



# HIDEOUT, UTAH TOWN COUNCIL SPECIAL MEETING

## January 23, 2020

### Amended Agenda

PUBLIC NOTICE IS HEREBY GIVEN that the Town Council of Hideout, Utah will hold a special meeting at 10860 N. Hideout Trail, Hideout, Utah for the purposes and at the times as described below on Thursday, January 23, 2020

All public meetings are available via ZOOM conference call and net meeting.  
Interested parties may join by dialing in as follows:

**Meeting URL:** <https://zoom.us/j/4356594739> To join by telephone dial: US: +1 408 638 0986  
**Meeting ID:** 435 659 4739

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#### Special Meeting 6:00 PM

- I. Call to Order and Pledge of Allegiance
- II. Roll Call
- III. Approval of Council Minutes
  1. January 9, 2020 and January 20, 2020 Draft Meeting Minutes
- IV. Agenda Items
  1. Continued Public Hearing - Continued discussion and possible adoption of Ordinance 2020-01 regarding an Impact Fee Facilities Plan
  2. Public Hearing - Discussion and possible adoption of Ordinance 2020-02 Adopting and Enacting a New Town Code for the Town of Hideout, Utah (link: <https://hideout.municipalcodeonline.com/>)
- V. Working Session to Review and Discuss Town Priorities for 2020
- VI. Public Input - Floor open for any attendee to speak on items not listed on the agenda
- VII. Closed Executive Session - Discussion of pending or reasonably imminent litigation, personnel matters, and/or sale or acquisition of real property as needed.
- VIII. Meeting Adjournment

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Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the Mayor or Town Clerk at 435-659-4739 at least 24 hours prior to the meeting.

**HIDEOUT TOWN COUNCIL**  
10860 N. Hideout Trail  
Hideout, UT 84036  
Phone: 435-659-4739  
Posted 01/21/2020

**Item Attachment Documents:**

1. January 9, 2020 Draft Meeting Minutes

HIDEOUT, UTAH  
10860 N. Hideout Trail  
Hideout, Utah 84036  
TOWN COUNCIL MEETING  
January 9, 2020  
6:00 p.m.

TOWN COUNCIL SPECIAL MEETING

**I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Mayor Rubin called to order the meeting of the Town Council of the Town of Hideout at approximately 6:01 p.m. on January 9, 2020 at 10860 N. Hideout Trail, Hideout, Utah, and led the Pledge of Allegiance.

**II. ROLL CALL**

**Town Council Members Present:**

Mayor Philip Rubin  
Council Member Chris Baier  
Council Member Kurt Shadle  
Council Member Jerry Dwinell  
Council Member Vytas Rupinkas

**Staff Present:** Town Administrator Jan McCosh  
Town Attorney Dan Dansie  
Public Works Kent Cuillard  
Town Clerk Allison Lutes

Others Present: Jared Fields, Carol Haselton, Kevin Hughes, Karleen Callahan (by telephone), Don Blumenthal (by telephone), and others who did not sign in or whose names were illegible.

**1. Swearing in of the Town's new members of the Council: Jerry Dwinell, Vytas Rupinkas and Kurt Shadle**

The Town Clerk administered the oaths of office to the new Council Members, Kurt Shadle, Jerry Dwinell and Vytas Rupinkas.

**III. APPROVAL OF COUNCIL MINUTES**

*Council Member Shadle moved to approve the minutes of the December 18, 2019 meeting. Council Member Baier made the second. Voting Aye: Council Members Baier, Shadle, Dwinell and Rupinkas. Voting Nay: None. The motion carried.*

1       **IV. AGENDA ITEMS**

2       **1. Public Hearing - Continued discussion and possible adoption of an Impact Fee**  
3       **Facilities Plan**

4       Mayor Rubin briefly reviewed the last public hearing and what transpired since. He then turned  
5       the discussion over to Dan Dansie. Mr. Dansie reviewed that he and Mustang's legal counsel,  
6       Jared Fields, met with Brent Bateman, former Utah State Property Rights Ombudsman, now in  
7       private practice, who agreed to provide his impartial assessment. Mr. Bateman walked through  
8       each of the concerns raised by Kirton McConkie ("McConkie"), counsel to Solstice  
9       Development and Western State Ventures in their written submission and discussed at the last  
10      meeting. Mr. Dansie felt two or three of the points of concern warranted some attention this  
11      evening to provide context, summarized below:

12      Issue #1) Recoverable Costs Portion. McConkie argued that recoverable costs (specifically as  
13      to road width) should be based on the delta between what one would consider a project  
14      improvement portion and the system improvement; in this case it was 10 feet or 25% of the  
15      overall width.

16      Brent Bateman agreed with Mr. Dansie's conclusion that the foregoing was not how the Impact  
17      Fees Act should be interpreted. Mr. Dansie offered the following concept to explain: a project  
18      improvement is something the Town requires a developer to put in at the developer's expense,  
19      but the Town is not required to impose that on the developers; it could pay for all the roads in  
20      the Town if it chose to do so via tax increases, etc. Any obligations the Town requires of a  
21      developer are termed "exactions," a form of a taking with certain legally imposed limits.  
22      Requiring a developer to bear the cost of installing project level roads is an exaction that is  
23      proportional and reasonable, but there is no requirement that the Town do that. The premise  
24      posited by McConkie that the developer is obligated to put in the referenced 30-foot road is not  
25      correct under the Act. Further, the Town can designate roads as system roads without respect to  
26      whether they happen to benefit adjoining properties. The Act defines a system improvement as  
27      one that serves the community at large, as opposed to a discrete portion of the community.  
28      Further, nothing in the prohibition set out in the Act concerning collecting impact fees provides  
29      that only the delta between a 30 or 40-foot road can be claimed; rather, it is simply a  
30      prohibition on recovering more than the excess capacity provided by the system improvement.  
31      Mr. Dansie said he communicated the foregoing analysis to McConkie, who expressed their  
32      disagreement with that analysis in a written response communicated earlier today.

33  
34      A short discussion followed concerning Mr. Bateman's experience as the Property Rights  
35      Ombudsman, and his qualifications and expertise in rendering an unbiased opinion. It was  
36      noted Mr. Bateman was involved in the legislation concerning the Impact Fee Act. Mr. Dansie  
37      advised that Mr. Bateman's opinion was not an official "Ombudsman Opinion" filed with the  
38      State; it was contained in a written email communication.

39      In response to McConkie's suggestion that the Town solicit input from Jodi Hoffman, Mr.  
40      Dansie walked through the detailed review process already employed on the Town's behalf and  
41      incorporated into the May draft, using third party expertise (attorney Gary Lane, Zion Finance  
42      Susan Becker, developers' and Town engineers). Those resulting comments and input were



1 incorporated and presented to Brent Bateman for his analysis and opinion. Thus, Mr. Dansie  
2 felt confident in Mr. Bateman's opinion as a qualified, respected source whom he trusts.

3 Discussion next focused on credits to developers for system improvements they construct that  
4 qualify for offset or reimbursement. Mr. Dansie explained that State law (and the proposed  
5 ordinance) provides that the developers would be entitled to offsets. He directed the Council to  
6 page 21 of the Impact Fee Facilities Plan ("IFFP"), and explained that neither Deer Waters,  
7 Deer Springs or KLAIM were included in Table 7-3, because those roads were not considered  
8 system level roads. Table 7-3 consists of a cost calculation that estimates future construction  
9 cost at \$178/linear foot, thus forming the basis for any reimbursement or offset.

10 Council Member Dwinell felt the developer installed system improvements should be  
11 calculated and included in the fee table to know up front the cost and what charges would be  
12 incurred after any offset. Mr. Dansie pointed out that the developer could decide to assign  
13 those credits to a third party, so it wouldn't necessarily be accurate to apply credits to a  
14 particular project. Additionally, the developer could decide which phase of a project it would  
15 want to apply those credits to. Mr. Dansie explained the credits would kick in on the back side  
16 after construction of the development, when the determination is made whether a developer has  
17 a right to offsets, and if so, how much toward a certain permit.

18 Issue #2) Actual cost for years of installation of the improvement: Mr. Dansie explained that  
19 the costs set out in the IFFP are not based on random assumptions, nor were they "numbers  
20 pulled out of a hat." He explained Brent Ventura accessed an engineering database of  
21 construction industry component costs, thus providing known quantities and multiplying by  
22 unit cost. It represents the best estimate based on data available to the Town. Mr. Dansie added  
23 that IFFPS are usually prospective looking and calculate costs before anything is built. He  
24 noted that if estimated costs are later deemed to be inaccurate, a municipality can revise them.

25 Issue #3) Interest component: only actual financing for costs for system improvements should  
26 be included. Mr. Dansie explained the critique was not so much disagreeing with the interest  
27 rate or the methodology used to calculate interest, but rather, is there a factual predicate to  
28 acknowledge Mustang incurred interest on these costs and therefore the Town is obligated to  
29 pass through that charge. Mr. Dansie commented he didn't think Mustang would agree with the  
30 Town on an appropriate interest rate, however based on certain criteria, including Mustang's  
31 financing documents from PNC Bank, N.A. (4.5% plus LIBOR) and the Local District One  
32 2014 bonds, the team concluded 6% would be a reasonable interest rate.

33 Mr. Dansie then explained the Town's authority and responsibilities under the Impact Fees Act:  
34 Impact fees must be used for a purpose authorized under the act within six years, or they must  
35 be returned. Further, the Act imposes a 90-day waiting period from enactment of an impact fee  
36 ordinance to begin collecting those fees. Because some of the Town's developers waived that  
37 right, the Town can start collecting fees immediately as to those developers. The Town will  
38 have to put those fees in a separate account, and at some point, it is anticipated the Town and  
39 Mustang will reach an agreement about how those funds will be used. Alternatively, if  
40 Mustang determines it will litigate, then those funds would potentially be available to satisfy a  
41 judgment should one be entered against the Town.

42 Mr. Dansie directed the Council to Sections 8.2 - 8.5 that provide the methodology in arriving  
43 at the recommended amount of impact fees. A summary of those fees is set out in Section 8.6

1 (page 30) It was noted the 6% finance charge, discussed earlier, is included in the impact fee  
2 schedule.

3 Mr. Dansie commented that McConkie felt the Town should consider future improvements in  
4 the IFFP as well, however he stated the Town did not anticipate future system improvements at  
5 this time. He added however, that an IFFP, once adopted, can be amended if and when there  
6 are additional system improvements, or potential annexations that would possibly be using the  
7 Town's public improvements.

8 Council Member Rupinkas commented if the IFFP is adopted, it must be part of the budgetary  
9 process. Further, He felt the number of units set out in the IFFP needed to be reviewed  
10 annually for accuracy. Council Member Baier felt the Council should adopt the IFFP as is and  
11 come back and revise as necessary.

12 Council Member Dwinell pointed out the sample ordinance did not address the requirement to  
13 deposit impact fees in a separate account, and he felt it was important to address that. Mr.  
14 Dansie offered to add a provision concerning the separate account.

15 Mayor Rubin summarized the pending discussion for clarity. The idea would be to pass the  
16 ordinance and begin the process to collect the funds which would be held and not transferred  
17 until the Town can obtain from Mustang: A) a release confirming Mustang accepts this  
18 proposal; and B) all other claims, and concerns have been addressed. He stressed the need to  
19 keep detailed records of the impact fees received by the Town. The idea of charging an  
20 administrative fee was raised and it was agreed it was something the Town could look into; it  
21 would be deducted from any reimbursement and not be added to an impact fee.

22 At 7:33, Mayor Rubin opened the meeting to public comment.

23 Jared Fields, Counsel for Mustang presented Mustang's position regarding the interest  
24 calculation. Mustang believes 6% is low relative to the cost of financing actually available  
25 when the improvements were constructed. For example, local district bonds were  
26 approximately 8%. However, he acknowledged that there didn't seem to be a willingness by the  
27 Town to revise the stated 6% number, but he stated he would continue to advocate for a higher  
28 interest rate. Council Member Shadle asked whether Mustang could provide actual interest  
29 rates incurred. Mr. Fields responded he could, however it had been made fairly clear that the  
30 Town reached its conclusion that 6% would be a reasonable interest cap. He commented that  
31 some of Mustang's financing included a 12% interest rate with an 8% origination fee; banks  
32 weren't lending at that time and it required approaching hard money lenders with egregious  
33 terms. He added the PNC loan Mr. Dansie referenced earlier was indeed 4.5% plus LIBOR, but  
34 it also required a giant amount of cash collateral on deposit with PNC bank. Some loans also  
35 included a personal guarantee. Mustang had not perceived an actual interest in getting into  
36 what was the full amount of Mustang's interest expense and added it would be challenge, not  
37 only in compiling all the information, but it would expose all of Mustang's business records.  
38 He estimated the full cost of capital at that time would average 15%.

39 Dan Dansie commented Mustang did provide a lot of interest rate information in general for  
40 the time frame, and in fact some of the rates were as high as 20%. He pointed out that the  
41 obligation was to determine what was reasonable, given several factors; accordingly, he  
42 concluded 6% was a defensible and reasonable interest rate.

1 Kevin Hughes [Rustler]: felt litigation seemed to be a real concern and asked for the names of  
2 Western States' and Mustang's legal counsel. Mayor Rubin responded that McConkie  
3 represented Western States at the last meeting, and Jared Fields responded he represents  
4 Mustang. Mr. Hughes asked what would happen if other developers that had installed roads  
5 were named in a lawsuit, would it lead to a financial hardship rendering them unable fulfill  
6 their obligations to maintain the roads. Council Member Dwinell responded that the issue did  
7 not relate to maintenance of the roads, rather it relates to the initial installation of those roads;  
8 the Town maintains the public roads. Regarding the mentioned credits, Mayor Rubin clarified  
9 the credits relate to a developer adding to the backbone road leading to Ross Creek entrance.  
10 The developer would still be entitled to the credit.

11 Karleen Callahan and Don Blumenthal (via phone) [Soaring Hawk]: inquired which developers  
12 had waived the 90-day wait period. Mayor Rubin couldn't definitively respond without  
13 reviewing the records however he was fairly confident Western States, with respect to the Deer  
14 Springs development, and possibly GCD for Shoreline were the two. Ms. Callahan commended  
15 the Council for their diligence and work on this IFFP.

16 With no further comments, Mayor Rubin closed the public hearing at 7:55 p.m.

17 Mr. Dansie reviewed the new paragraph (#7) he added to the Ordinance entitled, Segregation  
18 of Impact Fees: *The Town shall retain impact fees collected pursuant to this ordinance*  
19 *consistent with applicable State law. Unless otherwise required under State law, impact fees*  
20 *collected will be held in a separate or segregated account or escrow fund. The Town will*  
21 *retain records of all parties paying in impact fees for a minimum of six years. Impact fees will*  
22 *be disbursed, if at all, pursuant to Utah Code §11-36a-602 for eligible purposes.*

23 Following a brief discussion, Council Member Shadle suggested this item be continued until  
24 the next Council meeting to address questions that had been raised and to allow the new  
25 Council members the opportunity to more fully consider the issue. Council Member Dwinell  
26 commented the only piece that hadn't been fully fleshed out is the 6% interest component. He  
27 added the Town needed to start somewhere and if, at a later date, the interest rate needed to be  
28 adjusted, the Town could amend the IFFP to reflect a new rate. Given the discussion thus far,  
29 he felt the Town had a good starting point.

30 Council Member Rupinkas agreed regarding the interest rate and the cost details, however he  
31 was concerned with discussions on the implementation after adoption of the ordinance. He felt  
32 it would be beneficial to discuss the implications and strategies going forward. Additionally, he  
33 felt it would be helpful to understand discussions that had occurred in the prior executive  
34 sessions that neither he nor Mr. Dwinell could attend.

35 *Council Member Shadle moved to continue this agenda item to the next meeting on January 23,*  
36 *2020. Council Member Baier made the second. Voting Aye: Council Members Baier, Shadle,*  
37 *Dwinell and Rupinkas. Voting Nay: None. The motion carried.*

38 **2. Discussion by Jerry Dwinell regarding transition from the Planning Commission**  
39 **and appointment of Carol Haselton to the Commission**

40 Council Member Dwinell briefly reviewed the suggested structure of the Planning Commission  
41 for Mayor Rubin's consideration, given his and Mr. Rupinkas' transition to the Town Council:

1 Carol Haselton: New Voting Member  
2 Tony Matyszczyk: Move from Alternate to Voting Member  
3 Ralph Severini: Voting Member  
4 Bruce Woelfle: Voting Member  
5 Sara Goldkind: Voting Member  
6 Jerry Dwinell: Alternate Member, but will still chair meetings until the Mayor deems  
7 otherwise, or should another Commissioner desire to chair. Will vote only if a voting  
8 member is not present, or if there is a tie.  
9 Kurt Shadle: Alternate Member

10 A question arose as to whether one could be both an alternate and chair a meeting. Dan Dansie  
11 reviewed the law and determined it was allowed.

12 Following a brief discussion, Mayor Rubin recommended the following: Appoint Carol  
13 Haselton as a full voting member; move Tony Matyszczyk from Alternate to Full Voting  
14 Member; Jerry Dwinell will serve as an Alternate Member and chair meetings; and Kurt Shadle  
15 will remain as an Alternate Member. Vytas Rupinkas offered his resignation as a member of  
16 the Planning Commission, effective this evening; Mayor Rubin accepted his resignation.

17 *Council Member Shadle moved to accept the Mayor's recommendations as stated concerning*  
18 *the Planning Commission. Council Member Baier made the second. Voting Aye: Council*  
19 *Members Baier, Shadle, Dwinell and Rupinkas. Voting Nay: None. The motion carried.*

20 **3. Discussion regarding the formal process the Town will follow to appoint a**  
21 **candidate to fill Hanz Johansson's Council vacancy and to complete his term.**

22 Mayor Rubin reviewed that the Town provided notice per Utah Code via the Public Notice  
23 website, the Town website, email to residents, and a posting on NextDoor. To date, one  
24 resident has submitted a letter of interest and resume. Council Member Shadle commented the  
25 Council shouldn't be in a rush to fill the vacancy. In addition, he noted the notices were posted  
26 and sent during the holidays. He felt if the response time was pushed out, the Town may  
27 receive more responses. Dan Dansie advised that Utah Code provides the seat must be filled  
28 within 30 days of the vacancy. If not filled by then, the municipality would need to fill the seat  
29 from among the names submitted.

30 Council Member Rupinkas expressed that it would be highly beneficial to find someone  
31 representing Soaring Hawk on the Council. Council Member Baier felt there wouldn't be a lot  
32 of applicants, based on the election cycle the Town had recently undergone. Council Member  
33 Dwinell commented that the one candidate who responded was unable to attend the January 23  
34 meeting and he felt it was important to hear from that candidate.

35 Following discussion, it was agreed this item will be continued to the Town Council meeting  
36 on February 13, 2020.

37 **4. Approval of bills to be paid**

38 Mayor Rubin provided a brief clarification on some specific line items, particularly for the new  
39 council members. It was indicated the Town would need to negotiate a better rate with All  
40 West. Mayor Rubin stated he had a discussion with All West, who promised to either increase

1 the service to 1gb or they will reduce the rate. Mayor Rubin asked Jan McCosh to provide the  
2 new council members copies of last quarter's financials.

3 *Council Member Baier moved to approve payment of the bills as presented. Council Member*  
4 *Rupinkas made the second. Voting Aye: Council Members Baier, Shadle, Dwinell and*  
5 *Rupinkas. Voting Nay: None. The motion carried.*

6 **5. Discussion regarding Open and Public Meetings Act training for 2020**

7 Mayor Rubin reminded the Council Members of the annual requirement to complete Open and  
8 Public Meetings Act training. He asked everyone to complete the online course and send their  
9 certificates of completion to the Clerk.

10 **6. Period for public comments on items not listed on the agenda**

11 At 8:45 p.m., Mayor Rubin opened the meeting for public comments on items not listed on the  
12 agenda.

13 Carol Haselton: Ms. Haselton expressed her interest in serving on the Council rather than the  
14 Planning Commission. It was noted she did not meet the residency requirement to qualify at  
15 this time to serve on the Council. Acknowledging the foregoing, Ms. Haselton asked whether  
16 she needed to take the Open and Public Meetings Act training as a member of the Planning  
17 Commission; the Council advised she would need to complete the training. Finally, Ms.  
18 Haselton indicated she was having issues connecting to the Town server and that she was  
19 blocked. Town staff will address the issue.

20 Jan McCosh inquired about starting budget meetings. Mayor Rubin indicated it was one of the  
21 priority items to discuss at the January 23 working session of the meeting. Ms. McCosh stated  
22 she would start putting together a committee after she finished working on the current audit.

23 Ms. McCosh suggested adding Council Member Rupinkas to the water advisory board that  
24 was currently being formed.

25 Regarding the finance committee, Mayor Rubin noted the current resident who expressed  
26 interest in serving on the Council had finance experience and may want to serve on the finance  
27 committee. He indicated another resident also expressed interest in the committee.

28 Council Member Dwinell stated the construction parking on North Hideout Trail was horrible  
29 and needed flagmen for safety. Mayor Rubin stated he fined the contractor over the past two  
30 days and would pull their permit if they did not comply. The contractor will need to post two  
31 flagmen with orange vests at the location. Kent Cuillard stated either he or Travis Bonner  
32 would pull the permit on Friday, January 10 if the contractor is not in compliance.

33 Council Member Baier offered to look into creating a ZOOM room for Council meetings.

34 **VIII. CLOSED EXECUTIVE SESSION**

35 *Council Member Dwinell moved to enter into Executive Session. Council Member Rupinkas*  
36 *made the second. Voting Aye: Council Members Baier, Shadle, Dwinell and Rupinkas. Voting*  
37 *Nay: None. The motion carried.*

38 At 8:55 p.m., the regular meeting adjourned and the executive session convened.

1     **IX. MEETING ADJOURNMENT**

2     At 10:15 p.m., the Executive Session was adjourned.

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4  
5  
6  
7     \_\_\_\_\_  
8     Allison Lutes, Town Clerk

DRAFT

HIDEOUT, UTAH  
10860 N. Hideout Trail  
Hideout, Utah 84036  
TOWN COUNCIL MEETING  
January 20, 2020  
6:30 p.m.

TOWN COUNCIL SPECIAL MEETING (TELEPHONIC)

**I. CALL TO ORDER**

Mayor Rubin called to order the telephonic meeting of the Town Council of the Town of Hideout at approximately 6:30 p.m. on January 20, 2020.

**II. ROLL CALL**

**Town Council Members Present:**

Mayor Philip Rubin  
Council Member Chris Baier  
Council Member Kurt Shadle  
Council Member Jerry Dwinell  
Council Member Vytas Rupinkas

**Staff Present:** Town Attorney Dan Dansie

**III. MOVE TO ENTER INTO CLOSED EXECUTIVE SESSION**

*Council Member Dwinell moved to enter a closed executive session for the purpose of discussing pending our reasonably imminent litigation, personnel matters, and/or the sale or acquisition of real property as needed. Council Member Rupinkas made the second. Voting Aye: Council Members Baier, Shadle, Dwinell and Rupinkas. Voting Nay: None. The motion carried.*

Whereupon, the closed executive session convened.

At 7:15 p.m., the executive session adjourned to open meeting.

**IV. MEETING ADJOURNMENT**

*Council Member Shadle moved to adjourn the meeting. Council Member Rupinkas made the second. Voting Aye: Council Members Baier, Shadle, Dwinell and Rupinkas. Voting Nay: None. The motion carried.*

The meeting adjourned at 7:15 p.m.

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Allison Lutes, Town Clerk

**Item Attachment Documents:**

1. Continued Public Hearing - Continued discussion and possible adoption of Ordinance 2020-01 regarding an Impact Fee Facilities Plan



## **TOWN OF HIDEOUT, UTAH**

Ordinance No. 2020-\_\_\_\_\_

### **AN ORDINANCE ADOPTING AN IMPACT FEE FACILITIES PLAN FOR THE TOWN OF HIDEOUT, ESTABLISHING SERVICE AREAS WITHIN THE TOWN OF HIDEOUT, AND ENACTING IMPACT FEES**

WHEREAS, in April of 2018, the Town of Hideout provided notice of its intent to prepare an Impact Fee Facilities Plan as required under Utah Code § 11-36a-501; and

WHEREAS, Utah Code § 11-36a-102(8)(a) defines an “Impact Fee” as the payment of money imposed upon new Development Activity as a condition of development approval to mitigate the impact of the new development on public infrastructure; and

WHEREAS, Utah Code § 11-36a-102(3) defined “Development Activity” as any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any change in the use of land that creates additional demand and need for public facilities; and

WHEREAS, Utah Code § 11-36a-402 authorizes municipalities to adopt and Impact Fee Enactment which allows the municipality to thereafter impose and collect Impact Fees; and

WHEREAS, the Town of Hideout has caused to be prepared a *Capital Improvements Plan Including Impact Fee Facilities Plan and Impact Fee Analysis* (“**Plan**”) prepared by an engineer licensed in the State of Utah (a copy of the Plan is attached hereto as **Exhibit A** and incorporated herein by reference); and

WHEREAS the Plan contains the analysis required under Utah Code § 11-36a-301 to § 11-36a-306; and

WHEREAS, the Plan, including the executive summary, defines the methodology by which proposed Impact Fees have been calculated and also identifies the impact of development activities on system improvements; and

WHEREAS, the Plan establishes the need for the Town of Hideout to impose Impact Fees to adequately mitigate the impact of new development; and

WHEREAS, the Town of Hideout has provided the applicable notices prior to adopting this Ordinance as required under Utah Code § 11-36a-401, *et seq.*; and

WHEREAS, on December 18, 2019, and January 9, 2020, the Town Council held public hearings to discuss the Impact Fee Facilities Plan and the Impact Fee Enactment and received public comment regarding both; and

WHEREAS, the Town Council finds good cause for adopting the provisions set forth herein;

**NOW THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Hideout, Utah, as follows:

1. **Recitals Incorporated.** The foregoing recitals are hereby incorporated into this Ordinance as findings of fact.

2. **Applicability of Act.** It is the intent of the Town of Hideout that the assessment and collection of Impact Fees pursuant to this Ordinance be consistent with the terms and provisions of Utah Impact Fees Act, Utah Code § 11-36-101 *et seq.* (“**Act**”). The collection, use, and expenditure of Impact Fees will be according to the terms of the Act. To the extent the Act contains requirements associated with Impact Fees which are not expressly provided for herein, such terms and provisions of the Act will govern and are hereby incorporated by reference.

3. **Impact Fees Facilities Plan Adopted.** The Plan, as identified above, together with the Impact Fees analysis set forth therein, is adopted and approved by the Town of Hideout. The Plan provides the analysis, methodology, and formula used for the calculation of the Impact Fees established and imposed pursuant to this Ordinance.

4. **Establishment of Service Areas.** Pursuant to Utah Code § 11-36a-402(1)(a), service areas are established within the Town of Hideout as set forth in the Plan attached as **Exhibit A.**

5. **Impact Fees Imposed.** Pursuant to Utah Code § 11-36a-402(1)(b), Impact Fees are hereby established for the service areas established within the Town of Hideout. The amount of the Impact Fees assessed for each service area is set forth in the executive summary of the Plan attached as **Exhibit A.**

6. **Collection of Impact Fees.** The Town Clerk shall collect the applicable Impact Fees at, or prior to, the time any building permit for any buildable parcel within the town is issued.

**7. Segregation of Impact Fees Collected.** The Town shall retain Impact Fees collected pursuant to this Ordinance consistent with applicable state law. Unless otherwise required under state law, Impact Fees collected will be held in a separate or segregated account or escrow fund. The Town will retain records of all parties paying Impact Fees for a minimum of six (6) years. Impact Fees will be disbursed, if at all, pursuant to Utah Code § 11-36a-602 for eligible purposes.

**8. Adjustment of Impact Fees by the Town.** Pursuant to Utah Code § 11-36a-402(1)(c), the Town may adjust the standard Impact Fee at the time the fee is charged to respond to: (A) unusual circumstances in specific cases; or (B) a request for a prompt and individualized impact fee review for the development activity of the state, a school district, or a charter school and an offset or credit for a public facility for which an impact fee has been or will be collected. The Town will ensure that Impact Fees are imposed fairly.

**9. Calculation of Impact Fees on Particular Developments.** Pursuant to Utah Code § 11-36a-402(1)(d), the calculation of the Impact Fee for a particular development may be adjusted by the Town based on studies and data submitted by the developer of such development.

**10. Impact Fee Credits.** Pursuant to Utah Code 11-36a-402(2) and 402(3):

**10.1** A developer, including a school district or a charter school, may receive a credit against or proportionate reimbursement of an impact fee if the developer dedicates land for a system improvement, builds and dedicates some or all of a system improvement; or dedicates a public facility that the local political subdivision or private entity and the developer agree will reduce the need for a system improvement.

**10.2** A developer shall receive a credit against impact fees for any dedication of land for, improvement to, or new construction of, any system improvements provided by the developer if the facilities are system improvements or are dedicated to the public; and offset the need for an identified system improvement.

**11. Reimbursements Authorized.** Impact Fees collected by the Town may be used to reimburse developers who have previously constructed portions of the reimbursable public infrastructure identified in the Plan pursuant to written agreements between the Town and such developers.

12. **Repeal of Conflicting Provisions.** Any provision of the Town Code addressing Impact Fees, including, without limitation, Title 1A, Chapter 10, is hereby repealed.

13. **Clerk to Update Code and Fee Schedule.** Immediately after the effective date, the Town Clerk is hereby directed to update the official version of the Town Code and the Town's official Fee Schedule to incorporate the provisions of the Ordinance.

14. **Effective Date.** Subject to Utah Code § 11-36a-401(2), this Ordinance will be effective immediately upon passage.

