APPLICATION.**

Applications for new beer or liquor licenses shall be made in writing to the Town Council or its designee upon a form furnished by the Town to be filed with the Mayor. Each application shall state the name, address - street address and mailing address, if different; age and citizenship of the applicant; the street address of the business; whether the applicant has complied with requirements specified in the Alcoholic Beverage Control Act; whether the applicant meets the licensee qualifications set out below; the location of any other beer or liquor licenses held by the applicant; the name and Utah address for the business' agent for service of process; and any other reasonably pertinent information required by the Town Council. If the applicant is a partnership, association or corporation, the same information shall be included for each officer or director thereof. The application must be subscribed by the applicant who shall state under oath that the facts therein contained are true.

**(D) LICENSEE QUALIFICATIONS.**

No beer or liquor license shall be granted to any retailer, partnership, corporation, or association if any partner, director, or officer does not meet the qualifications for a license as set forth in (A) through (D), below:

- (1) The licensee shall be over the age of twenty-one (21) years;
- (2) No beer or liquor license shall be granted to anyone who has been convicted of or plead guilty to a felony within two (2) years of date of the application, or of misdemeanors involving alcohol or controlled substances during a period of one (1) year prior to the application;
- (3) No beer or liquor license shall be granted to any person who has been convicted of any violation of any law or ordinance relating to the importation or sale of intoxicating liquors, or of keeping a gambling or disorderly establishment, or who has plead guilty to or forfeited his bail on a charge of having violated any such law or ordinance within the preceding three (3) years of the date of application; or
- (4) Any person whose beer or liquor license was revoked pursuant to this Ordinance is ineligible to reapply for a beer or liquor license until the expiration of three (3) years from the date such license is revoked.

**(E) APPLICATION FEE; REGULATORY LICENSE FEE.**

Each beer and liquor license application shall be accompanied by the application fee of \$50 and regulatory license fee of \$100. If the license is denied, fifty percent (50%) of the license fee will be retained to pay the costs of processing the application.

The regulatory license fees shall be used by the Town to defray, in part, the costs of alcohol related enforcement and responding to alcohol related offenses within Hideout. This fee may be waived by the Town Council or its designee for temporary 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.

**(F) REFERRAL OF LICENSE APPLICATION TO SHERIFF.**

Applications filed in accordance with this Ordinance may be referred to the County Sheriff for investigation and report. The County Sheriff shall, within ten (10) days after receiving such application, conduct an investigation of any criminal violations or charges against the applicant, or partners, officers, or director if the application is not an individual; the nature and kind of business to be conducted at such place by the applicant; the nature and kind of entertainment, if any, at such place; and the proximity of such premises to any school or church. The County Sheriff shall, upon completion of such investigation, submit his/her recommendation as to whether the license should be granted. In making his/her recommendation, the County Sheriff may refer to the character of other licensed premises owned in full or in part by the applicant. If recommending denial of a beer or liquor license application, the County Sheriff shall submit a detailed report of his/her investigation, record the recommendation on the application, and sign the application. If recommending approval of a beer or liquor license application, the County Sheriff shall record such recommendation on the application, sign the application, and may, at his/her sole discretion, submit a detailed report of the investigation.

**(G) REFERRAL OF APPLICATION TO BUILDING AND PLANNING OFFICIAL.**

The Town designee may refer the application to the Building and Planning Officials for review to ensure compliance with the applicable building codes, determination of the maximum number of occupants the premises may safely accommodate at one time given the location and number of emergency exits.

**(H) REFERRAL OF LICENSE APPLICATION TO HEALTH DEPARTMENT.**

The Building Official may refer any application filed in accordance with this Ordinance 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 Hideout governing the sanitary preparation, storage, distribution, or sale of beer and food.

**(I) PERIODIC INSPECTION OF PREMISES BY SHERIFF.**

The County Sheriff or his/her designee shall be permitted to have access to all premises licensed or applying for license under this Ordinance, and may make periodic inspections of said premises and may report his/her findings to the Town Council.

**(J) GROUNDS FOR LICENSE DENIAL.**

The Town Council or its designee may deny a beer or liquor license if:

- (1) The license application does not contain all of the required information;
- (2) The application fee is not paid;



- (3) The premises to be licensed do not comply with the applicable zoning regulations and building codes in force at the time of application;
- (4) The applicant does not meet the licensee qualifications;
- (5) The applicant intentionally misrepresented or concealed information required in an application for the license;
- (6) The proposed premises do not meet all applicable health and building codes, and the applicant does not provide reasonable assurances that the premises will be brought into compliance upon approval of the license;
- (7) The applicant holds other licenses under this Ordinance, which are not in good standing, or on which licensed premises the provisions of this Ordinance and state laws are frequently violated; or
- (8) Applicant does not hold a current Hideout business license.

**(K) ISSUANCE OF LICENSE CERTIFICATE.**

All beer and liquor license certificates shall be signed by the Town Mayor and designee, attested by the Town Recorder, and shall contain the following information:

- (1) The street address of the licensed premises and mailing address if different;
- (2) A detailed description of the portion of the building designated as the licensed premises;
- (3) The maximum occupancy of the licensed premises;
- (4) The beer or liquor license classification;
- (5) The name of the person to whom such certificate has been issued and the name of a local contact person;
- (6) The name of the business;
- (7) The term of the license, including commencement and expiration dates; and
- (8) That the license is subject to revocation by the Town for violation of this Ordinance or the Alcoholic Beverage Control Act.

**(L) TRAINING REQUIREMENTS FOR THE EMPLOYEES OF BEER AND LIQUOR LICENSE PREMISES.**

No person shall be granted a new beer or liquor license, unless that person shall show by certificate(s) granted by the Utah Department of Alcoholic Beverage Control or by

adequate proof of the existence of such certificate(s), that each employee of the business engaging in the serving, selling or furnishing of such alcohol on the premises has completed the Alcohol Training and Education Seminar, as required in U.C.A. Section 62A-8-103.5.

Every new employee of a licensee who is required to complete this seminar shall complete the seminar within six (6) months of commencing employment. Violation of this Section will result in revocation of the license granted unless the licensee provides to the Town designee proof of compliance within two (2) months of the time that licensee is first notified that such violation occurred.

**(M) EMERGENCY SUSPENSIONS BY POLICE.**

Licenses under this Ordinance may be suspended by the County Sheriff or his/her designee without prior hearing provided that there is probable cause to believe that violations of this Ordinance 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 County Sheriff 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 County Sheriff or his/her designee shall extend beyond the ordinary close of business on the day on which the suspension was given.

**(N) OFFENSES BY PATRONS.**

It shall be unlawful for any person within a licensed premise under this Ordinance, 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:

- (1) To enter or remain in any licensed premises holding an on-premise tavern license while under the age of twenty-one (21) years.
- (2) To enter or remain in any premises licensed as a private club while under the age of twenty-one (21) years, except when accompanied by a parent or guardian or as a non-alcoholic handling employee of the licensee.
- (3) To be in or around the portion of any licensed premise holding a private club license which is designated or functioning as a liquor selling portion of the premises, rather than the area primarily designed and intended for the sale of food when under the age of twenty-one (21) years.
- (4) To furnish directly or indirectly alcoholic beverages to any persons under the age of twenty-one (21) years, or to possess or consume alcoholic beverages while under the age of twenty-one (21) years.



(5) To enter or remain about a licensed private club without being a member of that club a guest member of that club or an invitee of a member of that licensed club.

(6) 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.

(7) To enter or remain in any licensed premises while intoxicated.

(O) **RETAIL BEER LICENSE CATEGORIES.**

Retail beer licenses issued under the provisions of this Ordinance shall be classified and carry the privileges and responsibilities hereinafter set forth in this Ordinance:

(1) **OFF-PREMISE BEER LICENSE.** An off-premise retail license shall entitle the licensee to sell bottled or canned beer on the licensed premises in accordance with the Alcoholic Beverage Control Act and the ordinances of Hideout.

(a) Beer may not be sold, provided, or possessed for off-premise consumption in containers larger than two (2) liters.

(b) A minor may not sell beer for off-premises consumption except under the supervision of a person twenty-one (21) years of age or older who is on the premises.