**WHEREFORE**, Ordinance 2020-\_\_\_\_\_ has been **Passed** and **Adopted** by the Town of Hideout.

**TOWN OF HIDEOUT**

\_\_\_\_\_  
Philip Rubin, Mayor

Attest:

\_\_\_\_\_  
Allison Lutes, Town Clerk

**EXHIBIT A**  
**IMPACT FEE FACILITIES PLAN**

OCTOBER  
20  
19

# HIDEOUT TOWN

***CAPITAL IMPROVEMENTS PLAN***  
INCLUDING

***IMPACT FEE FACILITIES PLAN***  
***IMPACT FEE ANALYSIS***

**HORROCKS**  
  
ENGINEERS

***A REASONABLE PLAN***  
***FOR THE FUTURE OF HIDEOUT***

## Impact Fee Facilities Plan Certification Page

I certify that the attached impact fee facilities plan:

1. Includes only the costs of public facilities that are:
  - a. allowed under the Impact Fees Act; and
  - b. actually incurred; or
  - c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;
  - d. existing deficiencies documented as such and not meant for inclusion in impact analysis.
2. Does not include:
  - a. costs of operation and maintenance of public facilities;
  - b. costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents;
  - c. an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with generally accepted cost accounting practices and the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement; and
3. Complies in each and every relevant respect with the Impact Fees Act

---

Brent R. Ventura, P.E.

## Impact Fee Analysis Certification Page

I certify that the attached impact fee analysis:

1. includes only the costs of public facilities that are:
  - a. allowed under the Impact Fees Act; and
  - b. actually incurred; or
  - c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;
2. does not include:
  - a. costs of operation and maintenance of public facilities;
  - b. costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents;
  - c. an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with generally accepted cost accounting practices and the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement;
3. offsets costs with grants or other alternate sources of payment; and
4. complies in each and every relevant respect with the Impact Fees Act.

---

Brent R. Ventura, P.E.



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### Demographics

As demographics form the basis of all other projections in this study, the first section prepared is a population study. Current population is approximately 314 residential units. Future population projections provide the basis for determining the proportionate share of system improvements based upon the current Level of Service (LOS). Currently, Hideout is projected to grow to approximately 2,264 residential units by the year 2033.

### Water

This study identifies the City's existing water system and its cost. The culinary water infrastructure has been constructed to meet projected future needs while maintaining Hideout's current LOS. Existing water infrastructure costs are discussed in Chapter 3 and have been identified as \$2,239,051.

### Transportation

Population growth throughout Hideout should not require new system roads to meet future needs. The City currently provides a LOS "A". The cost of installing the transportation infrastructure for Hideout is discussed in Chapter 4 and is identified as \$10,004,312.

### Storm Water

Equivalent Residential Connections (ERC's) for future storm water runoff are based on an average lot having 2,700 square feet of impervious surface. The current LOS is based on the City's current standards and ordinances. In order to meet the City's future needs, storm water improvements were constructed the cost of which is identified as \$1,522,398. Details are discussed in Chapter 5.

### Sewer

The Town currently provides collection systems but not treatment. The sewer infrastructure is detailed in Chapter 6 and its cost has been identified as \$1,954,514.

### Impact Fee Plan

This study has identified a combined cost of \$17,482,476 in project and system improvements installed by the Master Developer. Improvements determined to be "project improvements", as defined by state law, cannot be included in impact fee calculations. In addition, not all of the "system improvements" are eligible for inclusion in the Impact Fee Plan and Impact Fee Analysis because some were funded by alternate sources and some that would otherwise be considered system improvements have not been dedicated to the public and, therefore, are not included in the impact fee calculation. This study identifies \$7,740,330 in impact fee eligible system improvements.

### Impact Fee Analysis

Impact fees have been calculated based on a reasonable plan. Impact fees are based on service areas where services are provided. Finance charges have been applied to each element considered financing over twenty years at six percent. Although Hideout is not required to enact impact fees exactly as outlined in this study, under state law it may not impose fees higher than what is recommended. Following are the recommended fees that correlate to the \$7,740,330 of system improvements that are eligible for reimbursement across the service areas.

Element/Service Area	Units	Impact Fee
<b>Water</b>	ERC	
WSA1		\$1,320
WSA2		\$0
<b>Transportation</b>	ERC	
All units		\$3,675
<b>Storm Drain</b>	ERC	
SDSA1		\$5,380
SDSA2		\$3,945
SDSA3		\$0
<b>Sewer</b>	ERC	
SSA1		\$1,240
SSA2		\$1,220

Hideout Town is made up of many different subdivisions. Service areas, and applicable impact fees, vary per subdivision. Following is a schedule of impact fees applicable to each subdivision.

Subdivision	Water	Roads	Storm Drain	Sewer	Total Impact Fee
ADA LLC	\$1,320	\$3,675	\$0	\$1,220	\$6,215
Apartments at Deer Mountain	\$0	\$3,675	\$0	\$0	\$3,675
Deer Springs (tentative)	\$0	\$3,675	\$0	\$0	\$3,675
Deer Waters	\$0	\$3,675	\$0	\$0	\$3,675
Forevermore	\$1,320	\$3,675	\$5,380	\$1,220	\$11,595
Glistening Ridge	\$1,320	\$3,675	\$5,380	\$1,220	\$11,595
Golden Eagle	\$0	\$3,675	\$0	\$1,220	\$4,895
KLAIM	\$0	\$3,675	\$0	\$0	\$3,675
New Town Center	\$1,320	\$3,675	\$3,945	\$1,220	\$10,160
Overlook Village	\$1,320	\$3,675	\$3,945	\$1,220	\$10,160
Perch (The Settlement)	\$1,320	\$3,675	\$3,945	\$1,220	\$10,160
Plumb	\$1,320	\$3,675	\$3,945	\$1,220	\$10,160
Reflection Lane	\$0	\$3,675	\$3,945	\$1,220	\$8,840
Reflection Ridge	\$0	\$3,675	\$3,945	\$1,220	\$8,840
Ross Creek Entrance	\$0	\$3,675	\$0	\$0	\$3,675
Rustler	\$1,320	\$3,675	\$5,380	\$1,220	\$11,595
Salzman	\$1,320	\$3,675	\$0	\$1,220	\$6,215
Shoreline Phase I	\$1,320	\$3,675	\$0	\$1,220	\$6,215
Shoreline Phase II	\$1,320	\$3,675	\$0	\$1,220	\$6,215
Shoreline Remaining (tentative)	\$1,320	\$3,675	\$0	\$1,220	\$6,215
Silver Sky	\$1,320	\$3,675	\$3,945	\$1,240	\$10,180
Soaring Hawk	\$0	\$3,675	\$0	\$1,240	\$4,915
Sunrise	\$1,320	\$3,675	\$0	\$1,220	\$6,215
Van Den Akker	\$0	\$3,675	\$0	\$0	\$3,675
Venturi	\$1,320	\$3,675	\$3,945	\$1,220	\$10,160
Woolf	\$0	\$3,675	\$0	\$1,240	\$4,915

The Town of Hideout is a growing community located in the Wasatch Mountains to the west of Kamas and bordering the east shore of Jordanelle Lake south of Deer Mountain. Established in 2008, Hideout now has approximately 314 units (an estimated 820 residents). As growth continues, Hideout is projected to grow to 2,264 residential units in the next 20 year, as discussed in the following chapter.

This Capital Improvements Plan (CIP) evaluates Hideout's current infrastructure supporting future growth and analyzes its potential future growth. Services addressed are: (1) water, (2) transportation, (3) storm drain, and (4) sewer. It provides an inventory of existing facilities for each element and outlines facilities already constructed that have been financed for future growth. Identification of these facilities will lay the foundation for calculating impact fees for each element in each service area.

### *Proportionate Share*

This document attempts to assign only a proportionate share of costs for existing and future improvements due to development activity. Every effort has been made to evaluate impact fees considering only those costs that are allowed under the Impact Fee Act including Utah Code Section 11-36a-305. As such, a current Level of Service (LOS) has been defined for each element and master planning performed to maintain the existing standards. Impact fees have been evaluated assigning the costs associated with maintaining these standards to future development as Hideout grows.

### *Impact Fee Adjustments*

Hideout understands that future developments will each have individualized impacts on the Town and therefore, in order to impose impact fees fairly, the Town may adjust standard impact fees to meet unusual circumstances as allowed by State Code. Adjustments may be made for any of a number of reasons including studies or data submitted by the developer, land dedicated as a condition of development, and/or system improvements constructed by a new development.

The first step in creating an impact fee study is to evaluate and verify the Town's current demographics and future population projections. The following section discusses Hideout's population, growth trends, and projected build-out population. This will be the first effort to evaluate Hideout's future population.

## 2.1 Existing Conditions

### *Current Population*

Hideout's population estimate is based on a current count of approximately 314 residential units. Population data and projections were obtained from Hideout Town. It should be noted, that consideration of the Apartments at Deer Mountain, for purposes of this impact fee analysis, has been limited to the number of registered voters, estimated to be approximately 71, as of November 2017.

### *Current Zoning and Land Use Plans*

Hideout's current projections include only residential growth on properties included in the Town of Hideout boundaries. Figure 2-1 illustrates the Town boundaries and various parcels within the Town.

## 2.2 Build-out Population

Total build-out for a municipality is reached when all vacant land within city boundaries has been developed to the current zoning and land use plans. Currently constructed, approved and anticipated subdivisions are shown in Figure 2-1. Extrapolating from approved and projected subdivision plans, build-out population has been estimated at approximately 2,264 units as illustrated in Table 2-1.

**Table 2-1: Hideout Build-out Projection**

<b>Subdivision</b>	<b>Residential Units</b>
ADA LLC	67
Apartments at Deer Mountain	71
Deer Springs (tentative)	248
Deer Waters	112
Forevermore	13
Glistening Ridge	63
Golden Eagle	316
KLAIM	88
New Town Center	4
Overlook Village	47
Perch (The Settlement)	92
Plumb	4
Reflection Lane	9
Reflection Ridge	15
Ross Creek Entrance (City owned)	18
Rustler	88
Salzman	42
Shoreline Phase I	50

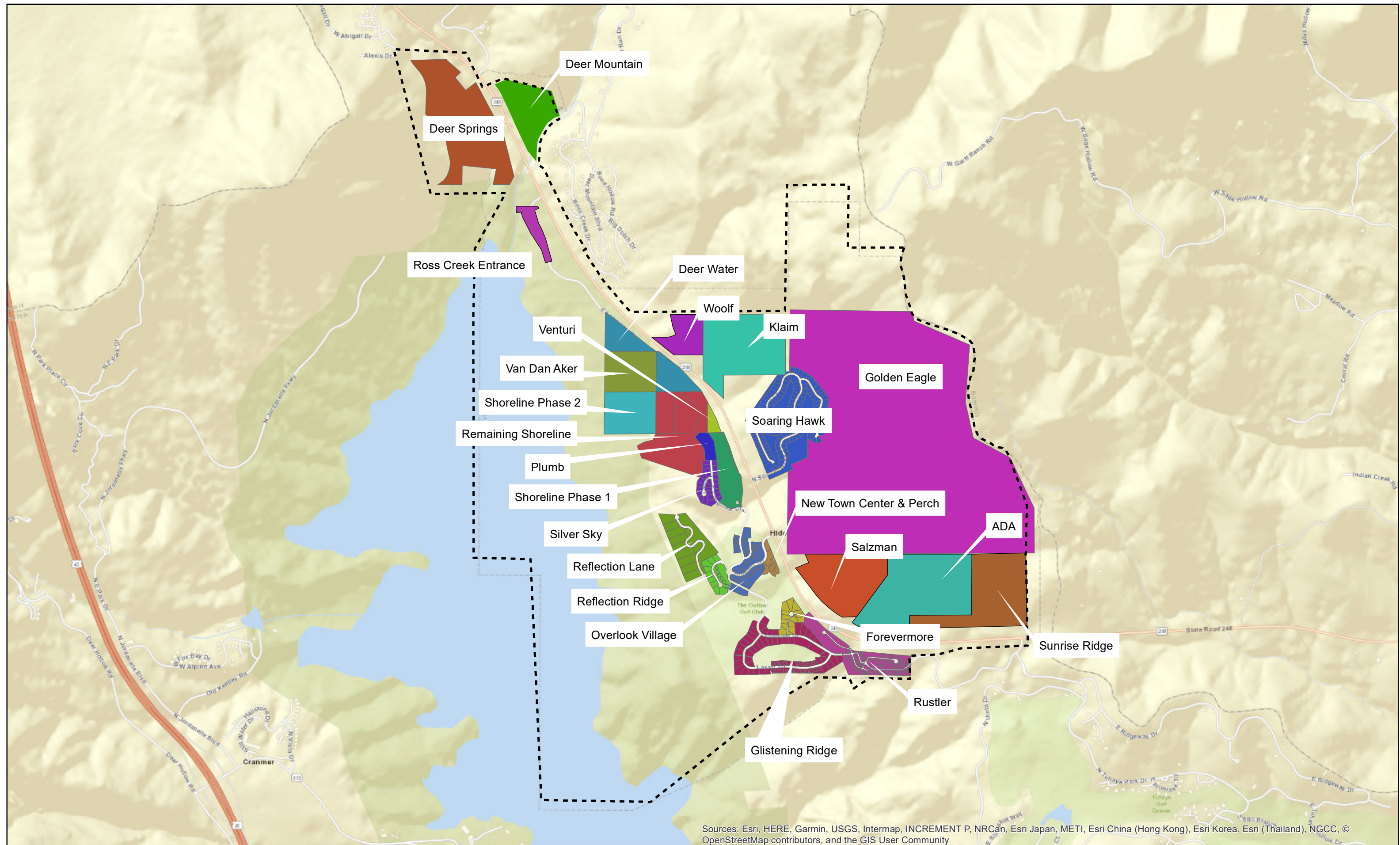
Shoreline Phase II	103
Shoreline Remaining (tentative)	547
Silver Sky	26
Soaring Hawk	148
Sunrise	51
Van Den Akker	35
Venturi	2
Woolf	5
<b>Projected Build-Out Projection</b>	<b>2,264</b>

### 2.3 Other Considerations

Issues that have been considered throughout the preparation of this impact fee plan and analysis include:

- 1) Only the voting population of Deer Mountain Apartments has been used in evaluating impacts and calculating fees.
- 2) In approximately 2010, the Town supported the creation of Hideout Local District No. 1 (Local District) pursuant to Title 17B of the Utah Code. The Local District has issued bonds “to finance the cost of construction and acquisition of improvements, including but not limited to certain transportation, water, curb, gutter and sidewalk, landscaping and all other miscellaneous work.” See, e.g., *Notice of Encumbrance and Assessment Area Designation* recorded in the office of the Wasatch County Recorder on October 8, 2013, as Entry No. 394619 and *Amended Notice of Assessment Interest* recorded in the office of the Wasatch County Recorder on July 11, 2014, as Entry No. 402596 and the *Notice of Assessment interest* recorded in the office of the Wasatch County Recorder on August 4, 2017 as Entry Number 441182. The bond proceeds were used to pay for all of the infrastructure within the Soaring Hawk Subdivision and for infrastructure in certain other areas of the town. The bonds issued by the Local District will be repaid by a separate assessment collected by the Local District. Thus, the system improvements within the Soaring Hawk Subdivision are not eligible to be included within the impact fee calculation. Future infrastructure constructed within the Golden Eagle Subdivision will also be financed by the Local District.
- 3) The Reflection Ridge Subdivision is a gated community. The private road within the Reflection Ridge Subdivision has not been dedicated to the public and, consequently, is not impact fee eligible.







Hideout has constructed a culinary water distribution system that can provide water for existing residents as well as all of its projected residents that will connect directly to the system in the future. As Hideout grows new water lines and connections will need to be constructed in local subdivisions. These new lines are not considered in the impact fee calculations. New services and subdivision connections will need to be financed by individual developers and contractors.

### 3.1 Definitions

ERC	Equivalent Residential Connection
gpm	gallons per minute
gpd	gallons per day
IFC	International Fire Code

#### *Equivalent Residential Connections (ERC)*

ERCs compare a water user's use rate to that of a single-family dwelling. Since Hideout currently has only residential connections, each connection is considered 1.00 ERC. In the future, if other types of connections such as businesses, schools or churches are approved for construction in Hideout, an evaluation will need to be performed and the study updated to reflect ERC's accurately per connection type.

### 3.2 Level of Service (LOS)

The current level of service that Hideout applies to its water systems is governed by the Town of Hideout Water Distribution System Design Standards, Construction Specifications and Standard Drawings as well as the minimum requirements dictated by the State of Utah Division of Drinking Water and the International Fire Code. Some of the requirements are as follows.

Culinary water system requirements:

- Maintain 20 psi in all areas of the system during peak instantaneous usage.
- Maintain 20 psi in all areas of the water system during maximum day usage with imposed fire flows.
- New service areas added after January 1, 2007 are required to meet the following additional requirements:
  - a) 30 psi during peak instantaneous demand;
  - b) 40 psi during peak day demand.
- Maintain 1,000 gpm fire flows for all homes under 3,600 square feet.
- Maintain 1,750 gpm fire flows for all homes between 3,600 and 4,800 sq. ft.
- Maintain adequate fire flows for all other buildings according to IFC standards.

### 3.3 Existing Culinary System

The existing culinary water system (see Figure 3-1) includes 8 to 12-inch water lines, three wholesale meters and three pressure reducing valves. The water system complies with state standards. The graphical illustration is based on Town staff knowledge and record drawings for some of the subdivisions within the Town.

The water infrastructure is estimated to have cost \$2,239,051 (construction year dollars) to construct. We have calculated costs through research and discussion with developer representatives and current city staff. We have utilized the CAD drawings provided by the developer, record drawings and other provided information regarding quantities and prices. Our detailed cost estimates reflect, to the best available information, the costs of installed water infrastructure based on industry standards and actual circumstances. Details of the cost estimate are included in the Appendix.

**NOTE: Table 3-1 identifies the estimated total cost of construction of the Town's water infrastructure and contains some costs which are not eligible to be included in the impact fee calculation.**

Table 3-1: Water Infrastructure Costs per Subdivision (Construction year dollars)

Subdivision	Estimated Infrastructure Cost	Construction Year
Overlook Village	\$433,591	2006
Glistening Ridge	\$425,039	2009
Reflection Ridge	\$460,065	2014
Forevermore	\$36,888	2013
Silver Sky	\$287,655	2014
Rustler	\$202,764	2010
Soaring Hawk	\$393,050	2014
<b>Total</b>	<b>\$2,239,051</b>	

System improvements that are impact fee eligible are identified in Chapter 7 – Impact Fee Facilities Plan.

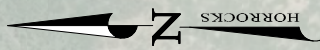
### 3.4 Future Culinary Facilities

Any further improvements to the water system have not been included in these impact fee calculations. New delivery lines and connections are anticipated to be financed and constructed by developers of individual subdivisions.

### 3.5 Impact Fee Structure

The existing culinary system supplies both indoor and outdoor use for Hideout's residents. It provides the City with its current level of service. The City is currently planning on meeting the demands of future growth with its current culinary water system. No secondary system is planned at this time.

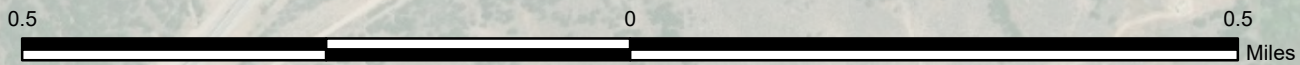
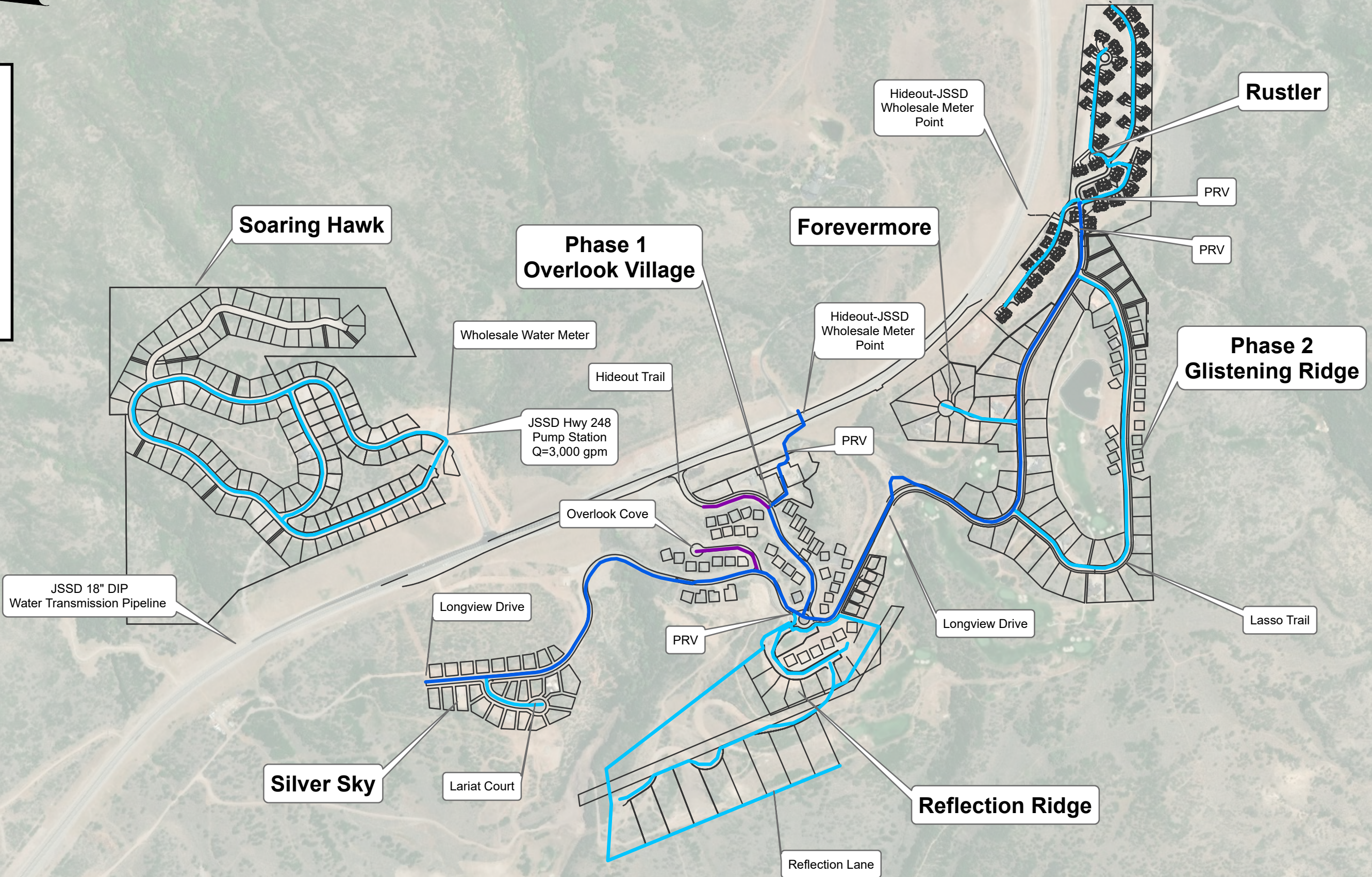




# Legend

## Water Diameter

- 6
- 8
- 10
- 12





Hideout's current and future transportation needs are met with the existing system of roadway facilities, which include excess capacity. Future project improvements will need to be financed and constructed by the future developer.

#### 4.1 Level of Service (LOS)

Adequacy of an existing transportation system can be quantified by assigning Levels of Service (LOS) to major roadways and intersections. As defined in the *Highway Capacity Manual*, a special report published by the Transportation Research Board, LOS serves as the traditional measuring stick of a roadway's functionality. LOS is identified by reviewing elements such as the number of lanes assigned to a roadway, the amount of traffic using the roadway and amount of delay per vehicle at intersections. Levels of service range from A (free flow) to F (complete congestion).

#### 4.2 Existing Facilities

The existing transportation infrastructure within the Town (see Figure 4-1) includes Longview Drive, Hideout Trail, Lariat Court, Lasso Trail, Overlook Cove as well as others. Hideout's current LOS is "A" on all roads and is anticipated to remain LOS A with the existing roads at build out. This is typical for a community of Hideout's size. The transportation facilities include roads, sidewalks, ADA facilities, utility conduits/trenching, street lights, retaining walls, landscaping/ irrigation, and appurtenances. Costs for the Town's transportation facilities are atypical due in part to retaining walls, rock excavation, and additional UDOT requirements which are applicable because of topography and other unique circumstances. The total cost of improvements are estimated to be \$10,004,312 (construction year dollars) as summarized below. Detailed cost estimates can be found in the Appendix for each subdivision.

**NOTE: Table 4-1 identifies the estimated total cost of construction of the transportation infrastructure and contains some costs which are not eligible to be included in the impact fee calculation.**

Table 4-1: Roadway Costs per Subdivision (Construction year dollars)

Subdivision	Estimated Infrastructure Cost	Construction Year
Overlook Village	\$2,994,729	2006
Glistening Ridge	\$1,923,473	2009
Reflection Ridge	\$592,405	2014
Forevermore	\$118,096	2013
Silver Sky	\$443,100	2014
Rustler	\$809,151	2010
Soaring Hawk	\$3,123,358	2014
<b>Total</b>	<b>\$10,004,312</b>	

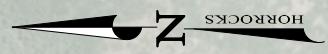
Hideout does not currently have a transportation masterplan. However, we have been able to identify which roads can be classified as collector roads throughout the community. Collector roads are considered essential to traffic flow throughout the entire

community and are, therefore, considered system improvements. System improvements that are impact fee eligible are identified in Chapter 7 – Impact Fee Facilities Plan.

### 4.3 Future Facilities

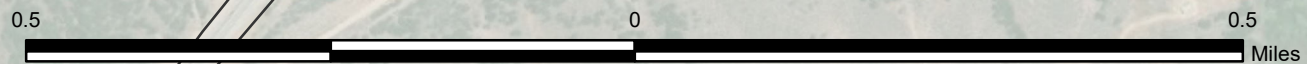
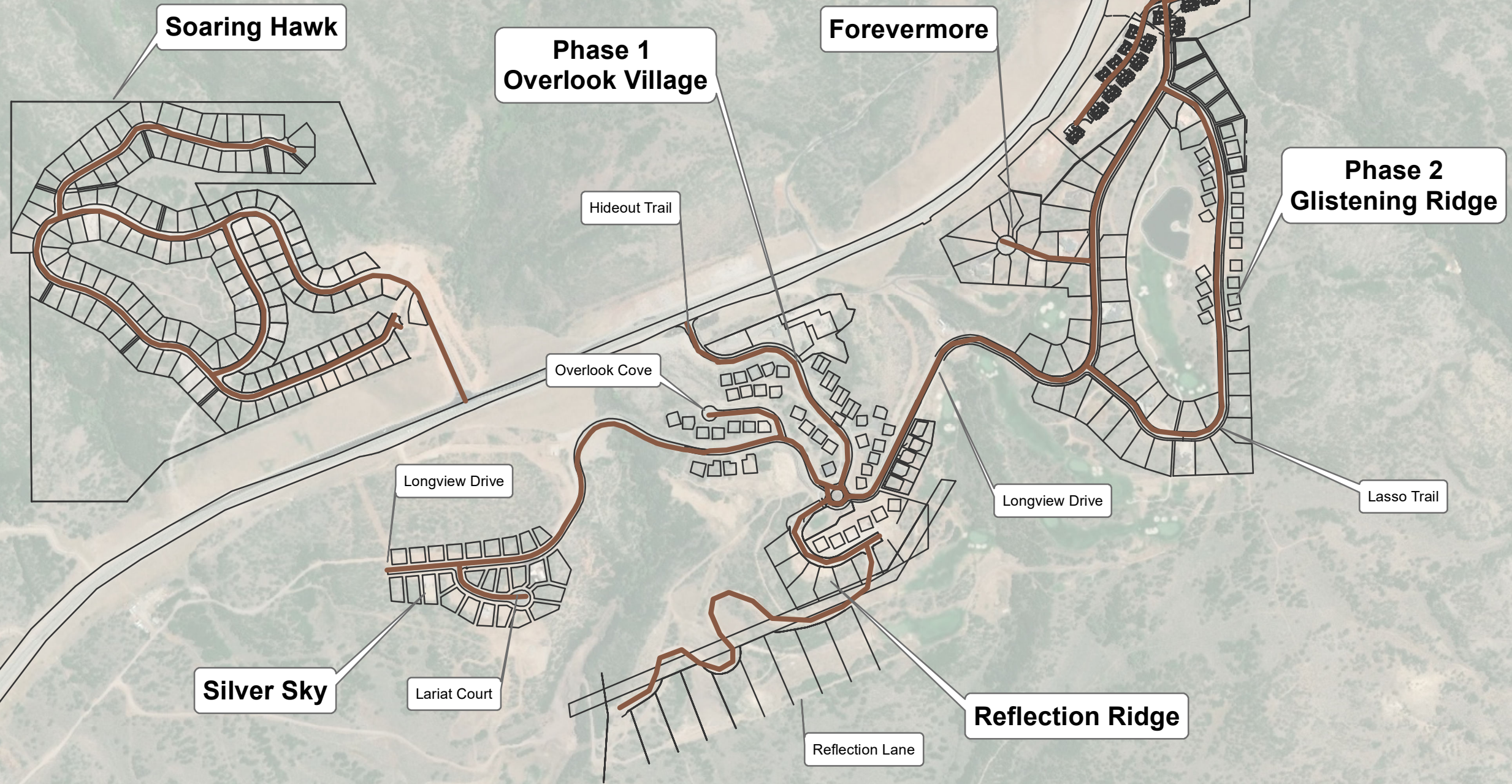
Any further improvements to the roadway system have not been included in these impact fee calculations. New roads and accesses that connect to the current transportation system are anticipated to be financed and constructed by developers of individual projects and subdivisions.





# Legend

— Roads



Note: The most typical road section is 26' of asphalt with a side treatment of 2.5' of curb and gutter, 5.5' of parkstrip and 4' of sidewalk



A city's storm drain system plays a vital role in protecting life and property. Planning for Hideout's storm drainage system had to consider major flooding that could occur from roadways and mountain drainages that pass through the Town, as well as localized flooding that occurs from storm water runoff generated within the Town. As Hideout continues to grow, the potential for localized flooding will increase, requiring improvements to the storm drain system to accommodate new development. Future improvements are expected to be financed and constructed by developers and contractors as project level improvements.