(c) If malt beverages or malt liquor is sold, the licensee shall display a sign at the location on the premises where malt liquor or malt beverages is sold stating "Malt beverages and malt liquors are alcoholic beverages". A violation of this subsection is an infraction.

(d) No consumption of beer or alcoholic beverage shall be permitted on the premises of an off-premise licensee.

(2) **ON-PREMISE RETAIL BEER LICENSE.** Any establishment desiring to sell beer at retail for on-premise consumption shall first obtain a Hideout on-premise retail beer license and a State on-premise retail beer license as required under U.C.A. Section 32A-10-201. An on-premise retail beer license shall entitle the licensee to sell beer at retail in bottles, cans or at draft for consumption on the premises.

All State-issued on-premise beer retail licenses expire on the last day of February of each year. Accordingly applicants must submit a renewal application to the Department of Alcoholic Beverage Control no later than January 31st of each year. Town beer licenses shall expire on December 31st of each year and the licensee must submit a renewal application to the Town prior to December 15th. All licensees must notify the Town immediately if the State license is denied or revoked for any reason. On-premise licensees must provide the Town with proof

of State licensure by March 1 of each year or be subject to cancellation, revocation or termination of the Town's license issued hereunder.

On-premise beer retail license holders may sell beer in open containers, in any size not exceeding two (2) liters, and on draft. Liquor may not be stored or sold on the premises of any on-premise retail beer licensee. Beer sold in sealed containers smaller than two (2) liters by the on-premise Licensee may be removed from the premises.

There are two types of licenses to be issued under this Section:

- (a) **ON-PREMISE RETAIL TAVERN LICENSE.** An on-premise retail tavern license shall be required for all premises where the primary or main business is that of selling beer for consumption on the licensed premises. An on-premise retail tavern license shall entitle the licensee to sell bottled, canned, or draft beer for consumption on the licensed premises. No person under the age of twenty-one (21) years shall be employed or otherwise be on the premises licensed as an on-premise retail tavern.
- (b) **ON-PREMISE RETAIL BEER LICENSE - ALL OTHERS.** An on-premise retail beer license restaurant shall entitle the licensee to sell beer at retail in bottles, cans or draft for consumption on the premises in conjunction with restaurant food service. No person under the age of twenty-one (21) years shall serve or sell beer under this license.
- (3) **SPECIAL EVENT TEMPORARY BEER LICENSES.** An event temporary beer license shall carry the privileges of either an on-premise or off-premise license. An event temporary beer license shall authorize the storage, sale, service and consumption of beer in conjunction with a master festival, special event, convention, civic or community event and pursuant to the Utah Alcoholic Beverage Control Act, Alcoholic Beverage Control Commission rules and regulations, and the ordinance of Hideout. No person under the age of twenty-one (21) shall sell or serve beer under this license. An event temporary beer licenses shall be valid only if the licensee has been granted a temporary special event beer permit by the Utah Alcoholic Beverage Control Commission pursuant to U.C.A. Sections 32A-10-301 to 306, as amended, for the same master festival, special event, or other convention, civic or community event. Event temporary beer licenses must provide the Town with proof of State licensure not less than ten (10) business days prior to the festival, civic or community event, or other convention for which the Town license has been issued. All licensees must notify the Town immediately if their State license is denied, revoked, or suspended for any reason. A temporary beer license shall authorize the storage, sale, service and consumption of beer for a period not to exceed thirty (30) days. No person, individual, or association shall in any one (1) calendar year be licensed for more than a total of ninety (90) days.



(4) **PRIVATE CLUB BEER LICENSE.** A private club beer license shall carry the privileges of a tavern beer license provided that the sale of beer shall be to club members, guest members and their visitors only and each license shall be issued to bona fide clubs which are organized, incorporated, bonded, regulated, and operated in compliance with the provisions of the Utah Nonprofit Corporation and Cooperative Association Act, the Alcoholic Beverage Control Act, and the Utah Alcoholic Beverage Control Commission Rules and Regulations.

(P) **RESTAURANT LIQUOR LICENSE.**

A restaurant liquor license shall only be issued to persons licensed by the Utah Alcoholic Beverage Control Commission under U.C.A. Section 32A-4-101 to 107, as amended. A "restaurant" liquor license shall entitle the licensee to provide liquor to patrons for consumption on the premise. Only bona fide restaurants shall be entitled to a restaurant liquor license. Patrons must intend to order food, which is prepared, sold, and served on the premises, in accordance with the Alcoholic Beverage Control Act and Utah Alcoholic Beverage Control Commission rules and regulations and the ordinances of Hideout. Liquor is to be provided only in conjunction with a meal, and it shall be unlawful to serve or sell liquor except with a meal. No person under the age of twenty-one (21) years shall serve or sell liquor under this license. All liquor must be purchased in the restaurant from a server designated and trained by the licensee. Any alcoholic beverages under this license must be consumed at the patron or guest's table. A restaurant liquor license shall not entitle the storage of liquor on the licensed premises, except as designated on the application.

A restaurant liquor license holder may not sell or provide any primary liquor except in one ounce quantities dispensed through a calibrated metered dispensing system approved by the Commission.

All holders of restaurant liquor licenses shall maintain records which shall disclose the gross sales of liquor and the gross sales of food served and any other items sold for consumption on or off the premises. Such sales shall be shown separately. Each licensee shall retain all invoices, vouchers, sales slips, receipts, and other records of beer and other commodity purchases from all suppliers. Such records shall be available for inspection and audit by the Town designee at any time following the close of the semi-annual period and for one (1) year thereafter, or as required by State regulations. Failure to properly maintain such records for such inspection and audit shall be cause for revocation of the restaurant liquor license.

Each restaurant liquor licensee shall maintain at least seventy percent (70%) of its total restaurant business from the sale of food, which does not include mix for alcoholic beverages or service charges. If any audit or inspection discloses that the sales of food on the licensed premises are below seventy percent (70%) of the gross dollar volume of business for any semi-annual period, the restaurant liquor license shall immediately be suspended and shall not be reinstated until the licensee is able to prove to the satisfaction of the Town Council or its designee that in the future, the sales of food on the licensed premises will not fall below seventy percent (70%) of the gross dollar volume of business.



All Hideout issued restaurant liquor licenses shall expire on December 31st of each year thereafter. All State-issued restaurant liquor licenses expire on October 31st of each year. All licensees must notify the Town immediately if the State liquor license is denied, suspended or revoked for any reason. Restaurant liquor license applicants must provide the Town with proof of State licensure by December 1st of each year or be subject to cancellation, revocation or termination of the Town's license issued hereunder. All renewal applications must attach a copy of a valid State license.

**(Q) PRIVATE CLUB LIQUOR LICENSE.**

A private club liquor license shall entitle the licensee to serve, sell, and store liquor, pursuant to Utah Alcoholic Beverage Control Commission rules and regulations, and to ordinances of Hideout. No person under the age of twenty-one (21) years shall serve or sell liquor under this license. All sales under a private club license shall be to bona fide members of the licensed club, guest members or their visitors accompanied by members or guest members, and not to the general public. All State-issued private club licenses shall expire December 31st of each year. All State-issued private club liquor licenses expire on June 30 of each year. All licensees must notify the Town immediately if the State-issued private club liquor license is denied, suspended or revoked for any reason. Private club liquor license applicants must provide the Town with proof of the State licensure by July 1st of each year or be subject to cancellation, revocation or termination of the Town's license issued hereunder. All renewal applications must attach a copy of a valid State license.

**(R) EVENT LIQUOR LICENSE.**

An event liquor license 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 at an event sponsored by 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 Town may not issue more than four (4) event liquor licenses in any one (1) calendar year to the same association, church, or political organization, chapter, lodge or unit thereof, if any special event liquor license issued in any one (1) calendar year to said association, church, or political organization, chapter, lodge or unit thereof exceeds seventy-two (72) hours. If no event liquor license exceeding seventy-two (72) hours has been granted to said association, church, or political organization, chapter, lodge, or unit thereof in any one (1) calendar year, the Town may issue up to twelve (12) single event liquor licenses provided that all such licenses in the calendar year are seventy-two (72) hours or fewer.