### 5.1 Definitions

ERC - Equivalent Residential Connection. Development contributes to storm water runoff based on the amount of impervious area it contains. For the purposes of this study, single family dwellings and multi-family residential units will each be considered one (1) ERC. ERC's for non-residential development including commercial, industrial, school and church buildings are based on their total impervious surface with one (1) ERC equalling 2,700 square feet of impervious surface area.

Single Family Units	= 1 ERC/home unit
Multi-Family Residential Units	= 1 ERC/dwelling unit
Non-Residential Units	= 1 ERC/2,700 SF of impervious area

cfs - Cubic feet per second (449 gallons per minute)

Ac-Ft - Acre foot (volume of water required to cover an acre of land to a depth of one foot)

Detention - Short term storage of runoff provided by a pond or similar facility. An outlet is provided that allows water to be released from the facility at a predetermined rate.

Retention - Long term storage of storm water provided by a pond or similar facility, but does not allow water to be discharged. Water will stay in a retention pond after a storm event until it either evaporates or soaks into the soil of the pond bottom.

### 5.2 Level of Service (LOS)

Level of service of Hideout's current storm drain system is defined by the current city ordinances and construction standards. The following criteria establish conditions for which storm drainage facilities are currently designed.

- Design storm drains to keep water from ponding in streets and intersections during a 10 year storm event.
- Evaluate how storm drains will function during a 100 year storm event to identify areas where major flooding may occur.
- Require detention, distributed discharge to natural vegetation and other improvements that will limit discharge from a 100 year storm event.

### 5.3 Existing System

The Town's existing storm drain infrastructure is shown in Figure 5-1. It consists of small collection systems and a detention pond that were installed with recent developments. The total cost of improvements is estimated at \$1,522,398 (Construction year dollars) as detailed in the Appendix.

**NOTE: Table 5-1 identifies the estimated total cost of construction of the storm drain infrastructure and contains some costs, which are not eligible to be included in the impact fee calculation.**

Table 5-1: Storm Drain Costs per Subdivision (Construction year dollars)

Subdivision	Estimated Infrastructure Cost	Construction Year
Overlook Village	\$423,782	2006
Glistening Ridge	\$624,381	2009
Reflection Ridge	\$86,106	2014
Forevermore	\$0	2013
Silver Sky	\$113,856	2014
Rustler	\$77,609	2010
Soaring Hawk	\$196,664	2014
<b>Total</b>	<b>\$1,522,398</b>	

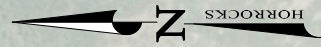
Lines that collect storm water from individual lots or serve only one subdivision are project improvements. System improvements that are impact fee eligible are indicated in Chapter 7 – Impact Fee Facilities Plan.

We have estimated construction costs through research and discussion with developer representatives and current city staff. We have utilized the CAD drawings of the improvements provided by the developer and other provided information regarding quantities and prices. Our detailed cost estimates reflect, to the best available information, the costs of installed storm drain infrastructure based on industry standards and actual circumstances. Details of the cost estimate are included in the Appendix.

### 5.4 Future Facilities

Any further improvements to the storm drain system have not been included in these impact fee calculations. New connections to the existing storm drain system and future storm drain pipes, structures and detention facilities are anticipated to be financed and constructed by developers of individual subdivisions as project improvements.





## Legend

### Diameter

15

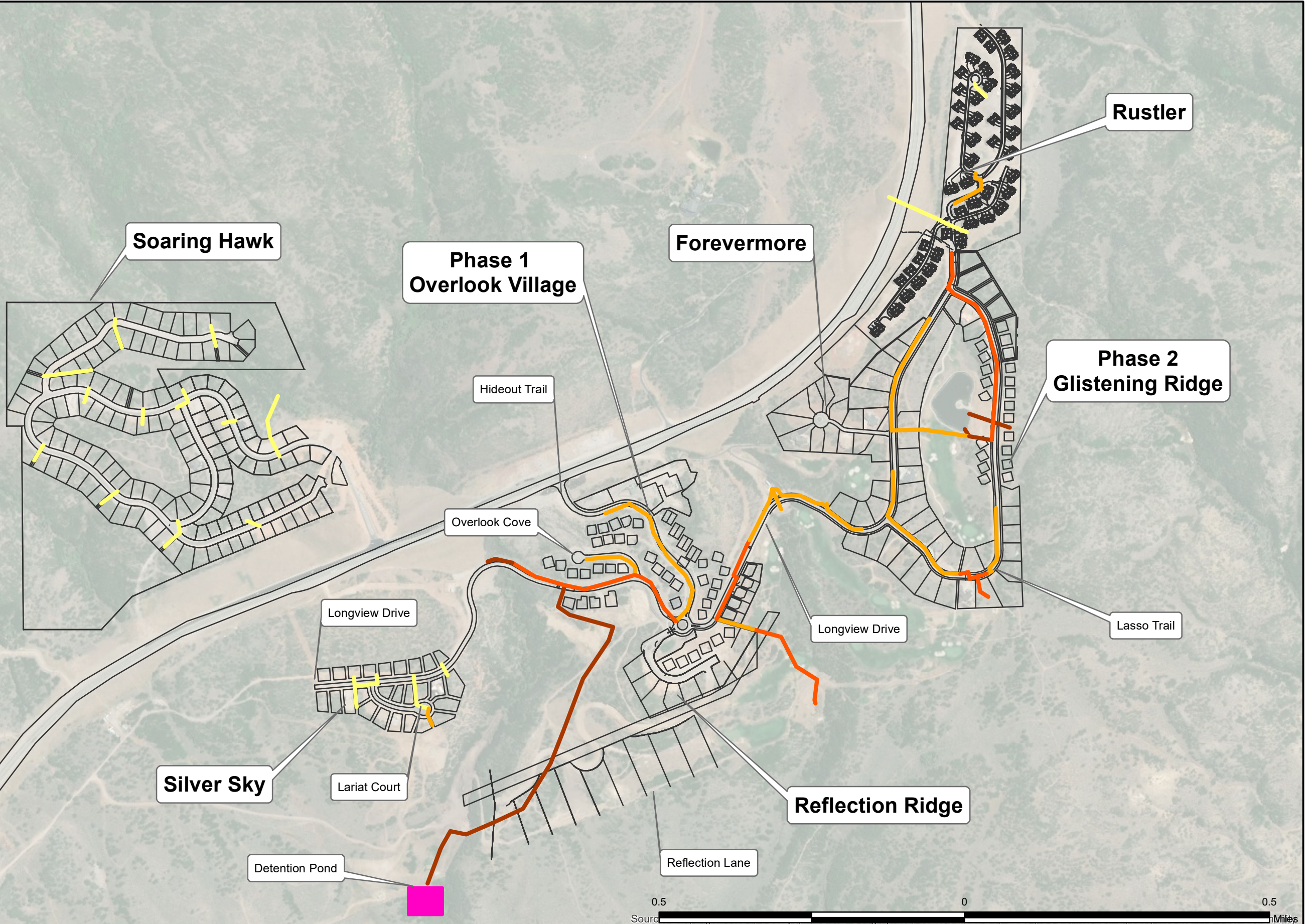
18

24

30



Detention Pond





Hideout has constructed a public sewer system that can collect and transport sanitary sewer for treatment. The Apartments at Deer Mountain, Deer Springs, Deer Waters and Klaim are not served by the Town's sewer system. As Hideout grows new collection lines will need to be constructed in local subdivisions. These new lines are not considered in the impact fee calculations. New services and subdivision connections will need to be financed by individual developers and contractors.

## 6.1 Definitions

ERC	Equivalent Residential Connection
gpd	gallons per day
gpdpc	gallons per day per capita

### *Equivalent Residential Connections (ERC)*

ERCs compare a user's use rate to that of a single-family dwelling. Since Hideout currently has only residential connections, each connection is considered 1.00 ERC. In the future, if other types of connections such as businesses, schools or churches are approved for construction in Hideout, an evaluation will need to be performed and the study updated to reflect ERC's accurate per connection type.

## 6.2 Level of Service (LOS)

The Utah Department of Environmental Quality (DEQ) provides guidelines and regulations for new sewer system design. These guidelines include:

- 1) 8-inch thru 15-inch sewer lines are not to exceed 50% capacity at peak flow
- 2) 18-inch and larger sewer lines are not to exceed 80% capacity at peak flow
- 3) New collector lines must be capable of providing a minimum peak daily flow of 400 gallons per day per capita (gpdpc)
- 4) New interceptors and outfall lines must be capable of providing a minimum peak daily flow of 250 gpcpd
- 5) Minimum size of collection lines is 8 inches.

Hideout has designed its current system using both DEQ standard and the Town of Hideout Sanitary Sewer System Design Standards, Construction Specifications and Standard Drawings (Revised July 2014). Any future improvements and project improvements will be required to meet these standards as well.

## 6.3 Existing System

The existing sewer infrastructure (see Figure 6-1) includes 8-inch collection lines throughout the Town and a sewer pump station. The infrastructure cost an estimated \$1,954,514 (Construction year dollars) to construct.

***NOTE: Table 6-1 identifies the estimated total cost of construction of the sewer infrastructure and contains some costs which are not eligible to be included in the impact fee calculation.***

Table 6-1: Sewer Costs per Subdivision (Construction year dollars)

Subdivision	Estimated Infrastructure Cost	Construction Year
Overlook Village	\$258,567	2006
Glistening Ridge	\$455,450	2009
Reflection Ridge	\$341,482	2014
Forevermore	\$33,056	2013
Silver Sky	\$138,551	2014
Rustler	\$192,123	2010
Soaring Hawk	\$535,285	2014
<b>Total</b>	<b>\$1,954,514</b>	

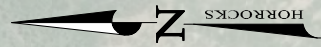
We have estimated construction costs through research and discussion with both previous developer representatives and current city staff. We have utilized the CAD drawings of the system provided by the developer and other information regarding quantities and prices. Our detailed cost estimates reflect, to the best available information, the costs of installed sewer infrastructure based on industry standards and actual circumstances. The details of the cost estimate are included in the Appendix.

The sewer system was necessary as a whole to make the Town feasible. As a result, all of the trunklines have been designated as system improvements for this study. However, infrastructure serving individual subdivisions has been assigned to that specific service area. System improvements that are impact fee eligible are illustrated in Chapter 7 – Impact Fee Facilities Plan.

## 6.4 Future Facilities

Any further improvements to the sewer system have not been included in these impact fee calculations. New collection lines and connections to the existing sewer system are anticipated to be financed and constructed by developers of individual subdivisions as project improvements.

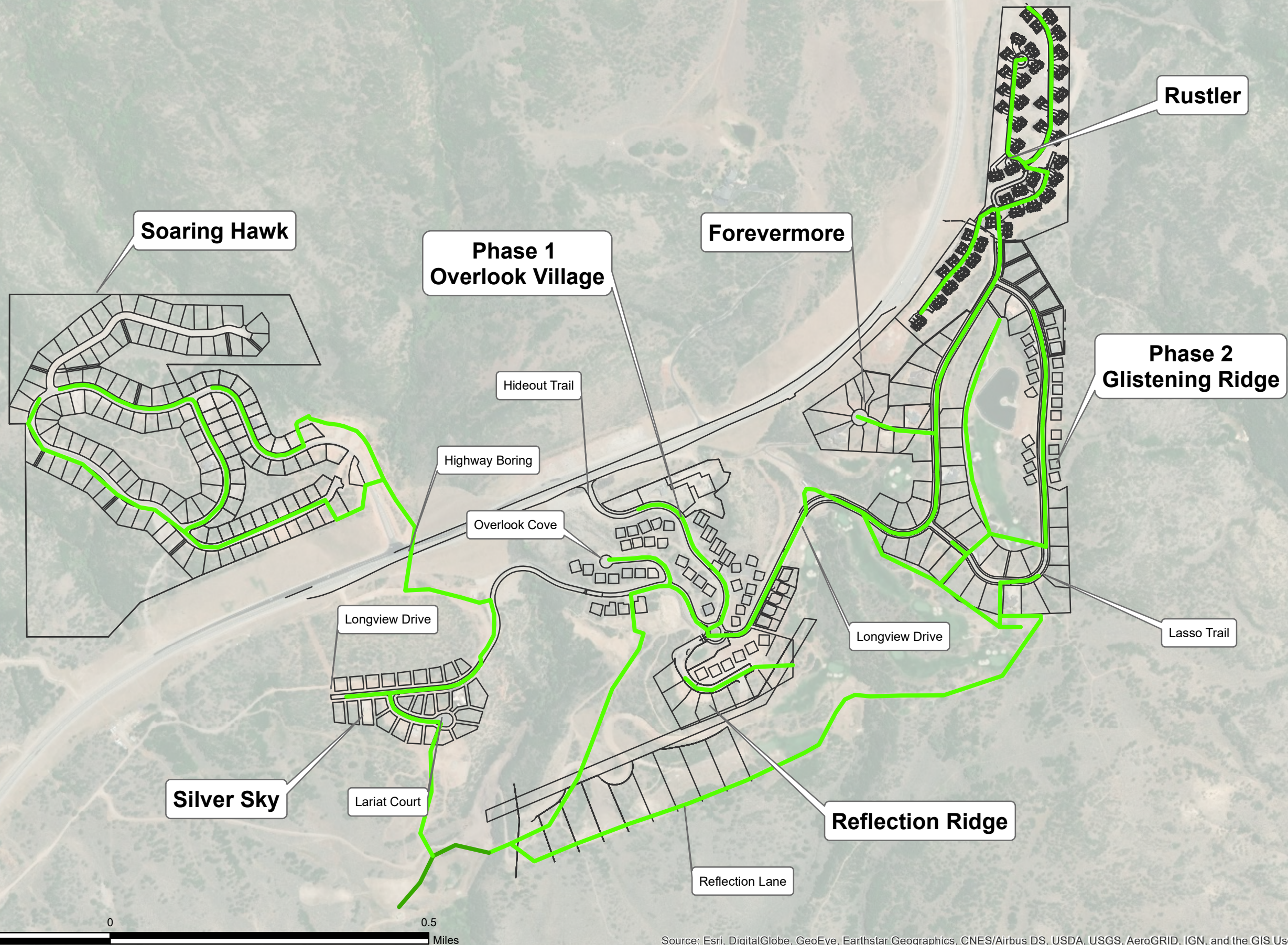




**Legend**

**Sewer Diameter**

- 8
- 10



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



## CHAPTER 7 – IMPACT FEE FACILITIES PLAN

Impact fees provide communities with a legal means to obtain funds from new developments to finance the construction of infrastructure improvements that are needed to serve new growth. State law allows under Title 11-36a-301 (3) for “a local political subdivision or a private entity with a population, or serving a population, of less than 5,000 as of the last federal census that charges impact fees of less than \$250,000 annually need not comply with the impact fee facilities plan requirements of this part, but shall ensure that: (a) the impact fees that the local political subdivision or private entity imposes are based upon a reasonable plan that otherwise complies with the common law and this chapter; and (b) each applicable notice required by this chapter is given.”

As a result, this study identifies system improvements in water, sewer, storm drain and roads that are impact fee eligible. System and project improvements are defined as follows:

**System Improvement** – existing public facilities that are designed to provide services to service areas within the community at large and future public facilities that are intended to provide services to service areas within the community at large.

**Project Improvement** – means site improvements and facilities that are

- 1) Planned and designed to provide service for development resulting from a development activity.
- 2) Necessary for the use and convenience of the occupants or users of development resulting from a development activity.

System improvements included in this study include trunklines, outfalls and collector roadways throughout the Town. They include all materials, appurtenances, installation, mobilization and engineering for each facility. System improvements do not include connections, laterals, incidental work, development amenities or general development activities. Project improvements are not included in this study. Table 7-1 below illustrates the estimated cost of all system improvements that have been installed in Hideout.

Table 7-1: Estimated Impact Fee Eligible Improvement Costs (Construction year dollars)

<b>Subdivision</b>	<b>Water</b>	<b>Roads</b>	<b>Storm Drain</b>	<b>Sewer</b>	<b>Estimated System Improvements Cost</b>
Overlook Village	\$433,591	\$2,864,306	\$386,458	\$258,567	\$3,942,922
Glistening Ridge	\$425,039	\$374,846	\$551,345	\$455,450	\$1,806,680
Reflection Ridge	\$460,065	\$0	\$86,106	\$341,482	\$887,653
Forevermore	\$36,888	\$0	\$0	\$33,056	\$69,944
Silver Sky	\$287,655	\$194,170	\$17,868	\$138,551	\$638,244
Rustler	\$202,764	\$0	\$0	\$192,123	\$394,887
Soaring Hawk	\$0	\$0	\$0	\$0	\$0
Future Shoreline Dr		\$1,762,200			
<b>Total</b>	<b>\$1,846,002</b>	<b>\$5,195,220</b>	<b>\$1,041,777</b>	<b>\$1,419,229</b>	<b>\$7,740,330</b>

### Impact Fee Eligible Cost Adjustments

The Infrastructure described above has already been installed and incorporates excess capacity to serve the potential build out population. Quantities have been calculated utilizing current infrastructure neat line measurements of existing drawings provided by the Town and the original developer. Costs have been estimated by applying unit prices to the infrastructure with adjustments made for special conditions. This section defines the service areas for system infrastructure and calculates impact eligible costs for each element.

#### Water

Water system improvements are separated into two service areas. Water Service Area 1 (WSA1) includes the entire pressurized/looped system in the Town excluding Soaring Hawk, Golden Eagle, Deer Waters, Deer Springs, KLAIM, Van Den Aker, Deer Mountain and future developments Woolf and Ross Creek Entrance. Water Service Area 2 (WSA2) is composed of the Soaring Hawk area. See Figure 7-1.

WSA1 includes the trunklines in Longview Drive (from the north end to the west end), Reflection Ridge, Silver Sky, Forevermore, Rustler, Glistening Ridge and Overlook Village and future developments excluding Golden Eagle and any development proximate to Golden Eagle. It also includes the water line from the JSSD connection to Longview Drive and the three PRV's. Every trunkline within each subdivision attributes to the overall functionality of the system including its pressures, flows and circulation. WSA1 will also include Salzman, ADA and Sunrise in the future.

WSA2 includes the trunklines in Soaring Hawk including the metering and pump stations. However, the cost of that infrastructure is not eligible for impact fee reimbursement since it was already financed by the Local District bond that is being repaid by Soaring Hawk residents through a special assessment.

The following table, Table 7-2, illustrates the difference between the total existing water system costs and impact fee eligible costs.

Table 7-2: Impact Fee Eligible Water System Improvements (Construction year dollars)

Subdivision	Existing Improvements	Ineligible Improvements	Reason for Exclusion	Total Eligible Improvements
<b>WSA1</b>				
Overlook Village	\$433,591	\$0		\$433,591
Glistening Ridge	\$425,039	\$0		\$425,039
Reflection Ridge	\$460,065	\$460,065	Local District Bond	\$0
Forevermore	\$36,888	\$0		\$36,888
Silver Sky	\$287,655	\$0		\$287,655
Rustler	\$202,764	\$0		\$202,764
<b>WSA 1 Subtotal</b>				<b>\$1,385,937</b>
<b>WSA2</b>				
Soaring Hawk	\$393,050	\$393,050	Local District Bond	\$0
<b>WSA2 Subtotal</b>				<b>\$0</b>
<b>Total</b>	<b>\$2,239,052</b>	<b>\$853,115</b>		<b>\$1,385,937</b>

## CHAPTER 7 – IMPACT FEE FACILITIES PLAN

### Roads

Road system improvements include all collector roads throughout the Town including Hideout Trail, Longview Drive and Shoreline Drive. Loop roads, dead ends and cul de sacs serving only a specific subdivision are considered project improvements and have been specifically removed from system improvement costs. It should be noted that the roads in Reflection Ridge are private roads, not owned by the Town and are, therefore, not impact fee eligible. In addition, not only do the roads in Soaring Hawk only service that subdivision, they have been constructed using the Local District bond that is being reimbursed by an assessment to residents and the cost of the Soaring Hawk roads, therefore, is ineligible for impact fee reimbursement. However, because Soaring Hawk residents use the transportation system they are included in the transportation system allocation. See Figure 7-2. The following table, Table 7-3 illustrates the difference between the total existing roadway costs and system improvements eligible for impact fee reimbursement.

Table 7-3: Impact Fee Eligible Existing Road Improvements (Construction year dollars)

Subdivision	Existing Improvements	Ineligible Improvements	Reason for Exclusion	Total Eligible Improvements
Overlook Village	\$2,994,729	\$130,423	Cul de sac	\$2,864,306
Glistening Ridge	\$1,923,473	\$1,548,627	Loop Road	\$374,846
Reflection Ridge	\$592,405	\$592,405	Private Road	\$0
Forevermore	\$118,096	\$118,096	Cul De Sac	\$0
Silver Sky	\$443,100	\$248,930	Cul De Sac	\$194,170
Rustler	\$809,151	\$809,151	Cul De Sac	\$0
Soaring Hawk	\$3,123,358	\$3,123,358	Local District Bond	\$0
<b>Total</b>	<b>\$10,004,312</b>	<b>\$6,570,990</b>		<b>\$3,433,322</b>

In addition to the eligible existing subdivision infrastructure, Shoreline Drive has become a designated collector that is not yet complete. There are approximately 9,900 linear feet of 40' wide road left to complete at an estimated unit cost of \$178 (road and drainage) per linear foot or approximately \$1,762,200 total.

Therefore, total impact fee eligible road improvements are:

$$\$3,433,322 + \$1,762,200 = \underline{\underline{\$5,195,220 \text{ (Construction year dollars)}}}$$

### Storm Drain

Storm Drain System Improvements are broken into three service areas: Storm Drain Service Area 1, 2 and 3. See Figure 7-3.

*Storm Drain Service Area 1 (SDSA1)* includes trunklines and concrete structures currently serving the Rustler, Forevermore and Glistening Ridge areas.

*Storm Drain Service Area 2 (SDSA2)* includes trunklines and concrete structures serving the Overlook Village, Reflection Ridge and Silver Sky areas. In the future, Venturi, Plumb will likely utilized these facilities as well.

*Storm Drain Service Area 3 (SDSA3)* includes trunklines and concrete structures serving Soaring Hawk area. Graphical representation for this infrastructure has not

## CHAPTER 7 – IMPACT FEE FACILITIES PLAN

been provided for this study. The cost of that infrastructure is not eligible for impact fee reimbursement since it was financed by the Local District bond that is being repaid by Soaring Hawk residents through a special assessment.

Based on the topography we anticipate that future developments will need to construct their own storm drain facilities. As a result, KLAIM, Deer Water, Van Den Akker, Sunrise, ADA, Salzman, Woolf and Ross Creek Entrance are not included in service areas 1-3. Deer Mountain has its own drainage facilities and is not included in service areas 1-3 either. The following table, Table 7-4 illustrates the difference between the total existing storm drain costs and system improvements eligible for impact fee reimbursement.

Table 7-4: Impact Fee Eligible Existing Storm Drain System Improvements  
(Construction year dollars)

Subdivision	Existing Improvements	Ineligible Improvements	Reason for Exclusion	Total Eligible Improvements
<b>SDSA1</b>				
Glistening Ridge	\$624,381	\$73,036	Loop Road	\$551,345
Forevermore	\$0	\$0		\$0
Rustler	\$77,609	\$77,609	Cul De Sac	\$0
<b>SDSA1 Subtotal</b>				<b>\$551,345</b>
<b>SDSA2</b>				
Overlook Village	\$423,782	\$37,324	Cul de sac	\$386,458
Reflection Ridge	\$86,106	\$0		\$86,106
Silver Sky	\$113,856	\$95,988	Cul De Sac	\$17,868
<b>SDSA2 Subtotal</b>				<b>\$490,432</b>
<b>SDSA3</b>				
Soaring Hawk	\$196,664	\$196,664	Local District Bond	\$0
<b>SDSA3 Subtotal</b>				<b>\$0</b>
<b>Total</b>	<b>\$1,522,398</b>	<b>\$480,621</b>		<b>\$1,041,777</b>

### Sewer

Sewer system Improvements are separated into two service areas representing the two major trunklines.

*Sewer Service Area 1 (SSA1)* includes both Soaring Hawk and Silver Sky, although the cost of infrastructure in Soaring Hawk is not eligible for impact fee reimbursement because that cost was financed by the Local District. Because Soaring Hawk residents tie into the sewer system, they are included in the sewer system allocation.

*Sewer Service Area 2 (SSA2)* includes Overlook Village, Reflection Ridge, Forevermore, Glistening Ridge, Rustler and all future developments excluding KLAIM, Deer Water, Deer Springs and Van Den Akker. The following table, Table 7-5 illustrates the difference between the total existing sewer costs and system improvements eligible for impact fee reimbursement.



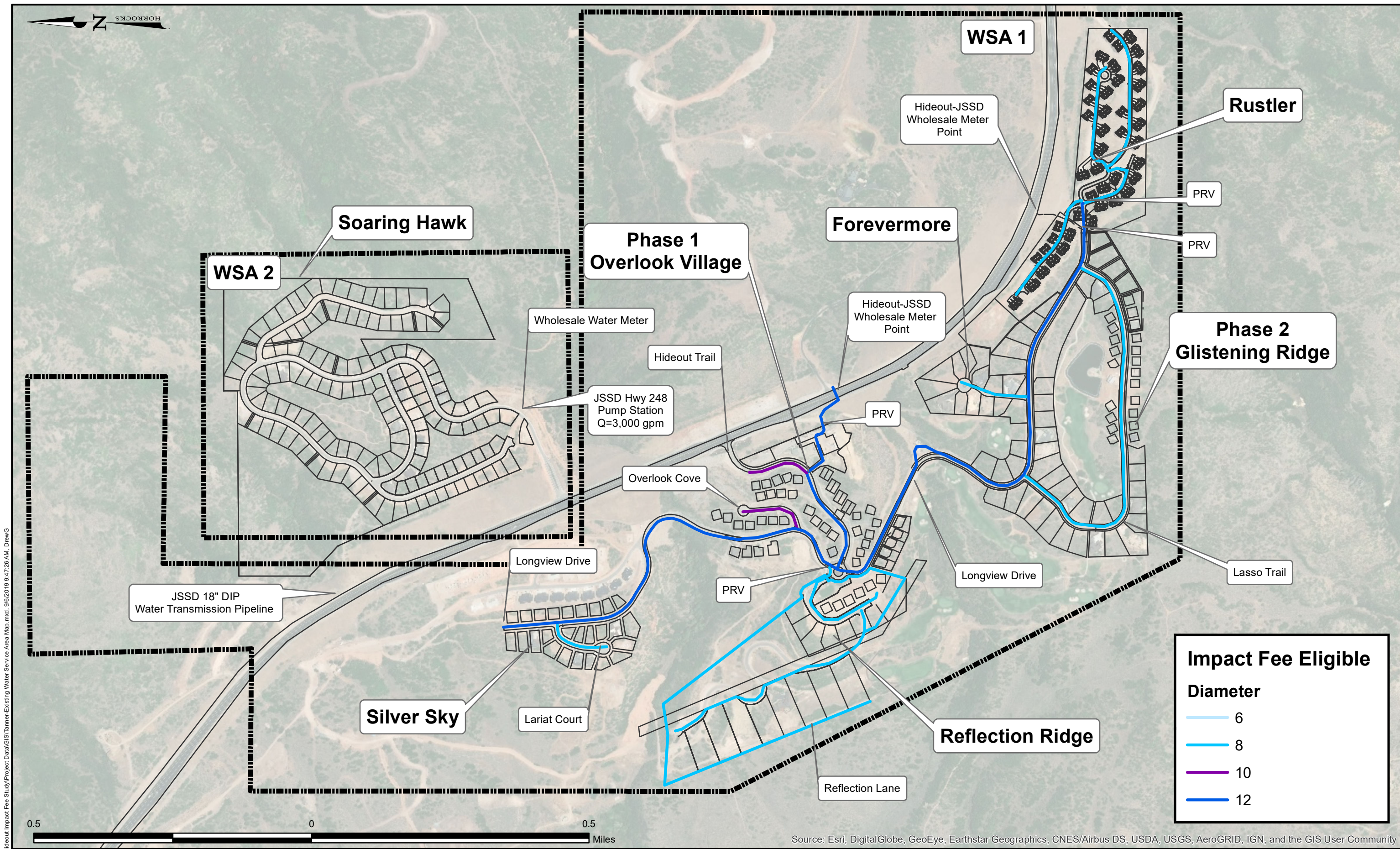
## CHAPTER 7 – IMPACT FEE FACILITIES PLAN

Table 7-5: Impact Fee Eligible Sewer System Improvements (Construction year dollars)

Subdivision	Existing Improvements	Ineligible Improvements	Reason for Exclusion	Total Eligible Improvements
<b>SSA1</b>				
Soaring Hawk	\$535,285	\$535,285	Local District Bond	\$0
Silver Sky	\$138,551	\$0		\$138,551
<b>SSA 1 Subtotal</b>				<b>\$138,551</b>
<b>SSA2</b>				
Overlook Village	\$258,567	\$0		\$258,567
Glistening Ridge	\$455,450	\$0		\$455,450
Reflection Ridge	\$341,482	\$0		\$341,482
Forevermore	\$33,056	\$0		\$33,056
Rustler	\$192,123	\$0		\$192,123
<b>SSA2 Subtotal</b>				<b>\$1,280,678</b>
<b>Total</b>	<b>\$1,954,514</b>	<b>\$535,285</b>		<b>\$1,419,229</b>

As currently anticipated, all known future subdivisions could utilize infrastructure in these two service areas and have been included in the impact fee calculations. However, an impact fee analysis update would need to be performed in the future to ensure that future subdivisions are appropriately assigned to a service area.



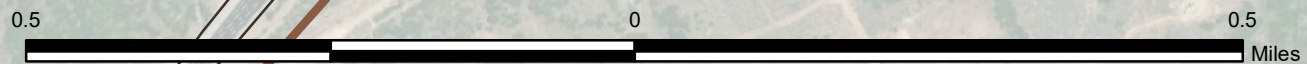
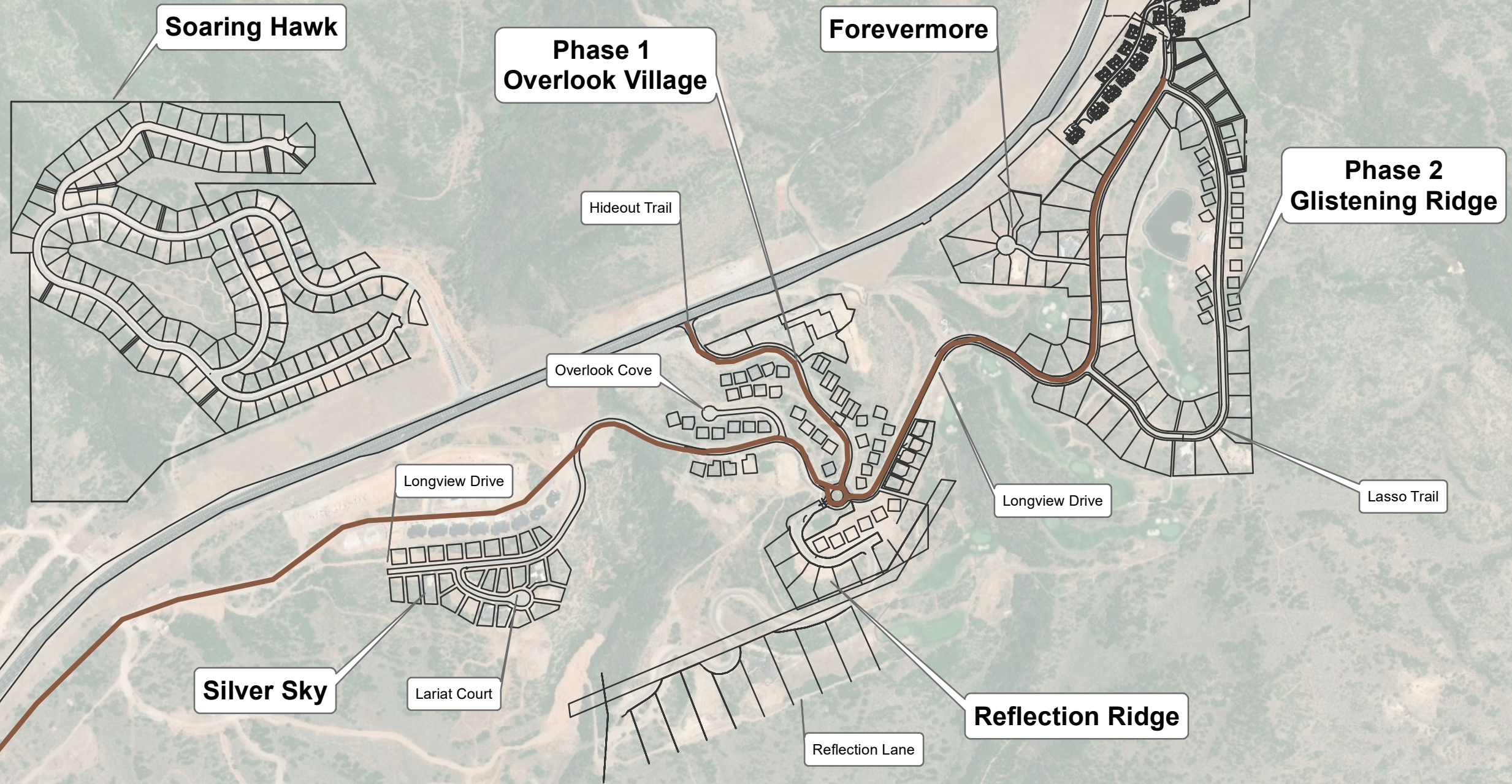


Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

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# Impact Fee Eligible Roads

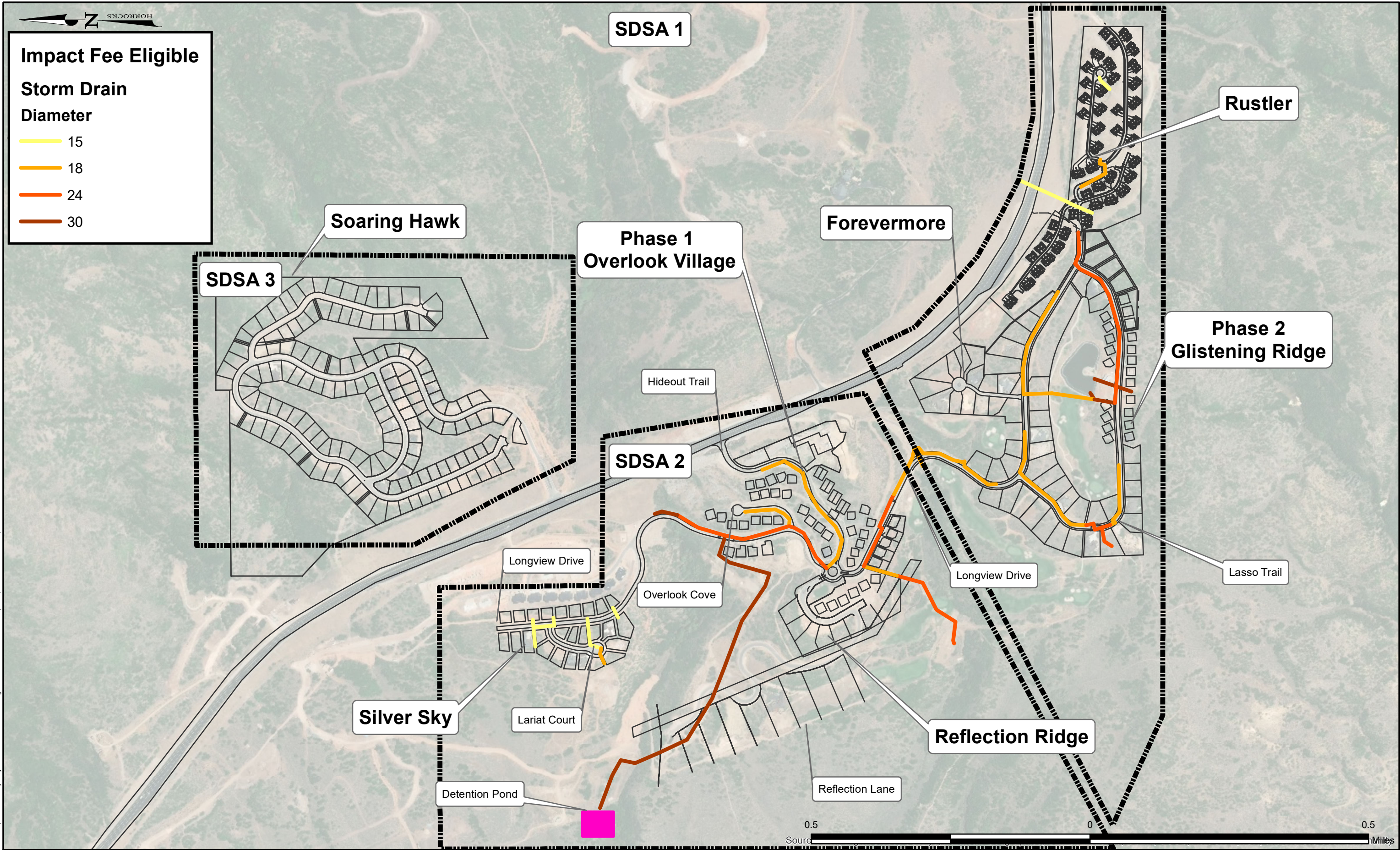


**Note: The most typical road section is 26' of asphalt with a side treatment of 2.5' of curb and gutter, 5.5' of parkstrip and 4' of sidewalk**

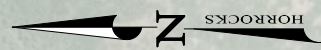
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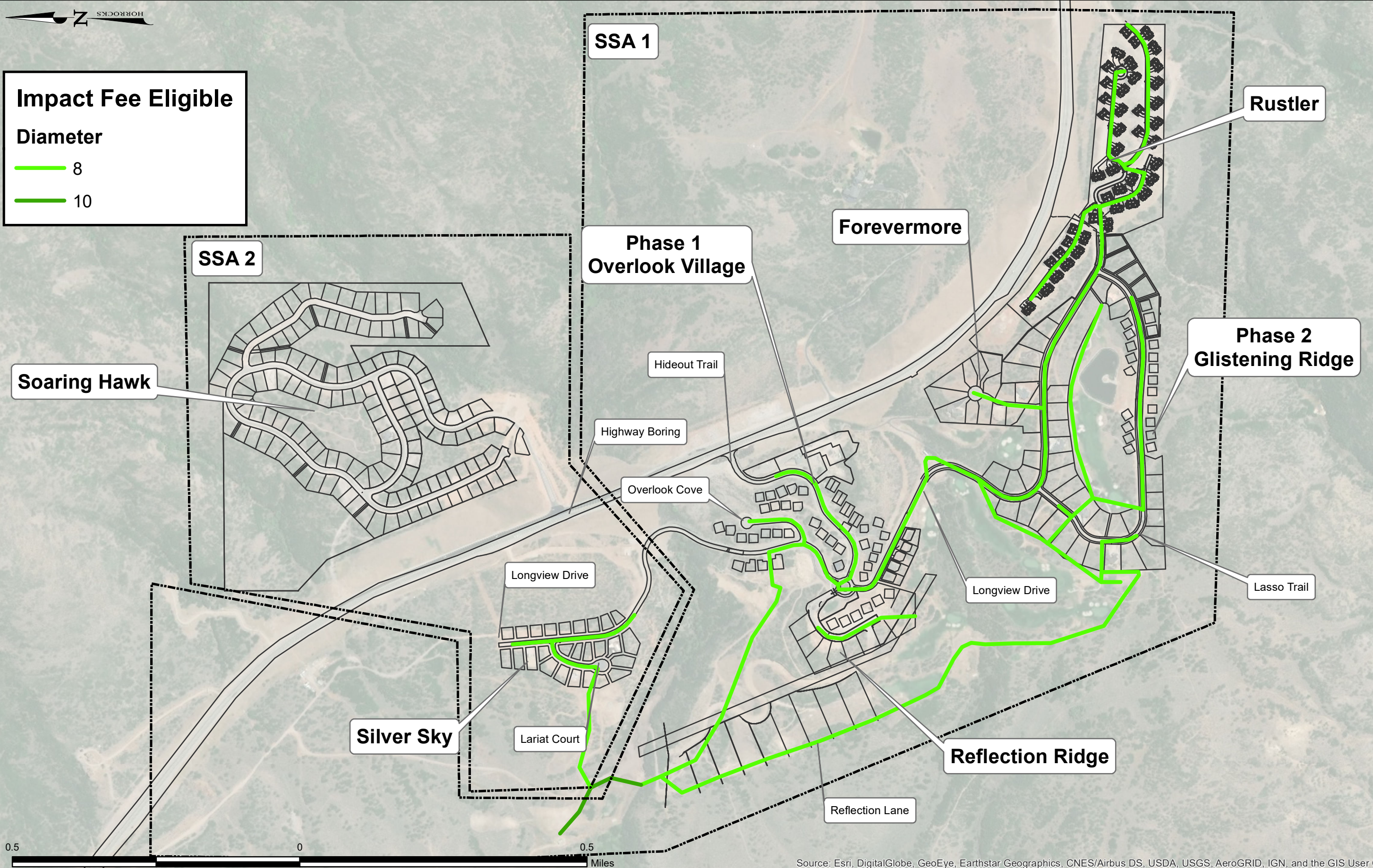




**Impact Fee Eligible**

**Diameter**

- 8
- 10



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

**HORROCKS**  
ENGINEERS

2162 West Grove Parkway  
Suite 400  
Pleasant Grove, UT 84062  
(801) 763-5100

Town of Hideout  
Impact Fee Facilities - Sewer



The Town of Hideout was incorporated in 2008. After incorporation, the primary developer within the Town, Mustang Development, LLC (herein after referred to as the "Master Developer") built the improvements shown in Figures 3-1, 4-1, 5-1 and 6-1. Chapter 7 illustrates the cost of these improvements and which facilities are impact fee eligible according to Utah Title 11-36a. No other method of financing for each public facility, such as user charges, special assessments, bonded indebtedness, general taxes, or federal grants has been used by the Town to provide these existing public system improvements in the Town unless otherwise noted in Chapter 7.

The Town intends to use impact fees from new development that benefits directly from the system improvements the Master Developer has constructed to reimburse, in part, the expense incurred by the Master Developer in connection with construction of such improvements. These fees will be collected at the time of building permit in the amount approved by the Town, but no greater than the amount recommended in this impact fee analysis.

This study considers the cost of system improvements that were recently constructed to support growth into the foreseeable future. It does not contemplate, and removes from calculations, the portion of the improvements that are project costs specific to a subdivision and do not serve the Town as a whole.

It also defines a proportionate share of the impact fee eligible costs to all potential future lots that will use them and recommends impact fees for each element analyzed in this study. These fees will be needed to finance the existing level of service that has been created throughout the Town. It does not include any existing deficiencies.

Calculations for the impact fees are included in this chapter for each element. The calculations are estimates based on the best data available to us. For purposes of calculating the actual impact fee, we have rounded the estimated cost to the next greatest five dollar (\$5) increment.

### 8.1 Financing Charges

Under Utah Code 11-36a-305, a municipality is entitled to include reasonable debt service charges in the calculation of an impact fee. Based on available data, we have determined that reasonable finance charges applicable to the cost of the eligible system improvement is not more than six percent (6%) over twenty (20) years making uniform annual payments. Therefore, we will calculate the total financed estimate for each element using the following formula for simple interest:

$$\text{Total Cost} = \text{Principal} + (\text{Principal} / 2) \times (\text{rate} \times \text{years})$$

Over the life of a twenty year repayment period the average principal balance will be half of the total principal amount. As such, interest calculations will show half of the infrastructure cost as the principal in the formula. The applicable financing charge for eligible system improvements is calculated separately for each element in the following sections.

## 8.2 Water Impact Fees

The impact fee eligible water system costs have been calculated for the separate service areas of WSA1 and WSA 2 at \$1,385,937 and \$0 respectively. These improvements are illustrated in Chapter 7.

### WSA1

WSA1 will serve the entire Town excluding Soaring Hawk, Deer Mountain, Reflection Ridge, the future Golden Eagle, Ross Creek and Woolf. Golden Eagle will be responsible for constructing its own water system. As such, WSA1 will serve 1,682 units (2,264 – (148 + 71 + 15 + 9 + 316 + 18 + 5)).

#### WSA1 Impact Fee Calculation

The cost for the WSA1 system improvements is \$1,385,937. These projects will serve 1,682 ERC's. Considering twenty years of financing at 6%, the total WSA1 water impact fee will be:

$$\$1,385,937 + ((\$1,385,937 / 2) \times (0.06 \times 20)) = \$2,217,499$$

$$\$2,217,499 / 1,682 = \underline{\$1,318.37 \text{ per ERC (use \$1,320)}}$$

### WSA2

WSA2 serves only Soaring Hawk. It will serve the 148 units located there. However, residents of Soaring Hawk pay a special assessment toward the repayment of the Local District bond which financed the water infrastructure in Soaring Hawk. As a result, the Soaring Hawk water infrastructure is not impact fee eligible. Therefore, the water impact fee for residents of WSA2 is \$0.

## 8.3 Transportation Impact Fees

The impact fee eligible transportation system costs have been calculated at \$5,195,220. These improvements are illustrated in Chapter 7 and their costs are calculated in the Appendix. They will serve the entire Town, although not all costs are included in the impact fee calculation. As a result, they will serve approximately 2,264 units. Therefore, the impact fee can be calculated as follows.

#### Impact Fee Calculation

The cost for the transportation system improvements is \$5,195,220. These projects will serve 2,264 ERC's. Considering twenty years of financing at 6%, the total transportation impact fee will be:

$$\$5,195,220 + ((\$5,195,220 / 2) \times (0.06 \times 20)) = \$8,312,352.00$$

$$\$8,312,352 / 2,264 = \underline{\$3,671.53 \text{ per ERC (use \$3,675)}}$$

## 8.4 Storm Drain Impact Fees

The impact fee eligible storm drain system costs have been calculated for the separate service areas of SDSA1, SDSA2 and SDSA3 at \$839,628, \$594,641 and \$0 respectively. These improvements are illustrated in Chapter 7.

### SDSA1

SDSA1 will serve the Glistening Ridge (63 units), Rustler (88 units) and Forevermore (13 units) areas

#### SDSA1 Impact Fee Calculation

The cost for the SDSA1 system improvements is \$839,628. These projects will serve 164 ERC's. Considering twenty years of financing at 6%, the total SDSA1 storm drain impact fee will be:

$$\$551,345 + ((\$551,345 / 2) \times (0.06 \times 20)) = \$882,152.00$$

$$\$882,152.00 / 164 = \underline{\$5,378.98 \text{ per ERC (use \$5,380)}}$$

### SDSA2

SDSA2 will serve the Overlook Village (47 units), Perch (92 units), Town Center (4 units), Silver Sky (26 units), Reflection Ridge (15 units), Reflection Lane (9 units), Venturi (2 units) and Plumb (4 units) areas

#### SDSA2 Impact Fee Calculation

The cost for the SDSA2 system improvements is \$490,432. These projects will serve 199 ERC's. Considering twenty years of financing at 6%, the total SDSA2 storm drain impact fee will be:

$$\$490,432 + ((\$490,432 / 2) \times (0.06 \times 20)) = \$784,691.20$$

$$\$784,691.20 / 199 = \underline{\$3,943.17 \text{ per ERC (use \$3,945)}}$$

### SDSA3

SDSA3 will serve the Soaring Hawk (148 units) area. However, residents of Soaring Hawk pay a special assessment toward the repayment of the Local District bond which financed the storm drain infrastructure in Soaring Hawk. As a result, the Soaring Hawk storm drain infrastructure is not impact fee eligible. Therefore, the storm drain impact fee for residents of SDSA3 is \$0.

Golden Eagle, Deer Springs, future Shoreline phases, KLAIM, ADA, Salzman, Sunrise, Ross Creek Entrance and Woolf will be responsible for their own storm drain infrastructure. The Deer Mountain, Deer Waters and Van Dan Aker areas have their own storm drain systems and are not included in the storm drain allocation.

## 8.5 Sewer Impact Fees

The impact fee eligible sewer system costs have been calculated for two separate service areas SSA1 and 2 at \$138,551 and \$1,280,678 respectively. These



improvements are illustrated in Chapter 7 and their costs are calculated in the Appendix.

### SSA1

SSA1 serves both Soaring Hawk (148 units), Silver Sky (26 units) and the future Woolf development (5 units). However, the cost of infrastructure in Soaring Hawk is being reimbursed by a special assessment charged by the Local District to Soaring Hawk residents, so only infrastructure in Silver Sky is eligible for impact fees.

#### Impact Fee Calculation

The cost for the impact eligible sewer system improvements is \$138,551. These projects will serve 179 ERC's. Considering twenty years of financing at 6%, the total SSA1 sewer impact fee will be:

$$\$138,551 + ((\$138,551 / 2) \times (0.06 \times 20)) = \$221,681.60$$

$$\$221,681.60 / 179 = \underline{\$1,238.44 \text{ per ERC (use \$1,240)}}$$

### SSA2

SSA2 serves the remaining 1,685 units in Hideout except the future Ross Creek Entrance, KLAIM, Van Den Akker, Deer Springs and Deer Waters (2,264 units – 179 units – 18 units – 88 units – 35 units – 248 units – 11 units).

#### Impact Fee Calculation

The cost for the impact eligible sewer system improvements is \$1,280,678. These projects will serve 1,685 ERC's. Considering twenty years of financing at 6%, the total SSA2 sewer impact fee will be:

$$\$1,280,678 + ((\$1,280,678 / 2) \times (0.06 \times 20)) = \$2,049,084.80$$

$$\$2,049,084.80 / 1,685 = \underline{\$1,216.07 \text{ per ERC (use \$1,220)}}$$

## 8.6 Impact Fee Summary

The recommended impact fees can be summarized as illustrated below.

Element	Fee
<b>Water</b>	
WSA1	\$1,320
WSA2	\$0
<b>Transportation</b>	\$3,675
<b>Storm Drain</b>	
SDSA1	\$5,380
SDSA2	\$3,945
SDSA3	\$0
<b>Sewer</b>	
SSA1	\$1,240
SSA2	\$1,220

# Appendix “A”

## Data

**Overlook Village  
Cost Estimate (2006 dollars)**

**Figure A.1**

No.	Item Description	Bid Quantity	Units	Unit Price	Total Amount
<b>Culinary Water Improvements</b>					
	12 - inch Ductile Iron Water Line Pipe	5,254	LF	\$31.00	\$162,874.00
	12 - inch PRV Station	2	Each	\$70,000.00	\$140,000.00
	Meter Stations	1	Each	\$20,000.00	\$20,000.00
	10 - inch Ductile Water Line	1,218	LF	\$22.00	\$26,796.00
	<b>Subtotal</b>				<b>\$349,670.00</b>
	Mobilization 6%				\$20,980.20
	Design Engineering 9%				\$31,470.30
	Construction Engineering 9%				\$31,470.30
	<b>Water Total</b>				<b>\$433,590.80</b>
<b>Sanitary Sewer Improvements</b>					
	8 inch HDPE (SDR 35) Sewer Pipe	6,489	LF	\$27.00	\$175,203.00
	4 ft. Diameter Sewer Manhole	13	Each	\$2,600.00	\$33,319.00
	<b>Subtotal</b>				<b>\$208,522.00</b>
	Mobilization 6%				\$12,511.32
	Design Engineering 9%				\$18,766.98
	Construction Engineering 9%				\$18,766.98
	<b>Sewer Total</b>				<b>\$258,567.28</b>
<b>Storm Drain Improvements</b>					
	18 inch ADS	1,976	LF	\$27.00	\$53,352.00
	24 inch ADS	1,681	LF	\$32.00	\$53,792.00
	30 inch ADS	3,869	LF	\$38.00	\$147,022.00
	4 ft. Diameter Storm Drain Manholes	8	Each	\$2,300.00	\$18,618.50
	5 ft. Diameter Storm Drain Manholes	8	Each	\$3,000.00	\$25,345.00
	Catch Basin	29	Each	\$1,500.00	\$43,630.00
	<b>Subtotal</b>				<b>\$341,759.50</b>
	Mobilization 6%				\$20,505.57
	Design Engineering 9%				\$30,758.36
	Construction Engineering 9%				\$30,758.36
	<b>Storm Drain Total</b>				<b>\$423,781.78</b>
<b>Roadway Improvements</b>					
	Curb and Gutter	12,538	LF	\$11.50	\$144,187.00
	Road Base installed	250,760	Sq. Ft.	\$0.70	\$175,532.00
	3 - inch Asphalt Bituminous Mix	162,994	Sq. Ft.	\$0.90	\$146,694.60
	Roadside Drainage Channels (Ditches)	2,000	LF	\$7.50	\$15,000.00
	4 foot Sidewalk	11,438	LF	\$12.50	\$142,975.00
	6 foot Sidewalk	1,100	LF	\$19.00	\$20,900.00
	Landscaping	1	LS	\$81,000.00	\$81,000.00
	Guardrail	1,500	LF	\$26.00	\$39,000.00
	Retaining Wall	51,500	SF	\$12.00	\$618,000.00
	Erosion Control	6	Acre	\$3,500.00	\$20,148.30
	Clearing and Grubbing	6	Acre	\$3,000.00	\$17,269.97
	Street Lights (at hydrants & intersections)	32	Each	\$3,600.00	\$115,200.00
	Irrigation	1	LS	\$51,000.00	\$51,000.00
	UDOT Entrance	1	LS	\$531,000.00	\$531,000.00
	Roadway Excavation	37,150	CY	\$8.00	\$297,197.04
	<b>Subtotal</b>				<b>\$2,415,103.91</b>
	Mobilization 6%				\$144,906.23
	Design Engineering 9%				\$217,359.35
	Construction Engineering 9%				\$217,359.35
	<b>Roadway Total</b>				<b>\$2,994,728.85</b>
	<b>Construction Subtotal</b>				<b>\$4,110,668.71</b>
<b>Overlook Village - Roadway Project Improvements (Overlook Cove)</b>					
	Curb and Gutter	1,102	LF	\$11.50	\$12,673.00
	Road Base installed	22,040	Sq. Ft.	\$0.70	\$15,428.00
	3 - inch Asphalt Bituminous Mix	14,326	Sq. Ft.	\$0.90	\$12,893.40
	Roadside Drainage Channels (Ditches)	0	LF	\$7.50	\$0.00
	4 foot Sidewalk	1,102	LF	\$12.50	\$13,775.00
	6 foot Sidewalk	0	LF	\$19.00	\$0.00
	Landscaping	0	LS	\$81,000.00	\$0.00
	Guardrail	0	LF	\$26.00	\$0.00
	Retaining Wall	1,500	SF	\$12.00	\$18,000.00
	Erosion Control	1	Acre	\$3,500.00	\$1,770.89
	Clearing and Grubbing	1	Acre	\$3,000.00	\$1,517.91
	Street Lights (at hydrants & intersections)	1	Each	\$3,000.00	\$3,000.00
	Irrigation	0	LS	\$51,000.00	\$0.00
	Roadway Excavation	3,265	CY	\$8.00	\$26,121.48
	<b>Subtotal</b>				<b>\$105,179.68</b>
	Mobilization 6%				\$6,310.78
	Design Engineering 9%				\$9,466.17
	Construction Engineering 9%				\$9,466.17
	<b>Roadway Project Total</b>				<b>\$130,422.80</b>
<b>Overlook Village - Storm Drain Project Improvements (Overlook Cove)</b>					
	18 Inch ADS	500	LS	\$27.00	\$13,500.00
	SD Catch Basin	8	LS	\$1,500.00	\$12,000.00
	4 ft. Diameter Storm Drain Manhole	2	LS	\$2,300.00	\$4,600.00
	<b>Subtotal</b>				<b>\$30,100.00</b>
	Mobilization 6%				\$1,806.00
	Design Engineering 9%				\$2,709.00
	Construction Engineering 9%				\$2,709.00
	<b>Storm Drain Project Total</b>				<b>\$37,324.00</b>

**Glistening Ridge**  
**Cost Estimate (2009 dollars)**

**Figure A.2**

No.	Item Description	Bid Quantity	Units	Unit Price	Total Amount
<b>Culinary Water Improvements</b>					
	8 - inch Ductile Iron Water Line Pipe	2,863	LF	\$30.00	\$85,890.00
	12 - inch Ductile Iron Water Line Pipe	3,197	LF	\$39.00	\$124,683.00
	12 inch PRV Station	1	Each	\$55,000.00	\$55,000.00
	12 inch Butterfly Valve	8	Each	\$1,600.00	\$12,800.00
	8 inch Butterfly Valve	8	Each	\$1,000.00	\$8,000.00
	Fire Hydrant Assembly	16	Each	\$3,100.00	\$49,600.00
	2 inch Washout with Drainline	2	Each	\$900.00	\$1,800.00
	2 inch Air-Vac Valve	2	Each	\$2,500.00	\$5,000.00
	<b>Subtotal</b>				<b>\$342,773.00</b>
	Mobilization 6%				\$20,566.38
	Design Engineering 9%				\$30,849.57
	Construction Engineering 9%				\$30,849.57
	<b>Water Total</b>				<b>\$425,038.52</b>
<b>Sanitary Sewer Improvements</b>					
	8 inch HDPE Sewer Pipe	10,574	LF	\$27.00	\$285,498.00
	4 ft. Diameter Sewer Manhole	28	Each	\$2,600.00	\$72,800.00
	5 ft. Diameter Sewer Manhole	3	Each	\$3,000.00	\$9,000.00
	<b>Subtotal</b>				<b>\$367,298.00</b>
	Mobilization 6%				\$22,037.88
	Design Engineering 9%				\$33,056.82
	Construction Engineering 9%				\$33,056.82
	<b>Sewer Total</b>				<b>\$455,449.52</b>
<b>Storm Drain Improvements</b>					
	18 - inch ADS Pipe	5,506	LF	\$27.00	\$148,662.00
	24 - inch ADS Pipe	4,026	LF	\$32.00	\$128,832.00
	30 - inch ADS Pipe	640	LF	\$35.00	\$22,400.00
	4 ft. Diameter Manholes	18	Each	\$2,300.00	\$41,139.33
	Detention Pond	1	Each	\$95,000.00	\$95,000.00
	Catch Basin	45	Each	\$1,500.00	\$67,500.00
	<b>Subtotal</b>				<b>\$503,533.33</b>
	Mobilization 6%				\$30,212.00
	Design Engineering 9%				\$45,318.00
	Construction Engineering 9%				\$45,318.00
	<b>Storm Drain Total</b>				<b>\$624,381.33</b>
<b>Roadway Improvements</b>					
	Curb and Gutter	13,586	LF	\$12.00	\$163,032.00
	Excavation for C&G	13,586	LF	\$6.50	\$88,309.00
	Road Base installed	271,720	Sq. Ft.	\$0.70	\$190,204.00
	3 - inch Asphalt Bituminous Mix	176,618	Sq. Ft.	\$0.90	\$158,956.20
	Roadside Drainage Channels	700	LF	\$7.50	\$5,250.00
	4-foot Sidewalk	11,516	LF	\$12.50	\$143,950.00
	10-foot Sidewalk	2,070	LF	\$27.50	\$56,925.00
	Golf Cart Tunnel	1	Each	\$75,000.00	\$75,000.00
	Street Lights	19	Each	\$3,800.00	\$72,200.00
	Landscape	1	LS	\$41,000.00	\$41,000.00
	Cut Slope	16,500	Sq. Ft.	\$20.00	\$330,000.00

	Clear and Grub	7	Acres	\$2,500.00	\$16,250.00
	Erosion Control	7	Acres	\$1,800.00	\$11,700.00
	Erosion Control Matting	101,840	Sq. Ft.	\$0.20	\$20,368.00
	Reseeding	101,840	Sq. Ft.	\$0.04	\$4,073.60
	Road Cuts and Fills	40,000	CY	\$3.75	\$150,000.00
	Guardrail	940	LF	\$25.50	\$23,970.00
				<b>Subtotal</b>	<b>\$1,551,187.80</b>
				Mobilization 6%	\$93,071.27
				Design Engineering 9%	\$139,606.90
				Construction Engineering 9%	\$139,606.90
				<b>Roadway Total</b>	<b>\$1,923,472.87</b>
				<b>Construction Total</b>	<b>\$3,428,342.25</b>

#### Glistening Ridge - Roadway Project Improvements (Lasso Trail)

	Curb and Gutter	13,586	LF	\$12.00	\$163,032.00
	Excavation for C&G	13,586	LF	\$6.50	\$88,309.00
	Road Base installed	271,720	Sq. Ft.	\$0.70	\$190,204.00
	3 - inch Asphalt Bituminous Mix	176,618	Sq. Ft.	\$0.90	\$158,956.20
	Roadside Drainage Channels	0	LF	\$7.50	\$0.00
	4-foot Sidewalk	0	LF	\$12.50	\$0.00
	10-foot Sidewalk	0	LF	\$27.50	\$0.00
	Golf Cart Tunnel	1	Each	\$75,000.00	\$75,000.00
	Street Lights	0	Each	\$3,800.00	\$0.00
	Landscape	1	LS	\$41,000.00	\$41,000.00
	Cut Slope	16,500	Sq. Ft.	\$20.00	\$330,000.00
	Clear and Grub	7	Acres	\$2,500.00	\$16,250.00
	Erosion Control	7	Acres	\$1,800.00	\$11,700.00
	Erosion Control Matting	101,840	Sq. Ft.	\$0.20	\$20,368.00
	Reseeding	101,840	Sq. Ft.	\$0.04	\$4,073.60
	Road Cuts and Fills	40,000	CY	\$3.75	\$150,000.00
	Guardrail	0	LF	\$25.50	\$0.00
				<b>Subtotal</b>	<b>\$1,248,892.80</b>
				Mobilization 6%	\$74,933.57
				Design Engineering 9%	\$112,400.35
				Construction Engineering 9%	\$112,400.35
				<b>Roadway Project Total</b>	<b>\$1,548,627.07</b>

#### Glistening Ridge - Storm Drain Project Improvements (Lasso Trail)

	24 Inch ADS	500	LF	\$32.00	\$16,000.00
	SD Catch Basin	24	LF	\$1,500.00	\$36,000.00
	4 ft. Diameter Storm Drain Manhole	3	LF	\$2,300.00	\$6,900.00
				<b>Subtotal</b>	<b>\$58,900.00</b>
				Mobilization 6%	\$3,534.00
				Design Engineering 9%	\$5,301.00
				Construction Engineering 9%	\$5,301.00
				<b>Storm Drain Project Total</b>	<b>\$73,036.00</b>

**Reflection Ridge**  
**Cost Estimate (2014 dollars)**

**Figure A.3**

No.	Item Description	Bid Quantity	Units	Unit Price	Total Amount
<b>Culinary Water Improvements</b>					
	8 - inch Ductile Iron Water Line Pipe	10,012	LF	\$35.00	\$350,420.00
	8 inch Gate Valve	2	Each	\$1,800.00	\$3,600.00
	Fire Hydrant Assembly	3	Each	\$4,500.00	\$13,500.00
	2 inch Air-Vac Valve	1	Each	\$3,500.00	\$3,500.00
	<b>Subtotal</b>				<b>\$371,020.00</b>
	Mobilization 6%				\$22,261.20
	Design Engineering 9%				\$33,391.80
	Construction Engineering 9%				\$33,391.80
	<b>Water Total</b>				<b>\$460,064.80</b>
<b>Sanitary Sewer Improvements</b>					
	8 inch HDPE Sewer Pipe	7,841	LF	\$29.00	\$227,389.00
	10 inch HDPE Sewer Pipe	1,000	LF	\$33.00	\$33,000.00
	4 ft. Diameter Sewer Manhole	5	Each	\$3,000.00	\$15,000.00
	<b>Subtotal</b>				<b>\$275,389.00</b>
	Mobilization 6%				\$16,523.34
	Design Engineering 9%				\$24,785.01
	Construction Engineering 9%				\$24,785.01
	<b>Sewer Total</b>				<b>\$341,482.36</b>
<b>Storm Drain Improvements</b>					
	18 - inch ADS Pipe	984	LF	\$35.00	\$34,440.00
	24 - inch ADS Pipe		LF	\$38.00	\$0.00
	30 - inch ADS Pipe		LF	\$42.00	\$0.00
	4 ft. Diameter Manholes	4	Each	\$2,500.00	\$10,000.00
	Detention Pond		Each	\$100,000.00	\$0.00
	Catch Basin	10	Each	\$2,500.00	\$25,000.00
	<b>Subtotal</b>				<b>\$69,440.00</b>
	Mobilization 6%				\$4,166.40
	Design Engineering 9%				\$6,249.60
	Construction Engineering 9%				\$6,249.60
	<b>Storm Drain Total</b>				<b>\$86,105.60</b>
<b>Roadway Improvements</b>					
	Curb and Gutter	8,608	LF	\$11.00	\$94,688.00
	Excavation for C&G	8,608	LF	\$1.00	\$8,608.00
	Road Base installed	172,160	Sq. Ft.	\$1.00	\$172,160.00
	3 - inch Asphalt Bituminous Mix	111,904	Sq. Ft.	\$1.20	\$134,284.80
	Clear and Grub	4	Acres	\$2,500.00	\$9,880.62
	Erosion Control	4	Acres	\$1,800.00	\$7,114.05
	Roadway Excavation	6,376	CY	\$8.00	\$51,010.37
	<b>Subtotal</b>				<b>\$477,745.84</b>
	Mobilization 6%				\$28,664.75
	Design Engineering 9%				\$42,997.13
	Construction Engineering 9%				\$42,997.13
	<b>Roadway Total</b>				<b>\$592,404.85</b>
	<b>Construction Total</b>				<b>\$1,480,057.61</b>



**Forevermore**  
**Cost Estimate (2013 dollars)**

**Figure A.4**

No.	Item Description	Bid Quantity	Units	Unit Price	Total Amount
<b>Culinary Water Improvements</b>					
	8 - inch Ductile Iron Water Line Pipe	664	LF	\$32.00	\$21,248.00
	8 inch Gate Valve	1	Each	\$1,500.00	\$1,500.00
	Fire Hydrant Assembly	1	Each	\$3,500.00	\$3,500.00
	2 inch Air-Vac Valve	1	Each	\$3,500.00	\$3,500.00
	<b>Subtotal</b>				<b>\$29,748.00</b>
	Mobilization 6%				\$1,784.88
	Design Engineering 9%				\$2,677.32
	Construction Engineering 9%				\$2,677.32
	<b>Water Total</b>				<b>\$36,887.52</b>
<b>Sanitary Sewer Improvements</b>					
	8 inch HDPE Sewer Pipe	654	LF	\$27.00	\$17,658.00
	4 ft. Diameter Sewer Manhole	3	Each	\$3,000.00	\$9,000.00
	<b>Subtotal</b>				<b>\$26,658.00</b>
	Mobilization 6%				\$1,599.48
	Design Engineering 9%				\$2,399.22
	Construction Engineering 9%				\$2,399.22
	<b>Sewer Total</b>				<b>\$33,055.92</b>
<b>Storm Drain Improvements</b>					
	18 - inch ADS Pipe		LF	\$33.00	\$0.00
	24 - inch ADS Pipe		LF	\$35.00	\$0.00
	30 - inch ADS Pipe		LF	\$40.00	\$0.00
	4 ft. Diameter Manholes		Each	\$2,500.00	\$0.00
	Detention Pond		Each	\$95,000.00	\$0.00
	Catch Basin		Each	\$2,500.00	\$0.00
	<b>Subtotal</b>				<b>\$0.00</b>
	Mobilization 6%				\$0.00
	Design Engineering 9%				\$0.00
	Construction Engineering 9%				\$0.00
	<b>Storm Drain Total</b>				<b>\$0.00</b>
<b>Roadway Improvements</b>					
	Curb and Gutter	1,716	LF	\$11.00	\$18,876.00
	Excavation for C&G	1,716	LF	\$1.00	\$1,716.00
	Road Base installed	34,320	Sq. Ft.	\$1.00	\$34,320.00
	3 - inch Asphalt Bituminous Mix	22,308	Sq. Ft.	\$1.20	\$26,769.60
	Clear and Grub	1	Acres	\$2,500.00	\$1,969.70
	Erosion Control	1	Acres	\$1,800.00	\$1,418.18
	Roadway Excavation	1,271	CY	\$8.00	\$10,168.89
	<b>Subtotal</b>				<b>\$95,238.37</b>
	Mobilization 6%				\$5,714.30
	Design Engineering 9%				\$8,571.45
	Construction Engineering 9%				\$8,571.45
	<b>Roadway Total</b>				<b>\$118,095.58</b>
	<b>Construction Total</b>				<b>\$188,039.02</b>

**Silver Sky**  
**Cost Estimate (2014 dollars)**

**Figure A.5**

No.	Item Description	Bid Quantity	Units	Unit Price	Total Amount
<b>Culinary Water Improvements</b>					
	12 - inch Ductile Iron Water Line Pipe	2,484	LF	\$70.00	\$173,880.00
	8 - inch Ductile Iron Water Line Pipe	600	LF	\$42.00	\$25,200.00
	2" Air-Vac Station	3	Each	\$4,300.00	\$12,900.00
	Fire Hydrant	4	Each	\$5,000.00	\$20,000.00
					<b>\$231,980.00</b>
	Mobilization 6%				\$13,918.80
	Design Engineering 9%				\$20,878.20
	Construction Engineering 9%				\$20,878.20
	<b>Water Total</b>				<b>\$287,655.20</b>
<b>Sanitary Sewer Improvements</b>					
	8 inch HDPE (SDR 35) Sewer Pipe	2,121	LF	\$35.00	\$74,235.00
	4 ft. Diameter Sewer Manhole	8	Each	\$3,300.00	\$26,400.00
	5 ft. Diameter Sewer Manhole	3	Each	\$3,700.00	\$11,100.00
					<b>\$111,735.00</b>
	Mobilization 6%				\$6,704.10
	Design Engineering 9%				\$10,056.15
	Construction Engineering 9%				\$10,056.15
	<b>Sewer Total</b>				<b>\$138,551.40</b>
<b>Storm Drain Improvements</b>					
	15 inch ADS	988	LF	\$27.00	\$26,676.00
	18 inch ADS	158	LF	\$30.00	\$4,740.00
	4 ft. Diameter Drain Manholes	4	Each	\$3,300.00	\$12,900.00
	Catch Basin	19	Each	\$2,500.00	\$47,500.00
					<b>\$91,819.00</b>
	Mobilization 6%				\$5,509.14
	Design Engineering 9%				\$8,263.71
	Construction Engineering 9%				\$8,263.71
	<b>Storm Drain Total</b>				<b>\$113,855.56</b>
<b>Roadway Improvements</b>					
	Curb and Gutter	4,814	LF	\$14.00	\$67,396.00
	Road Base installed	96,280	Sq. Ft.	\$1.00	\$96,280.00
	3 - inch Asphalt Bituminous Mix	62,582	Sq. Ft.	\$1.40	\$87,614.80
	Guardrail	550	LF	\$42.00	\$23,100.00
	Retaining Wall	1,500	SF	\$20.00	\$30,000.00
	Rock Excavation	1	Acre	\$20,000.00	\$20,000.00
	Clearing and Grubbing	2	Acre	\$2,000.00	\$4,420.57
	Roadway Excavation	3,566	CY	\$8.00	\$28,527.41
					<b>\$357,338.78</b>
	Mobilization 6%				\$21,440.33
	Design Engineering 9%				\$32,160.49
	Construction Engineering 9%				\$32,160.49
	<b>Roadway Total</b>				<b>\$443,100.08</b>
	<b>Construction Total</b>				<b>\$983,162.24</b>
<b>Silver Sky - Roadway Project Improvements (Lariat Court and partial Longview Dr)</b>					
	Curb and Gutter	3,400	LF	\$14.00	\$47,600.00
	Road Base installed	68,000	Sq. Ft.	\$1.00	\$68,000.00
	3 - inch Asphalt Bituminous Mix	44,200	Sq. Ft.	\$1.40	\$61,880.00
	Guardrail	0	LF	\$42.00	\$0.00
	Retaining Wall	0	SF	\$20.00	\$0.00
	Rock Excavation	0	Acre	\$20,000.00	\$0.00
	Clearing and Grubbing	2	Acre	\$2,000.00	\$3,122.13
	Roadway Excavation	2,519	CY	\$8.00	\$20,148.15
					<b>\$200,750.28</b>
	Mobilization 6%				\$12,045.02
	Design Engineering 9%				\$18,067.53
	Construction Engineering 9%				\$18,067.53
	<b>Roadway Project Total</b>				<b>\$248,930.35</b>
<b>Silver Sky - Storm Drain Project Improvements (Lariat Court and partial Longview Dr)</b>					
	15 Inch ADS	988	Sq. Ft.	\$43.00	\$42,484.00
	18 Inch ADS	158	Sq. Ft.	\$47.00	\$7,426.00
	SD Catch Basin	11	Sq. Ft.	\$2,500.00	\$27,500.00
	4 ft. Diameter Storm Drain Manhole	0	Sq. Ft.	\$3,300.00	\$0.00
					<b>\$77,410.00</b>
	Mobilization 6%				\$4,644.60
	Design Engineering 9%				\$6,966.90
	Construction Engineering 9%				\$6,966.90
	<b>Storm Drain Project Total</b>				<b>\$95,988.40</b>

**Rustler**  
**Cost Estimate (2010 dollars)**

**Figure A.6**

No.	Item Description	Bid Quantity	Units	Unit Price	Total Amount
<b>Culinary Water Improvements</b>					
	8 - inch Ductile Iron Water Line Pipe	4,449	LF	\$31.00	\$137,919.00
	12 - inch Ductile Iron Water Line Pipe	290	LF	\$40.00	\$11,600.00
	Fire Hydrant Assembly	4	Each	\$3,500.00	\$14,000.00
	<b>Subtotal</b>				<b>\$163,519.00</b>
	Mobilization 6%				\$9,811.14
	Design Engineering 9%				\$14,716.71
	Construction Engineering 9%				\$14,716.71
	<b>Water Total</b>				<b>\$202,763.56</b>
<b>Sanitary Sewer Improvements</b>					
	8 inch HDPE Sewer Pipe	4,625	LF	\$29.00	\$134,125.00
	4 ft. Diameter Sewer Manhole	8	Each	\$2,700.00	\$20,812.50
	<b>Subtotal</b>				<b>\$154,937.50</b>
	Mobilization 6%				\$9,296.25
	Design Engineering 9%				\$13,944.38
	Construction Engineering 9%				\$13,944.38
	<b>Sewer Total</b>				<b>\$192,122.50</b>
<b>Storm Drain Improvements</b>					
	15 - inch ADS Pipe	878	LF	\$27.00	\$23,706.00
	18 - inch ADS Pipe	441	LF	\$32.00	\$14,112.00
	4 ft. Diameter Manholes	4	Each	\$2,500.00	\$10,495.83
	Catch Basin	8	Each	\$1,700.00	\$14,274.33
	<b>Subtotal</b>				<b>\$62,588.17</b>
	Mobilization 6%				\$3,755.29
	Design Engineering 9%				\$5,632.94
	Construction Engineering 9%				\$5,632.94
	<b>Storm Drain Total</b>				<b>\$77,609.33</b>
<b>Roadway Improvements</b>					
	Curb and Gutter	11,394	LF	\$13.00	\$148,122.00
	Excavation for C&G	11,394	LF	\$7.00	\$79,758.00
	Road Base installed	227,880	Sq. Ft.	\$0.80	\$182,304.00
	3 - inch Asphalt Bituminous Mix	148,122	Sq. Ft.	\$1.00	\$148,122.00
	Clear and Grub	5	Acres	\$2,500.00	\$13,078.51
	Erosion Control	5	Acres	\$1,800.00	\$9,416.53
	Roadway Excavation	8,440	CY	\$8.50	\$71,740.00
	<b>Subtotal</b>				<b>\$652,541.04</b>
	Mobilization 6%				\$39,152.46
	Design Engineering 9%				\$58,728.69
	Construction Engineering 9%				\$58,728.69
	<b>Roadway Total</b>				<b>\$809,150.89</b>
	<b>Construction Total</b>				<b>\$1,281,646.28</b>

**Soaring Hawk System Improvements**  
**Cost Estimate (2014 dollars)**

**Figure A.7**

No.	Item Description	Bid Quantity	Units	Unit Price	Total Amount
<b>Culinary Water Improvements</b>					
	8 - inch Ductile Iron Water Line Pipe	7,893	LF	\$32.00	\$252,576.00
	8 inch Gate Valves	8	Each	\$1,800.00	\$14,400.00
	Meter Stations	1	Each	\$50,000.00	\$50,000.00
					<b>\$316,976.00</b>
				Mobilization 6%	\$19,018.56
				Design Engineering 9%	\$28,527.84
				Construction Engineering 9%	\$28,527.84
				<b>Water Total</b>	<b>\$393,050.24</b>
<b>Sanitary Sewer Improvements</b>					
	8 inch HDPE (SDR 35) Sewer Pipe	8,673	LF	\$34.00	\$294,882.00
	4 ft. Diameter Sewer Manhole	40	Each	\$2,800.00	\$112,000.00
	5 ft. Diameter Sewer Manhole	8	Each	\$3,100.00	\$24,800.00
					<b>\$431,682.00</b>
				Mobilization 6%	\$25,900.92
				Design Engineering 9%	\$38,851.38
				Construction Engineering 9%	\$38,851.38
				<b>Sewer Total</b>	<b>\$535,285.68</b>
<b>Storm Drain Improvements</b>					
	15 inch ADS	1,400	LF	\$36.00	\$50,400.00
	18 inch ADS		LF	\$41.00	\$0.00
	30 inch ADS	200	LF	\$64.00	\$12,800.00
	36 inch ADS	300	LF	\$83.00	\$24,900.00
	6 ft. Diameter Manholes	2	Each	\$4,000.00	\$8,000.00
	Catch Basin	25	Each	\$2,500.00	\$62,500.00
					<b>\$158,600.00</b>
				Mobilization 6%	\$9,516.00
				Design Engineering 9%	\$14,274.00
				Construction Engineering 9%	\$14,274.00
				<b>Storm Drain Total</b>	<b>\$196,664.00</b>
<b>Roadway Improvements</b>					
	Curb and Gutter	21,522	LF	\$11.00	\$236,742.00
	Road Base installed	430,440	Sq. Ft.	\$0.80	\$344,352.00
	3 - inch Asphalt Bituminous Mix	279,786	Sq. Ft.	\$1.20	\$335,743.20
	Landscaping	1	LS	\$190,000.00	\$190,000.00
	Retaining Wall	3,000	SF	\$15.00	\$45,000.00
	Clearing and Grubbing	9	Acre	\$2,000.00	\$17,000.00
	UDOT Accel Lane	1	LS	\$575,000.00	\$575,000.00
	Roadway Excavation	155,000	CY	\$5.00	\$775,000.00
					<b>\$2,518,837.20</b>
				Mobilization 6%	\$151,130.23
				Design Engineering 9%	\$226,695.35
				Construction Engineering 9%	\$226,695.35
				<b>Roadway Total</b>	<b>\$3,123,358.13</b>
				<b>Construction Total</b>	<b>\$4,248,358.05</b>

Appendix “B”

**Applicable State Codes**

## **Chapter 36a Impact Fees Act**

### **Part 1 General Provisions**

#### **11-36a-101 Title.**

This chapter is known as the "Impact Fees Act."

Enacted by Chapter 47, 2011 General Session

#### **11-36a-102 Definitions.**

As used in this chapter:

- (1)
  - (a) "Affected entity" means each county, municipality, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Chapter 13, Interlocal Cooperation Act, and specified public utility:
    - (i) whose services or facilities are likely to require expansion or significant modification because of the facilities proposed in the proposed impact fee facilities plan; or
    - (ii) that has filed with the local political subdivision or private entity a copy of the general or long-range plan of the county, municipality, local district, special service district, school district, interlocal cooperation entity, or specified public utility.
  - (b) "Affected entity" does not include the local political subdivision or private entity that is required under Section 11-36a-501 to provide notice.
- (2) "Charter school" includes:
  - (a) an operating charter school;
  - (b) an applicant for a charter school whose application has been approved by a charter school authorizer as provided in Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; and
  - (c) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.
- (3) "Development activity" means any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any changes in the use of land that creates additional demand and need for public facilities.
- (4) "Development approval" means:
  - (a) except as provided in Subsection (4)(b), any written authorization from a local political subdivision that authorizes the commencement of development activity;
  - (b) development activity, for a public entity that may develop without written authorization from a local political subdivision;
  - (c) a written authorization from a public water supplier, as defined in Section 73-1-4, or a private water company:
    - (i) to reserve or provide:
      - (A) a water right;
      - (B) a system capacity; or
      - (C) a distribution facility; or
    - (ii) to deliver for a development activity:
      - (A) culinary water; or



- (B) irrigation water; or
- (d) a written authorization from a sanitary sewer authority, as defined in Section 10-9a-103:
  - (i) to reserve or provide:
    - (A) sewer collection capacity; or
    - (B) treatment capacity; or
  - (ii) to provide sewer service for a development activity.
- (5) "Enactment" means:
  - (a) a municipal ordinance, for a municipality;
  - (b) a county ordinance, for a county; and
  - (c) a governing board resolution, for a local district, special service district, or private entity.
- (6) "Encumber" means:
  - (a) a pledge to retire a debt; or
  - (b) an allocation to a current purchase order or contract.
- (7) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a gas, water, sewer, storm water, power, or other utility system of a municipality, county, local district, special service district, or private entity.
- (8)
  - (a) "Impact fee" means a payment of money imposed upon new development activity as a condition of development approval to mitigate the impact of the new development on public infrastructure.
  - (b) "Impact fee" does not mean a tax, a special assessment, a building permit fee, a hookup fee, a fee for project improvements, or other reasonable permit or application fee.
- (9) "Impact fee analysis" means the written analysis of each impact fee required by Section 11-36a-303.
- (10) "Impact fee facilities plan" means the plan required by Section 11-36a-301.
- (11) "Level of service" means the defined performance standard or unit of demand for each capital component of a public facility within a service area.
- (12)
  - (a) "Local political subdivision" means a county, a municipality, a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.
  - (b) "Local political subdivision" does not mean a school district, whose impact fee activity is governed by Section 53A-20-100.5.
- (13) "Private entity" means an entity in private ownership with at least 100 individual shareholders, customers, or connections, that is located in a first, second, third, or fourth class county and provides water to an applicant for development approval who is required to obtain water from the private entity either as a:
  - (a) specific condition of development approval by a local political subdivision acting pursuant to a prior agreement, whether written or unwritten, with the private entity; or
  - (b) functional condition of development approval because the private entity:
    - (i) has no reasonably equivalent competition in the immediate market; and
    - (ii) is the only realistic source of water for the applicant's development.
- (14)
  - (a) "Project improvements" means site improvements and facilities that are:
    - (i) planned and designed to provide service for development resulting from a development activity;
    - (ii) necessary for the use and convenience of the occupants or users of development resulting from a development activity; and

- (iii) not identified or reimbursed as a system improvement.
- (b) "Project improvements" does not mean system improvements.
- (15) "Proportionate share" means the cost of public facility improvements that are roughly proportionate and reasonably related to the service demands and needs of any development activity.
- (16) "Public facilities" means only the following impact fee facilities that have a life expectancy of 10 or more years and are owned or operated by or on behalf of a local political subdivision or private entity:
  - (a) water rights and water supply, treatment, storage, and distribution facilities;
  - (b) wastewater collection and treatment facilities;
  - (c) storm water, drainage, and flood control facilities;
  - (d) municipal power facilities;
  - (e) roadway facilities;
  - (f) parks, recreation facilities, open space, and trails;
  - (g) public safety facilities; or
  - (h) environmental mitigation as provided in Section 11-36a-205.
- (17)
  - (a) "Public safety facility" means:
    - (i) a building constructed or leased to house police, fire, or other public safety entities; or
    - (ii) a fire suppression vehicle costing in excess of \$500,000.
  - (b) "Public safety facility" does not mean a jail, prison, or other place of involuntary incarceration.
- (18)
  - (a) "Roadway facilities" means a street or road that has been designated on an officially adopted subdivision plat, roadway plan, or general plan of a political subdivision, together with all necessary appurtenances.
  - (b) "Roadway facilities" includes associated improvements to a federal or state roadway only when the associated improvements:
    - (i) are necessitated by the new development; and
    - (ii) are not funded by the state or federal government.
  - (c) "Roadway facilities" does not mean federal or state roadways.
- (19)
  - (a) "Service area" means a geographic area designated by an entity that imposes an impact fee on the basis of sound planning or engineering principles in which a public facility, or a defined set of public facilities, provides service within the area.
  - (b) "Service area" may include the entire local political subdivision or an entire area served by a private entity.
- (20) "Specified public agency" means:
  - (a) the state;
  - (b) a school district; or
  - (c) a charter school.
- (21)
  - (a) "System improvements" means:
    - (i) existing public facilities that are:
      - (A) identified in the impact fee analysis under Section 11-36a-304; and
      - (B) designed to provide services to service areas within the community at large; and
    - (ii) future public facilities identified in the impact fee analysis under Section 11-36a-304 that are intended to provide services to service areas within the community at large.
  - (b) "System improvements" does not mean project improvements.

Amended by Chapter 363, 2014 General Session

## **Part 2**

### **Impact Fees**

#### **11-36a-201 Impact fees.**

- (1) A local political subdivision or private entity shall ensure that any imposed impact fees comply with the requirements of this chapter.
- (2) A local political subdivision and private entity may establish impact fees only for those public facilities defined in Section 11-36a-102.
- (3) Nothing in this chapter may be construed to repeal or otherwise eliminate an impact fee in effect on the effective date of this chapter that is pledged as a source of revenues to pay bonded indebtedness that was incurred before the effective date of this chapter.

Enacted by Chapter 47, 2011 General Session

#### **11-36a-202 Prohibitions on impact fees.**

- (1) A local political subdivision or private entity may not:
  - (a) impose an impact fee to:
    - (i) cure deficiencies in a public facility serving existing development;
    - (ii) raise the established level of service of a public facility serving existing development;
    - (iii) recoup more than the local political subdivision's or private entity's costs actually incurred for excess capacity in an existing system improvement; or
    - (iv) include an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with:
      - (A) generally accepted cost accounting practices; and
      - (B) the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement;
  - (b) delay the construction of a school or charter school because of a dispute with the school or charter school over impact fees; or
  - (c) impose or charge any other fees as a condition of development approval unless those fees are a reasonable charge for the service provided.
- (2)
  - (a) Notwithstanding any other provision of this chapter, a political subdivision or private entity may not impose an impact fee:
    - (i) on residential components of development to pay for a public safety facility that is a fire suppression vehicle;
    - (ii) on a school district or charter school for a park, recreation facility, open space, or trail;
    - (iii) on a school district or charter school unless:
      - (A) the development resulting from the school district's or charter school's development activity directly results in a need for additional system improvements for which the impact fee is imposed; and
      - (B) the impact fee is calculated to cover only the school district's or charter school's proportionate share of the cost of those additional system improvements;

- (iv) to the extent that the impact fee includes a component for a law enforcement facility, on development activity for:
    - (A) the Utah National Guard;
    - (B) the Utah Highway Patrol; or
    - (C) a state institution of higher education that has its own police force; or
  - (v) on development activity on the state fair park, as defined in Section 63H-6-102.
- (b)
- (i) Notwithstanding any other provision of this chapter, a political subdivision or private entity may not impose an impact fee on development activity that consists of the construction of a school, whether by a school district or a charter school, if:
    - (A) the school is intended to replace another school, whether on the same or a different parcel;
    - (B) the new school creates no greater demand or need for public facilities than the school or school facilities, including any portable or modular classrooms that are on the site of the replaced school at the time that the new school is proposed; and
    - (C) the new school and the school being replaced are both within the boundary of the local political subdivision or the jurisdiction of the private entity.
  - (ii) If the imposition of an impact fee on a new school is not prohibited under Subsection (2)(b)
    - (i) because the new school creates a greater demand or need for public facilities than the school being replaced, the impact fee shall be based only on the demand or need that the new school creates for public facilities that exceeds the demand or need that the school being replaced creates for those public facilities.
  - (c) Notwithstanding any other provision of this chapter, a political subdivision or private entity may impose an impact fee for a road facility on the state only if and to the extent that:
    - (i) the state's development causes an impact on the road facility; and
    - (ii) the portion of the road facility related to an impact fee is not funded by the state or by the federal government.
- (3) Notwithstanding any other provision of this chapter, a local political subdivision may impose and collect impact fees on behalf of a school district if authorized by Section 53A-20-100.5.

Amended by Chapter 2, 2016 Special Session 3

**11-36a-203 Private entity assessment of impact fees -- Charges for water rights, physical infrastructure -- Notice -- Audit.**

- (1) A private entity:
  - (a) shall comply with the requirements of this chapter before imposing an impact fee; and
  - (b) except as otherwise specified in this chapter, is subject to the same requirements of this chapter as a local political subdivision.
- (2) A private entity may only impose a charge for water rights or physical infrastructure necessary to provide water or sewer facilities by imposing an impact fee.
- (3) Where notice and hearing requirements are specified, a private entity shall comply with the notice and hearing requirements for local districts.
- (4) A private entity that assesses an impact fee under this chapter is subject to the audit requirements of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

Enacted by Chapter 47, 2011 General Session

**11-36a-204 Other names for impact fees.**

- (1) A fee that meets the definition of impact fee under Section 11-36a-102 is an impact fee subject to this chapter, regardless of what term the local political subdivision or private entity uses to refer to the fee.
- (2) A local political subdivision or private entity may not avoid application of this chapter to a fee that meets the definition of an impact fee under Section 11-36a-102 by referring to the fee by another name.

Enacted by Chapter 47, 2011 General Session

**11-36a-205 Environmental mitigation impact fees.**

Notwithstanding the requirements and prohibitions of this chapter, a local political subdivision may impose and assess an impact fee for environmental mitigation when:

- (1) the local political subdivision has formally agreed to fund a Habitat Conservation Plan to resolve conflicts with the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531, et seq. or other state or federal environmental law or regulation;
- (2) the impact fee bears a reasonable relationship to the environmental mitigation required by the Habitat Conservation Plan; and
- (3) the legislative body of the local political subdivision adopts an ordinance or resolution:
  - (a) declaring that an impact fee is required to finance the Habitat Conservation Plan;
  - (b) establishing periodic sunset dates for the impact fee; and
  - (c) requiring the legislative body to:
    - (i) review the impact fee on those sunset dates;
    - (ii) determine whether or not the impact fee is still required to finance the Habitat Conservation Plan; and
    - (iii) affirmatively reauthorize the impact fee if the legislative body finds that the impact fee must remain in effect.

Enacted by Chapter 47, 2011 General Session

**11-36a-206 Prohibition of school impact fees.**

- (1) As used in this section, "school impact fee" means a charge on new development in order to generate revenue for funding or recouping the costs of capital improvements for schools or school facility expansions necessitated by and attributable to the new development.
- (2) Beginning March 21, 1995, there is a moratorium prohibiting a county, city, town, local school board, or any other political subdivision from imposing or collecting a school impact fee unless hereafter authorized by the Legislature by statute.
- (3) Collection of any fees authorized before March 21, 1995, by any ordinance, resolution or rule of any county, city, town, local school board, or other political subdivision shall terminate on May 1, 1996, unless hereafter authorized by the Legislature by statute.

**Part 3**  
**Establishing an Impact Fee**

**11-36a-301 Impact fee facilities plan.**



- (1) Before imposing an impact fee, each local political subdivision or private entity shall, except as provided in Subsection (3), prepare an impact fee facilities plan to determine the public facilities required to serve development resulting from new development activity.
- (2) A municipality or county need not prepare a separate impact fee facilities plan if the general plan required by Section 10-9a-401 or 17-27a-401, respectively, contains the elements required by Section 11-36a-302.
- (3) A local political subdivision or a private entity with a population, or serving a population, of less than 5,000 as of the last federal census that charges impact fees of less than \$250,000 annually need not comply with the impact fee facilities plan requirements of this part, but shall ensure that:
  - (a) the impact fees that the local political subdivision or private entity imposes are based upon a reasonable plan that otherwise complies with the common law and this chapter; and
  - (b) each applicable notice required by this chapter is given.

Amended by Chapter 200, 2013 General Session

**11-36a-302 Impact fee facilities plan requirements -- Limitations -- School district or charter school.**

- (1)
  - (a) An impact fee facilities plan shall:
    - (i) identify the existing level of service;
    - (ii) subject to Subsection (1)(c), establish a proposed level of service;
    - (iii) identify any excess capacity to accommodate future growth at the proposed level of service;
    - (iv) identify demands placed upon existing public facilities by new development activity at the proposed level of service; and
    - (v) identify the means by which the political subdivision or private entity will meet those growth demands.
  - (b) A proposed level of service may diminish or equal the existing level of service.
  - (c) A proposed level of service may:
    - (i) exceed the existing level of service if, independent of the use of impact fees, the political subdivision or private entity provides, implements, and maintains the means to increase the existing level of service for existing demand within six years of the date on which new growth is charged for the proposed level of service; or
    - (ii) establish a new public facility if, independent of the use of impact fees, the political subdivision or private entity provides, implements, and maintains the means to increase the existing level of service for existing demand within six years of the date on which new growth is charged for the proposed level of service.
- (2) In preparing an impact fee facilities plan, each local political subdivision shall generally consider all revenue sources to finance the impacts on system improvements, including:
  - (a) grants;
  - (b) bonds;
  - (c) interfund loans;
  - (d) impact fees; and
  - (e) anticipated or accepted dedications of system improvements.
- (3) A local political subdivision or private entity may only impose impact fees on development activities when the local political subdivision's or private entity's plan for financing system improvements establishes that impact fees are necessary to maintain a proposed level of service that complies with Subsection (1)(b) or (c).

- (4)
- (a) Subject to Subsection (4)(c), the impact fee facilities plan shall include a public facility for which an impact fee may be charged or required for a school district or charter school if the local political subdivision is aware of the planned location of the school district facility or charter school:
    - (i) through the planning process; or
    - (ii) after receiving a written request from a school district or charter school that the public facility be included in the impact fee facilities plan.
  - (b) If necessary, a local political subdivision or private entity shall amend the impact fee facilities plan to reflect a public facility described in Subsection (4)(a).
  - (c)
    - (i) In accordance with Subsections 10-9a-305(3) and 17-27a-305(3), a local political subdivision may not require a school district or charter school to participate in the cost of any roadway or sidewalk.
    - (ii) Notwithstanding Subsection (4)(c)(i), if a school district or charter school agrees to build a roadway or sidewalk, the roadway or sidewalk shall be included in the impact fee facilities plan if the local jurisdiction has an impact fee facilities plan for roads and sidewalks.

Amended by Chapter 200, 2013 General Session

**11-36a-303 Impact fee analysis.**

- (1) Subject to the notice requirements of Section 11-36a-504, each local political subdivision or private entity intending to impose an impact fee shall prepare a written analysis of each impact fee.
- (2) Each local political subdivision or private entity that prepares an impact fee analysis under Subsection (1) shall also prepare a summary of the impact fee analysis designed to be understood by a lay person.

Enacted by Chapter 47, 2011 General Session

**11-36a-304 Impact fee analysis requirements.**

- (1) An impact fee analysis shall:
  - (a) identify the anticipated impact on or consumption of any existing capacity of a public facility by the anticipated development activity;
  - (b) identify the anticipated impact on system improvements required by the anticipated development activity to maintain the established level of service for each public facility;
  - (c) subject to Subsection (2), demonstrate how the anticipated impacts described in Subsections (1)(a) and (b) are reasonably related to the anticipated development activity;
  - (d) estimate the proportionate share of:
    - (i) the costs for existing capacity that will be recouped; and
    - (ii) the costs of impacts on system improvements that are reasonably related to the new development activity; and
  - (e) based on the requirements of this chapter, identify how the impact fee was calculated.
- (2) In analyzing whether or not the proportionate share of the costs of public facilities are reasonably related to the new development activity, the local political subdivision or private entity, as the case may be, shall identify, if applicable:
  - (a) the cost of each existing public facility that has excess capacity to serve the anticipated development resulting from the new development activity;

- (b) the cost of system improvements for each public facility;
- (c) other than impact fees, the manner of financing for each public facility, such as user charges, special assessments, bonded indebtedness, general taxes, or federal grants;
- (d) the relative extent to which development activity will contribute to financing the excess capacity of and system improvements for each existing public facility, by such means as user charges, special assessments, or payment from the proceeds of general taxes;
- (e) the relative extent to which development activity will contribute to the cost of existing public facilities and system improvements in the future;
- (f) the extent to which the development activity is entitled to a credit against impact fees because the development activity will dedicate system improvements or public facilities that will offset the demand for system improvements, inside or outside the proposed development;
- (g) extraordinary costs, if any, in servicing the newly developed properties; and
- (h) the time-price differential inherent in fair comparisons of amounts paid at different times.

Enacted by Chapter 47, 2011 General Session

**11-36a-305 Calculating impact fees.**

- (1) In calculating an impact fee, a local political subdivision or private entity may include:
  - (a) the construction contract price;
  - (b) the cost of acquiring land, improvements, materials, and fixtures;
  - (c) the cost for planning, surveying, and engineering fees for services provided for and directly related to the construction of the system improvements; and
  - (d) for a political subdivision, debt service charges, if the political subdivision might use impact fees as a revenue stream to pay the principal and interest on bonds, notes, or other obligations issued to finance the costs of the system improvements.
- (2) In calculating an impact fee, each local political subdivision or private entity shall base amounts calculated under Subsection (1) on realistic estimates, and the assumptions underlying those estimates shall be disclosed in the impact fee analysis.

Enacted by Chapter 47, 2011 General Session

**11-36a-306 Certification of impact fee analysis.**

- (1) An impact fee facilities plan shall include a written certification from the person or entity that prepares the impact fee facilities plan that states the following: "I certify that the attached impact fee facilities plan:
  - 1. includes only the costs of public facilities that are:
    - a. allowed under the Impact Fees Act; and
    - b. actually incurred; or
    - c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;
  - 2. does not include:
    - a. costs of operation and maintenance of public facilities;
    - b. costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents; or
    - c. an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with generally accepted cost accounting practices and the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement; and

3. complies in each and every relevant respect with the Impact Fees Act."
- (2) An impact fee analysis shall include a written certification from the person or entity that prepares the impact fee analysis which states as follows: "I certify that the attached impact fee analysis:
  1. includes only the costs of public facilities that are:
    - a. allowed under the Impact Fees Act; and
    - b. actually incurred; or
    - c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;
  2. does not include:
    - a. costs of operation and maintenance of public facilities;
    - b. costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents; or
    - c. an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with generally accepted cost accounting practices and the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement;
  3. offsets costs with grants or other alternate sources of payment; and
  4. complies in each and every relevant respect with the Impact Fees Act."

Amended by Chapter 278, 2013 General Session

## **Part 4**

### **Enactment of Impact Fees**

#### **11-36a-401 Impact fee enactment.**

- (1)
  - (a) A local political subdivision or private entity wishing to impose impact fees shall pass an impact fee enactment in accordance with Section 11-36a-402.
  - (b) An impact fee imposed by an impact fee enactment may not exceed the highest fee justified by the impact fee analysis.
- (2) An impact fee enactment may not take effect until 90 days after the day on which the impact fee enactment is approved.

Enacted by Chapter 47, 2011 General Session

#### **11-36a-402 Required provisions of impact fee enactment.**

- (1) A local political subdivision or private entity shall ensure, in addition to the requirements described in Subsections (2) and (3), that an impact fee enactment contains:
  - (a) a provision establishing one or more service areas within which the local political subdivision or private entity calculates and imposes impact fees for various land use categories;
  - (b)
    - (i) a schedule of impact fees for each type of development activity that specifies the amount of the impact fee to be imposed for each type of system improvement; or
    - (ii) the formula that the local political subdivision or private entity, as the case may be, will use to calculate each impact fee;

- (c) a provision authorizing the local political subdivision or private entity, as the case may be, to adjust the standard impact fee at the time the fee is charged to:
    - (i) respond to:
      - (A) unusual circumstances in specific cases; or
      - (B) a request for a prompt and individualized impact fee review for the development activity of the state, a school district, or a charter school and an offset or credit for a public facility for which an impact fee has been or will be collected; and
    - (ii) ensure that the impact fees are imposed fairly; and
  - (d) a provision governing calculation of the amount of the impact fee to be imposed on a particular development that permits adjustment of the amount of the impact fee based upon studies and data submitted by the developer.
- (2) A local political subdivision or private entity shall ensure that an impact fee enactment allows a developer, including a school district or a charter school, to receive a credit against or proportionate reimbursement of an impact fee if the developer:
- (a) dedicates land for a system improvement;
  - (b) builds and dedicates some or all of a system improvement; or
  - (c) dedicates a public facility that the local political subdivision or private entity and the developer agree will reduce the need for a system improvement.
- (3) A local political subdivision or private entity shall include a provision in an impact fee enactment that requires a credit against impact fees for any dedication of land for, improvement to, or new construction of, any system improvements provided by the developer if the facilities:
- (a) are system improvements; or
  - (b)
    - (i) are dedicated to the public; and
    - (ii) offset the need for an identified system improvement.

Enacted by Chapter 47, 2011 General Session

**11-36a-403 Other provisions of impact fee enactment.**

- (1) A local political subdivision or private entity may include a provision in an impact fee enactment that:
- (a) provides an impact fee exemption for:
    - (i) development activity attributable to:
      - (A) low income housing;
      - (B) the state;
      - (C) subject to Subsection (2), a school district; or
      - (D) subject to Subsection (2), a charter school; or
    - (ii) other development activity with a broad public purpose; and
  - (b) except for an exemption under Subsection (1)(a)(i)(A), establishes one or more sources of funds other than impact fees to pay for that development activity.
- (2) An impact fee enactment that provides an impact fee exemption for development activity attributable to a school district or charter school shall allow either a school district or a charter school to qualify for the exemption on the same basis.
- (3) An impact fee enactment that repeals or suspends the collection of impact fees is exempt from the notice requirements of Section 11-36a-504.

Enacted by Chapter 47, 2011 General Session



## **Part 5 Notice**

### **11-36a-501 Notice of intent to prepare an impact fee facilities plan.**

- (1) Before preparing or amending an impact fee facilities plan, a local political subdivision or private entity shall provide written notice of its intent to prepare or amend an impact fee facilities plan.
- (2) A notice required under Subsection (1) shall:
  - (a) indicate that the local political subdivision or private entity intends to prepare or amend an impact fee facilities plan;
  - (b) describe or provide a map of the geographic area where the proposed impact fee facilities will be located; and
  - (c) subject to Subsection (3), be posted on the Utah Public Notice Website created under Section 63F-1-701.
- (3) For a private entity required to post notice on the Utah Public Notice Website under Subsection (2)(c):
  - (a) the private entity shall give notice to the general purpose local government in which the private entity's private business office is located; and
  - (b) the general purpose local government described in Subsection (3)(a) shall post the notice on the Utah Public Notice Website.

Enacted by Chapter 47, 2011 General Session

### **11-36a-502 Notice to adopt or amend an impact fee facilities plan.**

- (1) If a local political subdivision chooses to prepare an independent impact fee facilities plan rather than include an impact fee facilities element in the general plan in accordance with Section 11-36a-301, the local political subdivision shall, before adopting or amending the impact fee facilities plan:
  - (a) give public notice, in accordance with Subsection (2), of the plan or amendment at least 10 days before the day on which the public hearing described in Subsection (1)(d) is scheduled;
  - (b) make a copy of the plan or amendment, together with a summary designed to be understood by a lay person, available to the public;
  - (c) place a copy of the plan or amendment and summary in each public library within the local political subdivision; and
  - (d) hold a public hearing to hear public comment on the plan or amendment.
- (2) With respect to the public notice required under Subsection (1)(a):
  - (a) each municipality shall comply with the notice and hearing requirements of, and, except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Sections 10-9a-205 and 10-9a-801 and Subsection 10-9a-502(2);
  - (b) each county shall comply with the notice and hearing requirements of, and, except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Sections 17-27a-205 and 17-27a-801 and Subsection 17-27a-502(2); and
  - (c) each local district, special service district, and private entity shall comply with the notice and hearing requirements of, and receive the protections of, Section 17B-1-111.
- (3) Nothing contained in this section or Section 11-36a-503 may be construed to require involvement by a planning commission in the impact fee facilities planning process.

Enacted by Chapter 47, 2011 General Session

**11-36a-503 Notice of preparation of an impact fee analysis.**

- (1) Before preparing or contracting to prepare an impact fee analysis, each local political subdivision or, subject to Subsection (2), private entity shall post a public notice on the Utah Public Notice Website created under Section 63F-1-701.
- (2) For a private entity required to post notice on the Utah Public Notice Website under Subsection (1):
  - (a) the private entity shall give notice to the general purpose local government in which the private entity's primary business is located; and
  - (b) the general purpose local government described in Subsection (2)(a) shall post the notice on the Utah Public Notice Website.

Enacted by Chapter 47, 2011 General Session

**11-36a-504 Notice of intent to adopt impact fee enactment -- Hearing -- Protections.**

- (1) Before adopting an impact fee enactment:
  - (a) a municipality legislative body shall:
    - (i) comply with the notice requirements of Section 10-9a-205 as if the impact fee enactment were a land use regulation;
    - (ii) hold a hearing in accordance with Section 10-9a-502 as if the impact fee enactment were a land use regulation; and
    - (iii) except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Section 10-9a-801 as if the impact fee were a land use regulation;
  - (b) a county legislative body shall:
    - (i) comply with the notice requirements of Section 17-27a-205 as if the impact fee enactment were a land use regulation;
    - (ii) hold a hearing in accordance with Section 17-27a-502 as if the impact fee enactment were a land use regulation; and
    - (iii) except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Section 17-27a-801 as if the impact fee were a land use regulation;
  - (c) a local district or special service district shall:
    - (i) comply with the notice and hearing requirements of Section 17B-1-111; and
    - (ii) receive the protections of Section 17B-1-111;
  - (d) a local political subdivision shall at least 10 days before the day on which a public hearing is scheduled in accordance with this section:
    - (i) make a copy of the impact fee enactment available to the public; and
    - (ii) post notice of the local political subdivision's intent to enact or modify the impact fee, specifying the type of impact fee being enacted or modified, on the Utah Public Notice Website created under Section 63F-1-701; and
  - (e) a local political subdivision shall submit a copy of the impact fee analysis and a copy of the summary of the impact fee analysis prepared in accordance with Section 11-36a-303 on its website or to each public library within the local political subdivision.
- (2) Subsection (1)(a) or (b) may not be construed to require involvement by a planning commission in the impact fee enactment process.

Amended by Chapter 84, 2017 General Session

## **Part 6**

### **Impact Fee Proceeds**

#### **11-36a-601 Accounting of impact fees.**

A local political subdivision that collects an impact fee shall:

- (1) establish a separate interest bearing ledger account for each type of public facility for which an impact fee is collected;
- (2) deposit a receipt for an impact fee in the appropriate ledger account established under Subsection (1);
- (3) retain the interest earned on each fund or ledger account in the fund or ledger account;
- (4) at the end of each fiscal year, prepare a report that:
  - (a) for each fund or ledger account, shows:
    - (i) the source and amount of all money collected, earned, and received by the fund or ledger account during the fiscal year; and
    - (ii) each expenditure from the fund or ledger account;
  - (b) accounts for all impact fee funds that the local political subdivision has on hand at the end of the fiscal year;
  - (c) identifies the impact fee funds described in Subsection (4)(b) by:
    - (i) the year in which the impact fee funds were received;
    - (ii) the project from which the impact fee funds were collected;
    - (iii) the project for which the impact fee funds are budgeted; and
    - (iv) the projected schedule for expenditure; and
  - (d) is:
    - (i) in a format developed by the state auditor;
    - (ii) certified by the local political subdivision's chief financial officer; and
    - (iii) transmitted to the state auditor within 180 days after the day on which the fiscal year ends.

Amended by Chapter 394, 2017 General Session

#### **11-36a-602 Expenditure of impact fees.**

- (1) A local political subdivision may expend impact fees only for a system improvement:
  - (a) identified in the impact fee facilities plan; and
  - (b) for the specific public facility type for which the fee was collected.
- (2)
  - (a) Except as provided in Subsection (2)(b), a local political subdivision shall expend or encumber an impact fee collected with respect to a lot:
    - (i) for a permissible use; and
    - (ii) within six years after the impact fee with respect to that lot is collected.
  - (b) A local political subdivision may hold the fees for longer than six years if it identifies, in writing:
    - (i) an extraordinary and compelling reason why the fees should be held longer than six years; and
    - (ii) an absolute date by which the fees will be expended.

Amended by Chapter 190, 2017 General Session

#### **11-36a-603 Refunds.**

- (1) A local political subdivision shall refund any impact fee paid by a developer, plus interest earned, when:
  - (a) the developer does not proceed with the development activity and has filed a written request for a refund;
  - (b) the fee has not been spent or encumbered; and
  - (c) no impact has resulted.
- (2)
  - (a) As used in this Subsection (2):
    - (i) "Affected lot" means the lot or parcel with respect to which a local political subdivision collected an impact fee that is subject to a refund under this Subsection (2).
    - (ii) "Claimant" means:
      - (A) the original owner; or
      - (B) another person who, under Subsection (2)(d), submits a timely notice of the person's valid legal claim to an impact fee refund.
    - (iii) "Original owner" means the record owner of an affected lot at the time the local political subdivision collected the impact fee.
    - (iv) "Unclaimed refund" means an impact fee that:
      - (A) is subject to refund under this Subsection (2); and
      - (B) the local political subdivision has not refunded after application of Subsections (2)(b) and (c).
  - (b) If an impact fee is not spent or encumbered within the time specified in Subsection 11-36a-602(2), the local political subdivision shall, subject to Subsection (2)(c):
    - (i) refund the impact fee to:
      - (A) the original owner, if the original owner is the sole claimant; or
      - (B) to the claimants, as the claimants agree, if there are multiple claimants; or
    - (ii) interplead the impact fee refund to a court of competent jurisdiction for a determination of the entitlement to the refund, if there are multiple claimants who fail to agree on how the refund should be paid to the claimants.
  - (c) If the original owner's last known address is no longer valid at the time a local political subdivision attempts under Subsection (2)(b) to refund an impact fee to the original owner, the local political subdivision shall:
    - (i) post a notice on the local political subdivision's website, stating the local political subdivision's intent to refund the impact fee and identifying the original owner;
    - (ii) maintain the notice on the website for a period of one year; and
    - (iii) disqualify the original owner as a claimant unless the original owner submits a written request for the refund within one year after the first posting of the notice under Subsection (2)(c)(i).
  - (d)
    - (i) In order to be considered as a claimant for an impact fee refund under this Subsection (2), a person, other than the original owner, shall submit a written notice of the person's valid legal claim to the impact fee refund.
    - (ii) A notice under Subsection (2)(d)(i) shall:
      - (A) explain the person's valid legal claim to the refund; and
      - (B) be submitted to the local political subdivision no later than 30 days after expiration of the time specified in Subsection 11-36a-602(2) for the impact fee that is the subject of the refund.
  - (e) A local political subdivision:
    - (i) may retain an unclaimed refund; and

- (ii) shall expend any unclaimed refund on capital facilities identified in the current capital facilities plan for the type of public facility for which the impact fee was collected.

Amended by Chapter 190, 2017 General Session

## **Part 7**

### **Challenges**

#### **11-36a-701 Impact fee challenge.**

- (1) A person or an entity residing in or owning property within a service area, or an organization, association, or a corporation representing the interests of persons or entities owning property within a service area, has standing to file a declaratory judgment action challenging the validity of an impact fee.
- (2)
  - (a) A person or an entity required to pay an impact fee who believes the impact fee does not meet the requirements of law may file a written request for information with the local political subdivision who established the impact fee.
  - (b) Within two weeks after the receipt of the request for information under Subsection (2)(a), the local political subdivision shall provide the person or entity with the impact fee analysis, the impact fee facilities plan, and any other relevant information relating to the impact fee.
- (3)
  - (a) Subject to the time limitations described in Section 11-36a-702 and procedures set forth in Section 11-36a-703, a person or an entity that has paid an impact fee that was imposed by a local political subdivision may challenge:
    - (i) if the impact fee enactment was adopted on or after July 1, 2000:
      - (A) subject to Subsection (3)(b)(i) and except as provided in Subsection (3)(b)(ii), whether the local political subdivision complied with the notice requirements of this chapter with respect to the imposition of the impact fee; and
      - (B) whether the local political subdivision complied with other procedural requirements of this chapter for imposing the impact fee; and
    - (ii) except as limited by Subsection (3)(c), the impact fee.
  - (b)
    - (i) The sole remedy for a challenge under Subsection (3)(a)(i)(A) is the equitable remedy of requiring the local political subdivision to correct the defective notice and repeat the process.
    - (ii) The protections given to a municipality under Section 10-9a-801 and to a county under Section 17-27a-801 do not apply in a challenge under Subsection (3)(a)(i)(A).
  - (c) The sole remedy for a challenge under Subsection (3)(a)(ii) is a refund of the difference between what the person or entity paid as an impact fee and the amount the impact fee should have been if it had been correctly calculated.
- (4)
  - (a) Subject to Subsection (4)(d), if an impact fee that is the subject of an advisory opinion under Section 13-43-205 is listed as a cause of action in litigation, and that cause of action is litigated on the same facts and circumstances and is resolved consistent with the advisory opinion:
    - (i) the substantially prevailing party on that cause of action:

- (A) may collect reasonable attorney fees and court costs pertaining to the development of that cause of action from the date of the delivery of the advisory opinion to the date of the court's resolution; and
- (B) shall be refunded an impact fee held to be in violation of this chapter, based on the difference between the impact fee paid and what the impact fee should have been if the government entity had correctly calculated the impact fee; and
- (ii) in accordance with Section 13-43-206, a government entity shall refund an impact fee held to be in violation of this chapter to the person who was in record title of the property on the day on which the impact fee for the property was paid if:
  - (A) the impact fee was paid on or after the day on which the advisory opinion on the impact fee was issued but before the day on which the final court ruling on the impact fee is issued; and
  - (B) the person described in Subsection (3)(a)(ii) requests the impact fee refund from the government entity within 30 days after the day on which the court issued the final ruling on the impact fee.
- (b) A government entity subject to Subsection (3)(a)(ii) shall refund the impact fee based on the difference between the impact fee paid and what the impact fee should have been if the government entity had correctly calculated the impact fee.
- (c) Subsection (4) may not be construed to create a new cause of action under land use law.
- (d) Subsection (3)(a) does not apply unless the resolution described in Subsection (3)(a) is final.

Enacted by Chapter 47, 2011 General Session

**11-36a-702 Time limitations.**

- (1) A person or an entity that initiates a challenge under Subsection 11-36a-701(3)(a) may not initiate that challenge unless it is initiated within:
  - (a) for a challenge under Subsection 11-36a-701(3)(a)(i)(A), 30 days after the day on which the person or entity pays the impact fee;
  - (b) for a challenge under Subsection 11-36a-701(3)(a)(i)(B), 180 days after the day on which the person or entity pays the impact fee; or
  - (c) for a challenge under Subsection 11-36a-701(3)(a)(ii), one year after the day on which the person or entity pays the impact fee.
- (2) The deadline to file an action in district court is tolled from the date that a challenge is filed using an administrative appeals procedure described in Section 11-36a-703 until 30 days after the day on which a final decision is rendered in the administrative appeals procedure.

Enacted by Chapter 47, 2011 General Session

**11-36a-703 Procedures for challenging an impact fee.**

- (1)
  - (a) A local political subdivision may establish, by ordinance or resolution, or a private entity may establish by prior written policy, an administrative appeals procedure to consider and decide a challenge to an impact fee.
  - (b) If the local political subdivision or private entity establishes an administrative appeals procedure, the local political subdivision shall ensure that the procedure includes a requirement that the local political subdivision make its decision no later than 30 days after the day on which the challenge to the impact fee is filed.
- (2) A challenge under Subsection 11-36a-701(3)(a) is initiated by filing:



- (a) if the local political subdivision or private entity has established an administrative appeals procedure under Subsection (1), the necessary document, under the administrative appeals procedure, for initiating the administrative appeal;
  - (b) a request for arbitration as provided in Section 11-36a-705; or
  - (c) an action in district court.
- (3) The sole remedy for a successful challenge under Subsection 11-36a-701(1), which determines that an impact fee process was invalid, or an impact fee is in excess of the fee allowed under this act, is a declaration that, until the local political subdivision or private entity enacts a new impact fee study, from the date of the decision forward, the entity may charge an impact fee only as the court has determined would have been appropriate if it had been properly enacted.
- (4) Subsections (2), (3), 11-36a-701(3), and 11-36a-702(1) may not be construed as requiring a person or an entity to exhaust administrative remedies with the local political subdivision before filing an action in district court under Subsections (2), (3), 11-36a-701(3), and 11-36a-702(1).
- (5) The judge may award reasonable attorney fees and costs to the prevailing party in an action brought under this section.
- (6) This chapter may not be construed as restricting or limiting any rights to challenge impact fees that were paid before the effective date of this chapter.

Amended by Chapter 200, 2013 General Session

#### **11-36a-704 Mediation.**

- (1) In addition to the methods of challenging an impact fee under Section 11-36a-701, a specified public agency may require a local political subdivision or private entity to participate in mediation of any applicable impact fee.
- (2) To require mediation, the specified public agency shall submit a written request for mediation to the local political subdivision or private entity.
- (3) The specified public agency may submit a request for mediation under this section at any time, but no later than 30 days after the day on which an impact fee is paid.
- (4) Upon the submission of a request for mediation under this section, the local political subdivision or private entity shall:
  - (a) cooperate with the specified public agency to select a mediator; and
  - (b) participate in the mediation process.

Enacted by Chapter 47, 2011 General Session

#### **11-36a-705 Arbitration.**

- (1) A person or entity intending to challenge an impact fee under Section 11-36a-703 shall file a written request for arbitration with the local political subdivision within the time limitation described in Section 11-36a-702 for the applicable type of challenge.
- (2) If a person or an entity files a written request for arbitration under Subsection (1), an arbitrator or arbitration panel shall be selected as follows:
  - (a) the local political subdivision and the person or entity filing the request may agree on a single arbitrator within 10 days after the day on which the request for arbitration is filed; or
  - (b) if a single arbitrator is not agreed to in accordance with Subsection (2)(a), an arbitration panel shall be created with the following members:
    - (i) each party shall select an arbitrator within 20 days after the date the request is filed; and
    - (ii) the arbitrators selected under Subsection (2)(b)(i) shall select a third arbitrator.

- (3) The arbitration panel shall hold a hearing on the challenge no later than 30 days after the day on which:
  - (a) the single arbitrator is agreed on under Subsection (2)(a); or
  - (b) the two arbitrators are selected under Subsection (2)(b)(i).
- (4) The arbitrator or arbitration panel shall issue a decision in writing no later than 10 days after the day on which the hearing described in Subsection (3) is completed.
- (5) Except as provided in this section, each arbitration shall be governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.
- (6) The parties may agree to:
  - (a) binding arbitration;
  - (b) formal, nonbinding arbitration; or
  - (c) informal, nonbinding arbitration.
- (7) If the parties agree in writing to binding arbitration:
  - (a) the arbitration shall be binding;
  - (b) the decision of the arbitration panel shall be final;
  - (c) neither party may appeal the decision of the arbitration panel; and
  - (d) notwithstanding Subsection (10), the person or entity challenging the impact fee may not also challenge the impact fee under Subsection 11-36a-701(1) or Subsection 11-36a-703(2)(a) or (2)(c).
- (8)
  - (a) Except as provided in Subsection (8)(b), if the parties agree to formal, nonbinding arbitration, the arbitration shall be governed by the provisions of Title 63G, Chapter 4, Administrative Procedures Act.
  - (b) For purposes of applying Title 63G, Chapter 4, Administrative Procedures Act, to a formal, nonbinding arbitration under this section, notwithstanding Section 63G-4-502, "agency" means a local political subdivision.
- (9)
  - (a) An appeal from a decision in an informal, nonbinding arbitration may be filed with the district court in which the local political subdivision is located.
  - (b) An appeal under Subsection (9)(a) shall be filed within 30 days after the day on which the arbitration panel issues a decision under Subsection (4).
  - (c) The district court shall consider de novo each appeal filed under this Subsection (9).
  - (d) Notwithstanding Subsection (10), a person or entity that files an appeal under this Subsection (9) may not also challenge the impact fee under Subsection 11-36a-701(1) or Subsection 11-36a-703(2)(a) or (2)(c).
- (10)
  - (a) Except as provided in Subsections (7)(d) and (9)(d), this section may not be construed to prohibit a person or entity from challenging an impact fee as provided in Subsection 11-36a-701(1) or Subsection 11-36a-703(2)(a) or (2)(c).
  - (b) The filing of a written request for arbitration within the required time in accordance with Subsection (1) tolls all time limitations under Section 11-36a-702 until the day on which the arbitration panel issues a decision.
- (11) The person or entity filing a request for arbitration and the local political subdivision shall equally share all costs of an arbitration proceeding under this section.

Enacted by Chapter 47, 2011 General Session



**Item Attachment Documents:**

2. Public Hearing - Discussion and possible adoption of Ordinance 2020-02 Adopting and Enacting a New Town Code for the Town of Hideout, Utah

**TOWN OF HIDEOUT, UTAH  
ORDINANCE 2020-02**

**AN ORDINANCE ADOPTING AND ENACTING A RECODIFICATION OF THE  
TOWN CODE FOR THE TOWN OF HIDEOUT, UTAH**

**WHEREAS**, pursuant to Utah Code §10-3-707, the Town of Hideout has the authority to revise, codify and compile from time to time and to publish in a book all ordinances of the municipality of a general and permanent character and to make such changes, alterations, modifications, additions, and substitutions therein as it may deem best to the end that a complete simplified code of the ordinances then enforced shall be presented; and

**WHEREAS**, the Town desires to recodify and renumber the Town Code the following with the applicable attachments provided herein;

**NOW THEREFORE**, be it ordained by the Mayor and Town Council of the Town of Hideout, in the State of Utah, as follows:

**SECTION 1 - ADOPTION** The renumbered and recodified Town Code of the Town of Hideout, Utah, attached hereto as Exhibit “A” is hereby adopted and enacted in its entirety and incorporated herein by this reference.

**SECTION 2 - REPEALER** Any other provisions of the Town’s Code heretofore adopted and are inconsistent herewith, are hereby repealed and replaced with the Town Code attached hereto as Exhibit “A” and adopted herein.

**SECTION 3 - SEVERABILITY** Should any part or provision of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

**SECTION 4 - EFFECTIVE DATE** This Ordinance shall be in full force and effect from January 23, 2020 and after the required approval and publication according to law.

**PASSED AND ADOPTED** by the Town Council of the Town of Hideout, Utah this 23rd day of January 2020.

	AYE	NAY	ABSENT	ABSTAIN
Chris Baier	_____	_____	_____	_____
Kurt Shadle	_____	_____	_____	_____
Vytas Rupinskas	_____	_____	_____	_____
Jerry Dwinell	_____	_____	_____	_____

TOWN OF HIDEOUT

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Philip Rubin, Mayor

Attest:

---

Allison Lutes, Town Clerk



## **EXHIBIT “A”**

## EXHIBIT "A"



# Town of Hideout

Wasatch County, Utah

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## Proposed Town Code

Compiled: Thursday, January 23, 2020

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## **PREFACE**

The Municipal Code of Hideout, Utah began in-house in 2019 with the assistance of Municipal Code Corporation. This Municipal Code shall be cited as the Hideout Municipal Code or “HMC” as an acronym.

HMC references found within the code maintain a structure by subject matter using a decimal numbering system which identifies the chapter and section (for example: 1.01.010). This complete set of numbers is designed to aid in searching and/or referencing the Municipal Code, and to assist in subsequent codification as new ordinances are added to the Municipal Code.

- The first number in the sequence (1.01.010) designates the **Title** level
- The second series of numbers (1.**01**.010) designates the **Chapter** level
- The last series (1.01.**010**) designates the **Section** level
- If a fourth series exists comprising letters or numbers beyond a section level, it designates a **Subsection** level.

As shown in the Table of Contents, Chapters may be divided by Articles. These divisions appropriately categorize each Section.

The legislation herein may be arranged as an alphanumeric ordered list **A, 1, a, (1), (A), (a)** to show hierarchal relationships. The legislation may also be arranged as an unordered list (using bullets, discs, squares, etc.) to show items without hierarchal relationships. These list structures assist in subsequent codification as new legislation is added. To forego the naming of each list item and to more granularly reference legislation that employs alphanumeric characters, use “Paragraph” followed by the desired alphanumeric reference(s), comma separated. For example, “Paragraph B,7,d”, specifically references item “d”, of item “7”, of item “B”—whereas “Paragraph B” refers more generally to any or all of list item B’s descendants.

References herein revealing “Utah Code” implies a reference to the “[Utah State Legislature](#)”.

Vacant titles, chapters, or sections may be designed for future use and may be marked “Reserved” to ease internal expansion. The legislative history identifies the specific legal sources of a section as may be provided in footnotes.

This Municipal Code is supplemented from time to time with amendments and additions made by the Town of Hideout. The specific legal sources that comprise this Municipal Code have been adopted during the codification process from the original formatting of the official hard copy. In the event of discrepancies between the online Municipal Code and the official hard copy, the official hard copy governs. Municipal Code Corporation, provides a searchable database of the Municipal Code for easy reference and

convenience.

NOTICE: THE MUNICIPAL CODE MAY NOT REFLECT ALL OR THE MOST CURRENT VERSION OF LEGISLATION ADOPTED BY THE TOWN COUNCIL THAT HAS YET TO BE UPDATED ONLINE. IN THE EVENT OF CONFLICT BETWEEN THE MUNICIPAL CODE AND A WRITTEN ORDINANCE, THE ORDINANCE TYPICALLY GOVERNS. ALSO, THE MUNICIPAL CODE MAY NOT REFLECT RULES OR OTHER REGULATIONS PROMULGATED UNDER THE AUTHORITY OF THE CODE, INCLUDING TECHNICAL SPECIFICATIONS. FOR MORE INFORMATION CONTACT THE TOWN CLERK AT 435-659-4739.

## **1 ADMINISTRATION**

### **1.02 TOWN OF HIDEOUT CODE**

#### **1.04 SAVING CLAUSE**

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### **1.02 TOWN OF HIDEOUT CODE**

#### **1.02.010 TITLE**

#### **1.02.020 ACCEPTANCE**

#### **1.02.030 AMENDMENTS**

#### **1.02.040 ALTERATIONS**

#### **1.02.010 TITLE**

Upon adoption by the town council, this code is hereby declared to be and shall hereafter constitute the official town code of The Town of Hideout. This code of ordinances shall be known and cited as the TOWN OF HIDEOUT and is hereby published by authority of the town council and shall be supplemented to incorporate the most recent legislation of the town as provided in HMC 1.02.030. Any reference to the number of any section contained herein shall be understood to refer to the position of the number, its appropriate chapter and title heading, and to the general penalty clause relation thereto, as well as to the section itself, when reference is made to this code by title in any legal documents.

#### **1.02.020 ACCEPTANCE**

This code, as hereby presented in printed form, shall hereafter be received without further proof in all courts and in administrative tribunals of this state as the ordinances of the town of general and permanent effect, except the excluded ordinances enumerated in HMC 1.02.010.

#### **1.02.030 AMENDMENTS**

All amendments made to this code shall be by ordinance. Any ordinance amending the town code shall set forth the title, chapter and section number of the section or sections to be amended, and this shall constitute sufficient compliance with any statutory

requirement pertaining to the amendment or revision by ordinance of any part of this code. All such amendments or revisions by ordinance shall be immediately be prepared for insertion in its proper place in each copy of this code. Each such replacement page shall be properly identified and shall be inserted in each individual copy of the town code.

#### **1.02.040 ALTERATIONS**

It shall be deemed unlawful for any person to alter, change, replace or deface in any way any section or any page of this code in such a manner that the meaning of any phrase or order may be changed or omitted. Replacement pages may be inserted according to the official instructions when so authorized by the town council. The town recorder shall see that the replacement pages are properly inserted in the official copies maintained in the office of the town recorder. Any person having custody of a copy of the town code shall make every effort to maintain said code current as to the most recent ordinances passed. Such person shall see to the immediate insertion of new or replacement pages when such are delivered or made available to such person through the office of the town recorder. Said code books, while in actual possession of officials and other interested persons, shall be and remain the property of the town and shall be returned to the office of the town recorder when directions so to do by order of the town council.

#### **1.04 SAVING CLAUSE**

##### **1.04.010 REPEAL OF GENERAL ORDINANCES**

##### **1.04.020 PUBLIC WAYS AND PUBLIC UTILITY ORDINANCES**

##### **1.04.030 COURT PROCEEDINGS**

##### **1.04.040 SEVERABILITY CLAUSE**

#### **1.04.010 REPEAL OF GENERAL ORDINANCES**

- A. Repealer; Exceptions: All general ordinances of the town passed prior to the adoption of this code are hereby repealed, except such as are included in this code or are by necessary implication herein reserved from repeal (subject to the saving clauses contained in the following sections,) and excluding the following ordinances which are not hereby repealed: tax levy ordinances; appropriation ordinances; ordinances relating to boundaries and annexations; temporary zoning ordinances; franchise ordinances and other ordinances granting special rights to persons or corporations; contract ordinances and ordinances authorizing the execution of a contract or the issuance of warrant; salary ordinances; fee ordinances; ordinances establishing, naming or ordinances; bond ordinances; ordinances relating to elections; ordinances relating to the transfer or acceptance of real estate by or from the town; and all special ordinances.
- B. Effect Of Repealing Ordinances: The repeal of the ordinances provided in Paragraph A of this section shall not affect any debt or fee which is accrued, any duty imposed, any penalty incurred, nor any action or proceeding commenced under or by virtue of the ordinances repealed or the term of office of any person

holding office at the time these ordinances take effect; nor shall the repeal of any ordinance have the effect of reviving any ordinance heretofore repealed or superseded.

#### **1.04.020 PUBLIC WAYS AND PUBLIC UTILITY ORDINANCES**

No ordinance relating with streets and other public ways, or relating to the conduct, duties, service or rates of public utilities shall be repealed by virtue of the adoption of this code or by virtue of the preceding section, excepting as the town code may contain provisions for such matters, in which case, this code shall be considered as amending such ordinance or ordinances in respect to such provisions only.

#### **1.04.030 COURT PROCEEDINGS**

- A. Prior Acts: No new ordinance shall be construed or held to repeal a former ordinance whether such former ordinance is expressly repealed or not, as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or so done, or any penalty, forfeiture or punishment so incurred or any right accrued or claim arising before the new ordinance takes effect, save only that the proceedings thereafter shall conform to the ordinances in force at the time of such proceeding, so far as practicable. If any penalty, forfeiture or punishment may be mitigated by any provision of a new ordinance, such provision may be, by consent of the party affected, applied to any judgment announced after the new ordinance takes effect.
- B. Scope Of Section: This section shall extend to all repeals, either by express words or implication, whether the repeal is in the ordinance making any new provisions upon the same subject or in any other ordinance.
- C. Actions Now Pending: Nothing contained in this chapter shall be construed as abating any action now pending under or by virtue of any general ordinance of the town herein repealed, and the provisions of all general ordinances contained in this code shall be deemed to be continuing provisions and not a new enactment of the same provisions; nor shall this chapter be deemed as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the town under any ordinance or provision thereof in force at the time of the adoption of this code.

#### **1.04.040 SEVERABILITY CLAUSE**

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this code or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this code, or any part thereof. The town council hereby declares that it would have passed each section, subsection,



subdivision, paragraph sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

## **1.06 DEFINITIONS - ADMINISTRATION**

### **1.06.010 CONSTRUCTION OF WORDS**

#### **1.06.020 GENERAL DEFINITIONS - ADMINISTRATION**

#### **1.06.030 CATCHLINES**

### **1.06.010 CONSTRUCTION OF WORDS**

- A. Liberal Construction: Except as otherwise provided by laws, all general provisions, terms, phrases and expressions contained in this code shall be liberally construed in order that the true intent and meaning of the mayor and town council may be fully carried out.
- B. Interpretation: in the interpretation and application of any provision of this code, it shall be held to be the minimum requirements adopted for the promotion of the public health, safety and general welfare. Where any provision of a code imposes greater restrictions upon the subject matter than the general provision imposed by the code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.
- C. Additional Interpretations:
  - 1. Computation Of Time: The time within which an act is to be done as provided in any ordinance or in any resolution or order of the town, when expressed in days, shall be determined by excluding the first days and including the last day, except if the last day be a Sunday or a legal holiday, then the last day shall be the day next following such Sunday or legal holiday which is not a Sunday or legal holiday. When time is expressed in hours, Sunday and all legal holidays shall be excluded.
  - 2. Delegation Of Authority: Whenever a provision appears requiring the town officer to do some act or perform some duty, it is to be construed to authorize the officer to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.
  - 3. Gender: A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.
  - 4. Joint Authority: All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.
  - 5. May/Shall: The word “may” is permissive; the word “shall” is mandatory.
  - 6. Nontechnical And Technical Words: Words and phrases shall be construed according to the common and approved usage of the

language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

7. Number: A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.
8. Officers Generally: Whenever any officer is referred to by title, such as “recorder”, “treasurer”, etc., such reference shall be construed as if followed by the words “of the Town of Hideout”.
9. Tense: Words used in the past or present tense include the future as well as the past and present.

### **1.06.020 GENERAL DEFINITIONS - ADMINISTRATION**

Whenever the following words or terms are used in this code, they shall have such meanings herein ascribed to them, unless the context makes such meaning repugnant thereto:

AGENT: A person acting on behalf of another with authority conferred, wither expressly or by implication.

CODE: The town code of the Town of Hideout.

COUNTY: Wasatch County, state of Utah.

FEE: A sum of money charged by the town for the carrying on of a business, profession or occupation or other activity subject to town regulation, authorization or limitation.

GOVERNING BODY: The town council of Hideout Town, Utah.

HIGHWAY, ROAD: Includes public bridges, and may be equivalent to the words “county way”, “county road”, “common road” and “state road”.

LICENSE: The permission granted for the carrying on of a business, profession or occupation.

LOCATION: Whenever any act, conduct or offense is prohibited or required and no reference is made to location, unless the context specifically indicates otherwise, the act, conduct or offense prohibited or required shall be within the boundaries of the town.

NUISANCE: Anything offensive to the sensibilities of reasonable persons, or any act or activity creating a hazard which threatens the health and welfare of inhabitants of the town, or any activity which by its perpetuation can reasonably be said to have a detrimental effect on the property of a person or persons within the community.

OCCUPANT: As applied to a building or land, shall include any person who occupies the whole or any part of such building or land whether alone or with others.

**OFFENSE:** Any act forbidden by any provision of this code or the omission of any act required by the provisions of this code.

**OPERATOR:** The person who is in charge of any operation business or profession.

**OWNER:** As applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or lessee of the whole or of a part of such building or land.

**PERSON:** Any public or private corporation, firm, partnership, association, organization, government or any other group acting as a unit, as well as a natural person.

**PERSONAL PROPERTY:** Includes every description of money, goods chattels, effects, evidence of rights in action and all written instruments by which any pecuniary obligation, right or title to property is created, acknowledged, transferred, increased, defeated, discharged or diminished and every right or interest therein.

**PROPERTY:** Includes both real and personal property.

**REASONABLE TIME:** In all cases where any ordinance requires that an act be done in a reasonable time or that reasonable notice be given, such reasonable time for such notice shall be deemed to mean such time as may be necessary for the expeditious performance of such duty or compliance with such notice.

**RETAILER:** Unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things direct to the consumer.

**RIGHT OF WAY:** The privilege of the immediate use of the roadway or other property.

**STATE:** The state of Utah.

**STREET:** Shall include alleys, lanes, courts, boulevards, public ways, public squares, public places and sidewalks.

**TENANT:** As applied to a building or land, shall include any person who occupies the whole or any part of such building or land, whether alone or with other.

**TOWN:** Town of Hideout, Utah

**TOWN COUNCIL:** The town council of The Town of Hideout, Utah

**WEEK:** Any seven (7) day period.

**WHOLESALE:** The terms "wholesaler" and "wholesaler dealer" as used in this code, unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things to persons who purchase for the purpose of resale.

**WRITTEN, IN WRITING:** May include printing and any other mode of representing words and letters, but when the written signature of any person is

required by law to any official or public writing or bond, it shall be in the proper handwriting of such person, or in case such person is unable to write, by such person's proper mark.

### **1.06.030 CATCHLINES**

The catchlines of the several sections of the town code are intended as mere catchwords to indicate the content of the section and shall not be deemed or taken to be titles of such sections, nor be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any section hereof, nor unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

### **1.08 GENERAL PENALTY**

#### **1.08.010 SENTENCING**

#### **1.08.020 OFFENSES DESIGNATED; CLASSIFIED**

### **1.08.010 SENTENCING**

#### A. Penalty For Violation Of Ordinance:

1. Criminal: The town council may impose a minimum criminal penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor fine under Utah Code § 76-3-301 or by a term of imprisonment up to six (6) months, or by both the fine and term of imprisonment.
2. Civil:
  - a. Except as provided in Paragraph A,2,b of this section, the town council may prescribe a minimum civil penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor fine under Utah Code § 76-3-301.
  - b. A municipality may not impose a civil penalty and adjudication for the violation of a municipal moving traffic ordinance.

#### B. Term of Imprisonment for Misdemeanors: A person who has been convicted of a misdemeanor may be sentenced to imprisonment as follows:

1. In the case of a class B misdemeanor, for a term not exceeding six (6) months;
2. In the case of a class C misdemeanor, for a term not exceeding ninety (90) days.

#### C. Infractions:

1. A person convicted of any infraction may not be imprisoned but may be subject to a fine, forfeiture and disqualification, or any combination.

2. Whenever a person is convicted of any infraction and no punishment is specified, the person may be fined as for a class C misdemeanor.
- D. Fines of Persons: A person convicted of an offense may, in addition to any term of imprisonment imposed, be sentenced to pay a fine not to exceed:
1. Class B Misdemeanor: One thousand dollars (\$1,000.00) when the conviction is of a class B misdemeanor conviction; and
  2. Class C Misdemeanor; Infraction: Seven hundred fifty dollars (\$750.00) when the conviction is of a class C misdemeanor conviction or infraction conviction.
- E. Fines Of Corporation: The sentence to pay a fine, when imposed upon a corporation, association, partnership or governmental instrumentality for an offense defined in this code, or the ordinances of the town has jurisdiction, for which no special corporate fine is specified, shall be to pay an amount fixed by the court, not exceeding:
1. Class B Misdemeanor: Five thousand dollars (\$5,000.00) when the conviction is for a class B misdemeanor conviction; and
  2. Class C Misdemeanor; Infraction: One thousand dollars (\$1,000.00) when the conviction is for a Class C misdemeanor conviction or for an infraction conviction.

#### **1.08.020 OFFENSES DESIGNATED; CLASSIFIED**

- A. Sentencing In Accordance With Chapter:
1. A person adjudged guilty of an offense under this code or the ordinances of this town shall be sentenced in accordance with the provisions of this chapter.
  2. Ordinances enacted after the effective date hereof which involve an offense should be classified for sentencing purposes in accordance with this chapter unless otherwise expressly provided.
- B. Designation Of Offenses: Offenses are designated as misdemeanors or infractions;
- C. Misdemeanors Classified:
1. Misdemeanors are classified into two (2) categories:
    - a. Class B misdemeanors;
    - b. Class C misdemeanors.
  2. An Offense designated as a misdemeanor or any act prohibited or declared to be unlawful in this code or any ordinance of this town when

no other specification as to punishment or category is made, is a class B misdemeanor.

D. Infractions:

1. Infractions are not classified.
2. Any offense which is made an infraction in this code or other ordinances of this town, or which is expressly designated an infraction and any offense designated as a misdemeanor and for which no penalty is specified is an infraction.

E. Continuing Violation: In all instances where the violation of this code or any ordinance hereinafter enacted is a continuing violation, a separate offense shall be deemed committed on each day during or on which the violation occurs or continues to occur.

**1.10 MAYOR AND TOWN COUNCIL**

**1.10.010 ELIGIBILITY AND RESIDENCY REQUIREMENTS**

**1.10.020 ELECTION, TERMS; VACANCIES**

**1.10.030 MAYOR A MEMBER OF TOWN COUNCIL**

**1.10.040 COMPENSATION SCHEDULE**

**1.10.050 MEETINGS; PROCEDURE AND CONDUCT**

**1.10.060 ORDINANCES AND RESOLUTIONS; PROCEDURES**

**1.10.010 ELIGIBILITY AND RESIDENCY REQUIREMENTS**

A. Declaration of Candidacy: A person filing a declaration of candidacy for a town office shall:

1. Have been a resident of the town in which the person seeks office for at least three hundred sixty five (365) consecutive days immediately before the date of the election; and
2. Meet the other requirements of Utah Code § 20A-9-203.

B. Annexed Areas: A person living in an area annexed to the town meets the residency requirement of this section if that person resided within the area annexed to the town for at least three hundred sixty five (365) consecutive days before the date of the election.

C. Registered Voter: Any person elected to town office shall be a registered voter in the town.

D. Residency Maintained: Each elected officer of the town shall maintain residency within the boundaries of the town during officer's term of office.

E. Residence Outside Town: If an elected officer of the town establishes a principal place of residence as provided in Utah Code § 20A-2-105 outside of the town during the officer's term of office, the office is automatically vacant.



- F. Continuous Absence From Town: If an elected town officer is absent from the town any time during the officer's term of office for a continuous period of more than sixty (60) days without the consent of the town council, the town office is automatically vacant.

#### **1.10.020 ELECTION, TERMS; VACANCIES**

A. Election; Terms: The election and terms of office shall be as follows:

1. The offices of mayor and five (5) council members shall be filled in the municipal election held at the next general municipal election after incorporation of the Town of Hideout, Utah.
2. The terms for the offices of mayor and two (2) other council members shall be for four (4) years. These offices shall be filled every four (4) years in municipal elections.
3. The terms for the offices of the remaining three (3) council members elected in the first town election shall be for two (2) years. Henceforth, these offices shall be filled every four (4) years in municipal elections, and the duly elected council members shall serve four (4) year terms.
4. The offices shall be filled in the manner provided for electing municipal officers.

B. Vacancy In Office: Mayor or town council vacancies shall be filled as provided in Utah Code Annotated section 20A-1-510.

#### **1.10.030 MAYOR A MEMBER OF TOWN COUNCIL**

A. Administration Vested In Mayor: The administrative powers, authority and duties are vested in the mayor.

B. Presiding Officer; Mayor Pro Tempore: The mayor shall be the chairperson and preside at the meetings of the town council. In the absence of the mayor or because of his inability or refusal to act, the town council may elect a member of the town council to preside over the meeting as mayor pro tempore, who shall have all the powers and duties of the mayor during his absence or disability. The election of a mayor pro tempore shall be entered in the minutes of the meeting.

C. Powers and Duties:

1. The mayor is the chief executive officer to whom all employees of the town shall report.
2. The mayor shall:
  - a. Keep the peace and enforce the laws of the town;
  - b. Remit fines and forfeitures;
  - c. Report remittances under Paragraph C,2,b of this section to the

- town council at its next regular session;
- d. Perform all duties prescribed by law, resolution or ordinance;
  - e. Ensure that all the laws and ordinances and resolutions are faithfully executed and observed;
  - f. Report to the town council the condition of the town and recommend for town council consideration any measure that the mayor considers to be in the best interests of the town;
  - g. When necessary, call on the residents of the town over the age of twenty one (21) years to assist in enforcing the laws of the state and ordinances of the town;
  - h. Appoint, with the advice and consent of the town council, persons to fill town offices or vacancies on commissions or committees of the town; and
  - i. Report to the town council any release granted under Paragraph C,3,b of this section.

3. The mayor may:

- a. At any reasonable time, examine and inspect the official books, papers, records or documents of the town or any officer, employee or agent of the town; and
- b. Release any person imprisoned for violation of any town ordinance.

4. Contract Processing:

- a. The management and processing of contracts to which the Town of Hideout is a party shall be the responsibility of the mayor and shall be conducted in accordance with the purchasing provisions and restrictions found in HMC 1.16.
- b. The execution and negotiation of contracts in which the Town of Hideout is a party shall be the responsibility of the mayor with the advice and assistance, if necessary, of the Town attorney. The preparation, negotiation and execution of certain contracts may be delegated by the mayor to other officers and employees of the Town of Hideout. Specifically, the mayor shall have the authority to execute and negotiate contracts in which the Town of Hideout is a party, including but not limited to, the following agreements: landscape maintenance agreements, snow removal agreements, development agreements, utility agreements and repair and maintenance agreements.
- c. The management, execution and adoption of contracts entered into pursuant to the Inter local Cooperation Act shall be in

accordance with the provision of that Act, including resolution by the Town Council and approved by the Town attorney.

- d. No contract shall be entered into on behalf of or be binding on the Town of Hideout unless it is reduced to writing, approved and executed in accordance with the provisions of this Paragraph and state statute.

D. No Veto: The mayor shall have no power to veto any act of the town council, unless otherwise specifically authorized by statute.

#### **1.10.040 COMPENSATION SCHEDULE**

The Town Council of Hideout, Wasatch County, State of Utah, does hereby adopt a compensation schedule for the Mayor and Town Council as follows:

Mayor	\$50 per each regular and special meeting
Town Council	\$50 per each regular and special meeting

#### **1.10.050 MEETINGS; PROCEDURE AND CONDUCT**

A. Regular Meetings: The governing body shall conduct regular meetings, which shall be held on the second Thursday of each month, at the Town Hall, which meetings shall begin promptly at six (6:00) P.M.; provided, that:

1. If the meeting date is a legal holiday, then the meeting shall be held at the same time and place above described on the next following day which is not a legal holiday.
2. The governing body may, by resolution, provide for a different time and place for holding regular meetings of the governing body.
3. If any citizen or member of the governing body desires to have an item placed on the agenda for the regular meeting of the governing body, a description of the agenda item must be delivered to the Town Clerk no later than 5:00 p.m. on the Monday ten (10) days or more prior to the regularly scheduled meeting, and applicants must provide supporting content no later than 12:00 p.m. on the Thursday prior to the scheduled council meeting. If agenda items or materials supporting such agenda items are delivered after time set forth in this section, such agenda items will be placed on the agenda for the following regular meeting, unless a special meeting is held in the interim.

B. Special Meetings: If at any time the business of the town requires a special meeting of the governing body, such meeting may be ordered by the mayor or any two (2) members of the governing body. The order shall be entered in the minutes of the governing body. The order shall provide at least three (3) hours'

notice of the special meeting, and notice thereof shall be served by the town clerk on each member who did not sign the order by delivering the notice personally or by leaving it at the member's usual place of abode. The personal appearance by a member at any specially called meeting constitutes a waiver of the notice required in this section.

#### **1.10.060 ORDINANCES AND RESOLUTIONS; PROCEDURES**

- A. Power Exercised By Ordinance: The town council may pass any ordinance to regulate, require, prohibit, govern, control or supervise any activity, business, conduct or condition authorized by statute or any other provision of law. An officer of the town shall not be convicted of a criminal offense where he relied on or enforced an ordinance he reasonably believed to be a valid ordinance. It shall be a defense to any action for punitive damages that the official acted in good faith in enforcing an ordinance or that he enforced an ordinance on advice of legal counsel.
- B. Form of Ordinance: Any ordinance passed by the town council shall contain and be in substantially the following order and form:
1. A number;
  2. A title which indicates the nature of the subject matter of the ordinance;
  3. A preamble which states the need or reason for the ordinance;
  4. An ordaining clause which states: "Be it ordained by the Town of Hideout:";
  5. The body or subject of the ordinance;
  6. When applicable, a statement indicating the penalty for violation of the ordinance or a reference that the punishment is covered by an ordinance which prescribes the fines and terms of imprisonment for the violation of the town ordinance; or, the penalty may establish a classification of penalties and refer to such ordinance in which the penalty for such violation is established;
  7. A statement indicating the effective date of the ordinance or the date when the ordinance shall become effective after publication or posting as required by this section;
  8. A line for the signature of the mayor or acting mayor to sign the ordinance;
  9. A place for the town clerk to attest the ordinance and affix the seal of the town;
  10. Where the mayor may disapprove an ordinance passed by the town council, the ordinance must show that it was passed with the mayor's approval or that if the mayor disapproved the ordinance that it was passed over his disapproval. If the mayor neither approves or

disapproves an ordinance, the ordinance should show that it became effective without the approval or disapproval of the mayor.

C. Requirements as to Form; Effective Date:

1. Ordinances passed or enacted by the town council shall be signed by the mayor, or if he absent, by the mayor pro tempore, or by a quorum of the town council, and shall be recorded before taking effect. No ordinance shall be void or unlawful by reason of its failure to conform to the provisions of Utah Code § 10-3-704(1), (2), (3) or (4).
2. Ordinances shall become effective twenty (20) days after publication or posting or thirty (30) days after final passage by the town council, whichever is closer to the date of final passage, but ordinances may become effective at an earlier or later date after publication or posting if so provided in the ordinances.
3. Ordinances which do not have an effective date shall become effective twenty (20) days after publication or posting, or thirty (30) days after final passage by the town council, whichever is sooner.

D. Publication and Posting Of Ordinances:

1. Before an ordinance may take effect, the legislative body of the town adopting an ordinance, except an ordinance enacted under Utah Code §§ 10.03.706 through 10.03.711, shall:
  - a. Deposit a copy of the ordinance in the office of the town clerk; and
    - (1) Publish a short summary of the ordinances at least once:
      - (A) In a newspaper published within the town; or
      - (B) If there is no newspaper published within the town, In a newspaper of general circulation within the town; or
    - (2) Post a complete copy of the ordinance in three (3) public places within the town.
  - a. Any ordinance, code or book, other than the state code, relating to building or safety standards, municipal functions, administration, control or regulations, may be adopted and shall take effect without further publication or posting, if reference is made to the code or book and at least one copy has been filed for use and examination by the public in the office of the town clerk prior to the adoption of the ordinance by the governing body.
  - b. Any state law relating to building or safety standards, municipal functions, administration, control or regulations, may be adopted

and shall take effect without further publication or posting if reference is made to the state code.

- c. The ordinance adopting the code or book shall be published in the manner provided in this subsection.

E. Recording, Numbering And Certification of Passage: The town clerk shall record, in a book used exclusively for the purpose, all ordinances passed by the town council. The town clerk shall give each ordinance a number, if the town council has not already so done. Immediately following each ordinance, or codification of ordinances, the town clerk shall make or cause to be made a certificate stating the date of passage and of the date of publication or posting, as required. The record and memorandum, or a certified copy thereof, shall be prima facie evidence of the content, passage and publication or posting of the ordinances or codification.

F. Resolutions:

1. Purpose: Unless otherwise required by law, the town council may exercise all administrative powers by resolution, including, but not limited to:
  - a. establishing water and sewer rates;
  - b. charges for garbage collection and fees charged for town services;
  - c. establishing personnel policies and guidelines; and
  - d. regulating the use and operation of the town property. Punishment, fines or forfeitures may not be imposed by resolution.
2. Form: Any resolution passed by the town council shall be in a form and contain sections substantially similar to that prescribed for ordinances.
3. Publication; Effective Date: Resolutions may become effective without publication or posting and may take effect upon passage or at a later date as the town council may determine, but resolutions may not become effective more than three (3) months from the date of passage.

**1.12 OFFICERS AND EMPLOYEES**

**1.12.010 CREATING OFFICES; FILLING VACANCIES**

**1.12.020 COMPENSATION**

**1.12.030 OATHS**

**1.12.040 TOWN CLERK AND TOWN TREASURER**

**1.12.050 DEPUTY TREASURER**

**1.12.010 CREATING OFFICES; FILLING VACANCIES**



- A. Offices Created By Council: The town council may create any office deemed necessary for the government of the town and provide for filling vacancies in elective and appointive offices.
- B. Mayor to Appoint and Fill Vacancies: The mayor, with the advice and consent of the Town Council, may appoint and fill vacancies in all offices provided for by law or ordinance.
- C. Continuation in Office: All appointed officers shall continue in office until their successors are appointed and qualified.

#### **1.12.020 COMPENSATION**

- A. Specified: The monthly compensation of the town officers shall be as follow:

Mayor	\$50.00 per meeting
Council member	\$50.00 per meeting
Town treasurer	
Town clerk	As determined by Mayor and Council
Deputy clerk	
Town attorney	As established by contract
Planning and zoning	

- B. Payment: The town clerk shall pay each elected officer after each regular Town Council meeting, upon completion of reimbursement voucher by Town Council members. The Town Clerk shall also pay all statutory officers biweekly, payable on Friday, by delivery of a check drawn on the municipal checking account.
- C. Per Diem: Each member of the governing body shall receive mileage and per diem for all trips approved by the governing body according to the schedules adopted by the state and federal per diem rate.

#### **1.12.030 OATHS**

- A. Constitutional Oath Of Office: All officers; whether elected or appointed, before entering on the duties of their respective offices shall take, subscribe and file the constitutional oath of office.
- B. Filing: The oath of office required under this section shall be administered by any judge, notary public or by the town clerk; elected officials shall take their oath of office at twelve o'clock (12:00) noon on the first Monday in January following their election or as soon thereafter as is practical. Appointed officers shall take their oath at any time before entering on their duties. All oaths of office shall be filed with the town clerk.

- C. Acts Of Officials Not Voided: No official act of any town officer shall be invalid for the reason that he failed to take the oath of office.

#### **1.12.040 TOWN CLERK AND TOWN TREASURER**

- A. Appointment: On or before the first Monday in February following a town election, the mayor, with the advice and consent of the town council, shall appoint a qualified person to each of the offices of town clerk and town treasurer.
- B. Ex Officio Auditor: The town clerk is ex officio the town auditor and shall perform the duties of that office.

#### **1.12.050 DEPUTY TREASURER**

- A. The treasurer, or in absence of the town treasurer, the deputy treasurer appointed by the governing body, must sign all checks prepared by the town clerk under the direction of the mayor.
- B. The deputy treasurer shall assume all duties of the town treasurer in the absence of the treasurer as provided in Utah Code §§ 10-5-127 and 10-6-143.

#### **1.14 ELECTIONS**

##### **1.14.010 CONDUCT**

##### **1.14.020 PRIMARY ELECTION; WHEN HELD**

##### **1.14.010 CONDUCT**

Election for mayor and council members shall be conducted according to the municipal section of Utah Code § 20A-9-404(1) and (2).

##### **1.14.020 PRIMARY ELECTION; WHEN HELD**

This section provides for the candidates for mayor and council members to be nominated at a primary election if required. A primary election will be held only when the number of candidates filing for an office exceeds twice the number to be elected. The candidates nominated at the primary election plus candidates that were not required to run in the primary are to be placed on the November ballot.

#### **1.16 PURCHASING**

##### **1.16.010 DEFINITIONS - PURCHASING**

##### **1.16.020 FINANCE OFFICER**

##### **1.16.030 REQUISITIONS AND ESTIMATES**

##### **1.16.040 PURCHASE APPROVAL REQUIREMENTS**

##### **1.16.050 QUOTATION REQUIREMENTS**

##### **1.16.060 EXEMPTIONS TO COMPETITIVE BIDDING REQUIREMENTS**

##### **1.16.070 PROHIBITED ACTS AND ACTIVITIES**

##### **1.16.010 DEFINITIONS - PURCHASING**

Unless the context requires otherwise, the terms as used in this chapter, or in the rules and regulations adopted pursuant to this chapter, shall have the following meaning:

**ADEQUATE APPROPRIATION BALANCES:** Sufficient fund balance which must exist in the line item appropriation of the account number against which the purchase order is charged

**BIDDING:** Procedure used to solicit quotations on price and delivery from various prospective suppliers of supplies, equipments and contractual services.

**CONTRACTUAL SERVICES:** Forecasts of future requirements of supplies, equipment of contractual services submitted by town departments upon request of the mayor or his designee.

**LOCAL BIDDER:** A firm or individual who regularly maintains a place of business and transacts business in, or maintains an inventory of merchandise for sale in, or is licensed by or pays sales to, the town.

**PUBLIC PROPERTY:** Any item of real or personal property owned by the town.

**RESPONSIBLE BID:** An offer, submitted by a responsible bidder, to furnish supplies, equipment or contractual services in conformity with the specifications, delivery terms, conditions and other requirements included in the invitation for bids.

**RESPONSIBLE BIDDER:** A bidder who submits a responsible bid; a bidder who has furnished, when requested, information and data to prove that his financial resources, production or service facilities, service reputation and experience are adequate to make satisfactory delivery of supplies, equipment or contractual services on which he bids; and a bidder who has not violated or attempted to violate any provision of this chapter.

**SUPPLIES, MATERIALS:** Any and all articles or things which shall be furnished to or used by any town department.

**TOWN PURCHASE ORDERS:** Official documents used in committing town funds toward the purchase of supplies, equipment and contractual services.

**TOWN REQUISITIONS:** Standard forms used by departments providing detailed information as to quantity, description, estimated price, recommended supplier and signature authorization for requested purchases.

### **1.16.020 FINANCE OFFICER**

The mayor is hereby appointed the finance officer of the town, and is authorized to exercise the powers conferred upon such finance officer as specified in Utah Code Annotated, as amended, as follows:

A. Authority: The mayor is hereby authorized to:

1. Approve any payroll checks prepared for an authorized town employee

hired in accordance with personnel policies established by town ordinance or resolution. The amount paid to any such authorized employee shall also be in agreement to be specific salary assigned to such employee pursuant to a salary schedule adopted by the governing body or a salary amount assigned by ordinance of the town council.

2. Give final approval to all claims submitted for the payment of routine expenditures, such as utility bills, payroll related expenses, supplies and materials, which were purchased according to authorized purchasing procedures established by ordinance or resolution.
3. Give final approval to all claims submitted for capital purchases which were made pursuant to established purchasing procedures, referenced in the budget document and approved by an appropriate resolution adopted for the current fiscal year budget.

B. Restrictions: The above approval authority delegated to the mayor is hereby subject to the following restrictions:

1. No claim may be approved by the mayor which is not within the duly and legally adopted budget.
2. No claim may be approved which was not made in accordance with personnel and purchasing procedures established by ordinance or resolution.

C. Verified Claims: The above authorization shall not prevent the governing body from approving all or part of a list of verified claims, including a specific claim in an amount in excess of the stated maximum, where certified by the finance officer.

D. Pre-audit Required: The town clerk shall pre-audit all claims pursuant to state statute requirements and shall not disburse any payments without appropriate approval. Procedures shall be established whereby documented approval is obtained as authorized by this chapter.

### **1.16.030 REQUISITIONS AND ESTIMATES**

All persons responsible for a department in the town shall file with the town clerk, detailed requisitions or estimates of their requirements in supplies and contractual services in such a manner, at such times and for such future periods as the mayor and/or town council shall prescribe.

### **1.16.040 PURCHASE APPROVAL REQUIREMENTS**

- A. Purchase up to one thousand five hundred dollars (\$1,500.00) may be authorized and must have the approval of the town clerk.
- B. Purchase of up to two thousand five hundred dollars (\$2,500.00) may be authorized and must have the approval of the mayor.

- C. Purchase over two thousand five hundred dollars (\$2,500.00) may be authorized and must have the approval of the town council.

### **1.16.050 QUOTATION REQUIREMENTS**

A. Specified

Purchase of up to \$1000.00	No competitive price quotations are required.
Purchase from \$1000.00 to \$5000.00	Informal price quotations shall be obtained prior to purchase. It shall be the responsibility of each department to obtain said quotations. Quotations shall be recorded on an "Informal competitive price quotation record". One copy of the quotation record shall remain with the department purchasing the item and one copy shall be attached to the purchase order. At least 3 quotations should be solicited if possible.
Purchases over \$5000.00	Formal price quotations shall be obtained prior to purchase. Requests for quotations shall be submitted to the town clerk on a "request for quotation" form 10 working days prior to the order date. It shall be the responsibility of the town clerk to obtain formal price quotations from vendors. The town clerk shall deliver all quotations and other pertinent information received from vendors to the mayor. The mayor will review the quotations received and select a vendor, if the quotations received are within his authorized limits, or he will review the quotations and instruct that the item be taken to the town council for approval.
Purchases over \$10000.00	Formal sealed bids must be obtained prior to purchase. Requests for formal bids shall be submitted to the town clerk. The request must receive town council approval prior to the town clerk sending out notice for "formal invitation to bid". Sealed bids shall be submitted as designed in the notice with the statement "bid for (item)" on the envelope. Bids shall be opened in public at the time and place stated in the public notice. A tabulation of all bids received shall be open for public inspection during the regular business hours for a period of not less than 30 days after the bid opening.

- B. Rejection of Bids: In its discretion, the town council may reject, without cause, any/all bids presented, and re-advertise for bids pursuant to the procedure hereinafter prescribed.

- C. Award of Contracts: Except as otherwise provided herein, contracts shall be awarded by the town council to the lowest responsible bidder. In determining "lowest responsible bidder", in addition to price, the town council shall consider:
1. The ability, capacity and skill of the bidder to perform the contract or provide the service required;
  2. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
  3. The character, integrity, reputation, judgment, experience and efficiency of the bidder;
  4. The quality of performance of previous contracts or services;
  5. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;
  6. The sufficiency of the financial resources and the ability of the contract to provide the service;
  7. The quality, availability and adaptability of the supplies or contractual services to the particular use required;
  8. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract.
- D. Award To Other Than Lowest Bidder: When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the town clerk as directed by the mayor and filed with the other papers relating to the transaction.
- E. Tie Bids: If two (2) or more bids received are for the same total amount or unit price, quality and service being equal, the town council shall re-advertise for bids unless the matter is otherwise resolved without controversy.
- F. Performance Bonds: Before entering a contract, the town council shall have the authority to require a performance bond in such amount as it shall find necessary to protect the best interests of the town. The form and amount of said bond shall be described in the notice inviting bids.

#### **1.16.060 EXEMPTIONS TO COMPETITIVE BIDDING REQUIREMENTS**

- A. Generally: Contracts which by their nature are not adapted to award by competitive bidding, such as contracts for additions to and repairs and maintenance of equipment owned by the town, which may be more efficiently added to, repaired or maintained by a certain person or firm, contract for equipment which, by reason or training of the personnel or an inventory of replacement parts maintained by the town, is compatible with the existing equipment parts maintained by the town, shall not be subject to the competitive bidding requirements of this chapter.



- B. Auction, Closeout, Bankruptcy Sales: If the department head determines that supplies, materials or equipment can be purchased at any public auction, closeout sale, bankruptcy sale or similar sale, and if a majority of the town council at a regular or special meeting concurs in such determination and makes the finding that a purchase at any such auction or sale will be made at a cost below the market cost in the community, a contract or contracts may be let, or the purchase made, without complying with the competitive bidding requirements of this chapter.
- C. Emergency Purchases:
1. In the case of actual emergency, the head of any department may purchase directly any supplies whose immediate procurement is essential to prevent delays in the work of the department which may virtually affect the life, health or convenience of any employee or citizen of the town.
  2. The head of the department shall send to the mayor a full written report of the circumstances of the emergency. The report shall be filed with the town council as provided above.
- D. Procurement of Professional Services: The procurement of professional services shall be based upon qualifications and shall be secured on a competitive basis to the maximum practical extent except as noted below:

Amount Of Contract	Request For Proposals
Up to \$10,000.00 per fiscal year	No RFP required; competitive quotes recommended
Over \$10,000.00 in one fiscal year	Formal request for proposals

The town council shall approve all requests for proposals and approve the award of contracts for professional services exceeding ten thousand dollars (\$10,000.00) in any single fiscal year. Awards shall be made to the individual or firm whose proposal is determined to be the most advantageous to the town, taking into consideration price and the evaluation factors set forth in the request for proposals.

#### **1.16.070 PROHIBITED ACTS AND ACTIVITIES**

- A. Conflicts Of Interest: Elected officials, officers and employees that own a substantial interest in a business which does or anticipates doing business with the town must disclose such interest prior to discussion by the governing body.
- B. Collusion Among Bidders: Any agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition, by agreement to bid a fixed price, or otherwise, shall render the bid of such bidders void.

- C. Advance Disclosures: Any disclosures in advance of the opening of bids, whether in response to advertising or an informal request for bids, made or permitted by a member of the town council or a town employee, shall render void the advertisement or request for bids.
- D. Gratuities: The acceptance of any gratuity in the form of cash, merchandise or any other thing of value by an official or employee of the town from any vendor, contractor or prospective vendor or contractor, shall be cause for removal or other disciplinary action.
- E. Competitive Bid Required for Building Improvements:

1. Bid Requirements: All purchases and contracts, whether by sealed bid, quotation or negotiation, shall be made on a competitive basis to the maximum practical extent, except as noted below:

Amount Of Purchase	Bid Required
Up to \$1,000.00	No bid required-competitive quotes recommended
\$1,001.00 to \$40,000.00	No bid required-competitive quotes recommended
Over \$40,000.00	Formal bid required

2. Amounts In Excess Of Forty Thousand Dollars:

- a. If the improvement is a building improvement and the estimated cost of the improvement is in excess of forty thousand dollars (\$40,000.00), the town shall, if it determines to do the work, only do so by contract let to the lowest responsible bidder after publication of notice at least twice in a newspaper of general circulation printed and published in the town at least five (5) days prior to the opening of bids.
- b. The term "lowest responsible bidder" means any prime contractor who has bid in compliance with the invitation to bid and within the requirements of the plans and specifications for a construction project, who is the lowest bidder, who has furnished a bid bond or equivalent in money as a condition to the award of a prime contract and who furnishes a payment and performance bond as required by law.
- c. When the cost of a contemplated improvement exceeds the bid requirement sum, the job cannot be divided into smaller jobs to avoid having to bid the job.
- d. The town shall send out all bids based on the information provided by staff and shall keep a list of the date the bids were mailed and a list of the vendors to whom the bids were mailed.

The town shall also receive all bids and keep a list of the date and time they were received. Whenever practical, the opening of the bids shall be made in the presence of the staff and the town clerk.

3. Amounts Up To Forty Thousand Dollars But In Excess Of One Thousand Dollars: If the improvement is a building improvement and the estimated cost of the improvement is forty thousand dollars (\$40,000.00) or less, but in excess of one thousand dollars (\$1,000.00), the town may make the improvement without calling for bid, except as otherwise provided within this chapter.
4. Purchases Up To One Thousand Dollars: Competitive Bid Not Required: These purchases shall be obtained by using purchase orders issued by the staff to obtain supplies and services, which have been approved as part of the budget.
  - a. Written competitive bids are not required, but staff are encouraged to obtain competitive quotations.
  - b. The employee receiving the supplies shall sign the delivery ticket to designate that he/she obtained the supplies or services in good condition.

F. Competitive Bid Required for Public Works Projects:

1. Requirements: All public works projects, whether by sealed bid, quotation or negotiation, shall be made on a competitive basis to the maximum practical extent except as noted below:

Amount Of Purchase	Bid Requirement
Up to \$1,000.00	No bid required - competitive quotes required
\$1,001.00 to \$125,000.00	Informal bids required (2 if possible)
Over \$125,000.00	Formal bid required

2. Amounts In Excess Of One Hundred Twenty Five Thousand Dollars:
  - a. If the improvement is a public works project and the estimated cost of the improvement or maintenance of existing facilities is in excess of one hundred twenty five thousand dollars (\$125,000.00), the town shall, if it determines to do the work, only do so by contract let to the lowest responsible bidder after publication of notice at least twice in a newspaper of general circulation printed and published in the town at least five (5) days

prior to the opening of bids. The cost shall be estimated by the town engineer.

- b. The term "lowest responsible bidder" means any prime contractor who has bid in compliance with the invitation to bid and within the requirements of the plans and specifications for a construction project, who is the low bidder, who has furnished a bid bond or equivalent in money as a condition to the award of a prime contract and who furnishes a payment and performance bond as required by law.
  - c. When the cost of a contemplated improvement exceeds the bid requirement sum, the job cannot be divided into smaller jobs to avoid having to bid the job.
  - d. The town shall send out all bids based on the information provided by the staff and shall keep a list of the date the bids were mailed and a list of the vendors to whom the bids were mailed. The town shall also receive all bids and keep a list of the date and time they were received. Whenever practical, the opening of the bids shall be made in the presence of the staff and the town clerk.
3. Amounts Up To One Hundred Twenty Five Thousand Dollars, But In Excess Of One Thousand Dollars: If the improvement is a public works project and the estimated cost of the project is one hundred twenty five thousand dollars (\$125,000.00) or less, but in excess of one thousand dollars (\$1,000.00), the town may make the improvement without calling for bid, except as otherwise provided within this chapter.
4. Purchases Up To One Thousand Dollars; Competitive Bid Not Required: These purchases shall be obtained by using purchase orders issued by the department head to obtain supplies and services, which have been approved as part of the budget.
- a. Written competitive bids are not required, but the staff are encouraged to obtain competitive quotations.
  - b. The employee receiving the supplies shall sign the delivery ticket to designate that he/she obtained the supplies or services in good condition.

## **1.18 RECORDS ACCESS AND MANAGEMENT**

### **1.18.010 RECORDS ACCESS AND MANAGEMENT ACT ADOPTED BY REFERENCE**

#### **1.18.010 RECORDS ACCESS AND MANAGEMENT ACT ADOPTED BY REFERENCE**

Except insofar as the application thereof is clearly impractical or inappropriate, in view of the context of purposes or penalty as provided, all of the definitions, requirements, regulations, prohibitions, provisions and sections of the Utah government records access and management act, Utah Code § 63-2-101 et seq., as amended, are hereby adopted by the town. Any and all violations thereof shall be considered violations of this chapter and each such violation shall subject the violator thereof to penalty provisions under this chapter if proceeded hereunder.

## **1.20 IMPACT FEES**

### **1.20.010 REPORTS APPROVED AND ADOPTED**

### **1.20.020 IMPACT FEES IMPOSED**

### **1.20.030 SERVICE AREAS**

### **1.20.040 TIME OF COLLECTION**

### **1.20.050 ADJUSTMENT OF IMPACT FEES**

### **1.20.060 ACCOUNTING, EXPENDITURE AND REFUND**

### **1.20.070 ADMINISTRATIVE CHALLENGES AND APPEALS PROCEDURE**

### **1.20.080 CHALLENGE BY ARBITRATION**

#### **1.20.010 REPORTS APPROVED AND ADOPTED**

The town council hereby approves and adopts the reports from Economic Associates of Utah, Inc., entitled "Town of Hideout Impact Fee Analysis, January 23, 2001"; and the analysis reflected therein for each of the impact fees in question.

#### **1.20.020 IMPACT FEES IMPOSED**

Impact fees are hereby imposed as a condition of the issuance of a building permit by the town for any development activity which creates additional demand and need for public facilities for the culinary water system and the wastewater (sewer) system as set forth in exhibit A, attached to the ordinance codified herein, and incorporated herein by this reference.

#### **1.20.030 SERVICE AREAS**

The entire area of the town and any areas outside the town serviced by such systems are hereby designated and established as one service area with respect to the culinary water system and the wastewater (sewer) system.

#### **1.20.040 TIME OF COLLECTION**

Unless otherwise provided by the town council, impact fees shall be paid to the town prior to the issuance of a building permit by the town.

#### **1.20.050 ADJUSTMENT OF IMPACT FEES**

A. Authorized: The town may adjust the impact fees imposed pursuant to this chapter as necessary in order to:

1. Respond to unusual circumstances in specific cases;

2. Ensure that the impact fees are imposed fairly;
  3. Permits the adjustment of the amount of the fee based upon studies and data submitted by an applicant or developer, as approved by the town council; and
  4. Allow a credit against impact fees, as approved by the town council, for dedication of land for, improvement to, or new construction of, any system improvements by the applicant or developer if the facilities are identified in the town facilities or capital improvement plan, or other reasonable plans, and are required by the town as a condition of approving the development activity. No credits shall be given for project improvements as defined by the Utah impact fees act.
- B. Authority of Planning Commission: The planning commission shall have the authority to make such adjustments based upon information submitted by an applicant or developer and any recommendations from other appropriate town officials or employees, including the town engineer.
- C. Policies May Be Adopted: The town may adopt policies consistent with this chapter and any resolutions passed by the town council to assist in the implantation, administration and interpretation of this chapter related to municipal impact fees.
- D. Appeal: If the applicant, developer, person or entity is not satisfied with the planning commission's decision, an appeal may be made to the town council under the procedures set for the in HMC 1.20.070.

#### **1.20.060 ACCOUNTING, EXPENDITURE AND REFUND**

The town shall account for, expend and refund impact fees collected pursuant to this chapter in accordance with the provisions of the Utah impact fees act.

#### **1.20.070 ADMINISTRATIVE CHALLENGES AND APPEALS PROCEDURE**

- A. Request for Information: Any person or entity required to pay an impact fee imposed by the town who believes the fee does not meet the requirements of law may file a written request for information with the town as provided by law.
- B. Town Response: Within two (2) weeks of the receipt of the request for information, the town shall provide the person or entity with the written analysis required by the act and with any other relevant information relating to the impact fee.
- C. Challenge Following Payment Of Fee: Within thirty (30) days after paying an impact fee, any person or entity who has paid the fee and wishes to challenge the fee shall file a written appeal with the town clerk setting forth in detail all factual and legal grounds in support of the appeal and challenge to the impact fee, and which is relied upon by the appealing party with respect to the fees challenged. Upon receipt of the written appeal, the town clerk shall forward the



appeal, together with any recommendations from the town engineer, to the town council and shall schedule a public hearing before the town council on the appeal for the purpose of receiving input from all interested persons. The town council shall thereafter render its decision on the appeal no later than thirty (30) days after the date the appeal was filed with the town clerk. Any person or entity who has failed to comply with the administrative remedies established by this section, may not file or join an action challenging the validity of any impact fee.

- D. District Court Review: Any person or entity who was a party to an appeal under this section who is adversely affected by the decision of the town council may petition the district court for a review of the decision within ninety (90) days of a decision upholding an impact fee by the town council or within one hundred twenty (120) days after the date the challenge to the impact fee was filed, whichever is earlier. The petition for review of the decision shall be filed in the first district court for Wasatch County.
- E. Records Transferred To Court: In the event a petition is filed with the district court, the town shall transmit to the reviewing court the record of its proceedings, including its minutes, findings, orders and, if available, a true and correct transcript of its proceedings.
- F. Transcripts: If the proceeding was tape recorded, a transcript of that tape recording is a true and correct transcript for the purposes of Paragraph E of this section.
- G. Court Review: If there is a record:
  - 1. The district court's review is limited to the record provided by the town; and
  - 2. The district court may not accept or consider any evidence outside the town's record unless that evidence was offered to the town and the court determines that it was improperly excluded by the town.
- H. Inadequate Record: If there is an inadequate record, the court may call witnesses and take evidence.
- I. Affirmation of Town Decision: The district court shall affirm the decision of the town if the decision is supported by substantial evidence in the record.

#### **1.20.080 CHALLENGE BY ARBITRATION**

- A. Request for Arbitration: Each person or entity intending to challenge an impact fee under HMC 1.20.070 shall file a written request for arbitration with the town within thirty (30) days.
- B. Selection of Panel: If a person or entity files a written request for arbitration under Paragraph A of this section, an arbitrator or arbitration panel shall be selected as follows:
  - 1. The town and the person or entity filing the request may agree on a

single arbitrator within ten (10) days after the day the request for arbitration is filed; or

2. If a single arbitrator is not agreed to in accordance with Paragraph B,1 of this section, an arbitration panel shall be created with the following members:

- a. Each party shall select an arbitrator within twenty (20) days after the day the request is filed; and
- b. The arbitrators selected under Paragraph B,2,a of this section shall select a third arbitrator.

C. Hearing: The arbitration panel shall hold a hearing on the challenge within thirty (30) days after the date:

1. The single arbitrator is agreed upon under Paragraph B,1 of this section; or
2. The two (2) arbitrators are selected under Paragraph B,1,a of this section.

D. Decision: The arbitrator or arbitration panel shall issue a decision in writing within ten (10) days from the date the hearing under Paragraph C of this section is completed.

E. State Statute Applicability: Except as provided in this section, each arbitration shall be governed by Utah Code title 78-31a, the Utah arbitration act.

F. Types of Arbitration: The parties may agree to:

1. Binding arbitration
2. Formal, nonbinding arbitration; or
3. Informal, nonbinding arbitration.

G. Binding Arbitration: If the parties agree in writing to binding arbitration:

1. The arbitration shall be binding;
2. The decision of the arbitration panel shall be final;
3. Neither party may appeal the decision of the arbitration panel; and
4. Notwithstanding Paragraph J of this section, the person or entity challenging the impact fee may not also challenge the impact fee under HMC 1.20.070, nor under Utah Code § 11-36-401(1), (4)(c)(i) or (4)(c)(iii).

H. Formal, Nonbinding Arbitration:

1. Except as provided in Paragraph H,2 of this section, if the parties agree

to formal, nonbinding arbitration, the arbitration shall be governed by the provisions of Utah Code title 63, chapter 46b, administrative procedures act.

2. For purposes of applying Utah Code title 63, chapter 46b, administrative procedures act, to formal, nonbinding arbitration under this section, notwithstanding Utah Code § 63-46b-20, “agency” means Town of Hideout.

I. Appeal from Informal, Nonbinding Arbitration:

1. An appeal from a decision in an informal, nonbinding arbitration may be filed with the first district court.
2. Each appeal under Paragraph I,1 of this section shall be filed within thirty (30) days after the date the arbitration panel issues a decision under Paragraph D of this section.
3. The district court shall consider de novo each appeal filed under this Paragraph.
4. Notwithstanding Paragraph J of this section, a person or entity that files an appeal under this Paragraph may not also challenge the impact fee under HMC 1.20.070 nor under Utah Code § 11-36-401(1), (4)(c)(i) or (4)(c)(iii).

J. Exceptions:

1. Except as provided in Paragraphs G,4 and I,4 of this section, this section may not be construed to prohibit a person or entity from challenging an impact fee as provided in HMC 1.20.070, or Utah Code § 11-36-401(1), (4)(c)(i) or (4)(c)(iii).
2. The filing of a written request for arbitration within thirty (30) days tolls all time limitations under 1A.10.107 of this chapter until the date the arbitration panel issues a decision.

K. Costs: The person or entity filing a request for arbitration and the town shall equally share all costs of an arbitration proceeding under this section.

## **1.22 CONSTITUTIONAL TAKING ISSUES**

### **1.22.010 POLICY CONSIDERATIONS**

### **1.22.020 DEFINITION OF CONSTITUTIONAL TAKING**

### **1.22.030 GUIDELINES ADVISORY**

### **1.22.040 REVIEW OF DECISION**

### **1.22.050 REVIEWING GUIDELINES**

### **1.22.060 RESULTS OF REVIEW**

## **1.22.010 POLICY CONSIDERATIONS**

There is an underlying policy in the town, strongly favoring the careful consideration of matters involving constitutional taking claims, in fairness to the owner of private property bringing the claim and in view of the uncertainty and expense involved in defending lawsuits alleging such issues. At the same time, the legitimate role of government in lawfully regulating real property must be preserved and the public's right to require the dedication or exaction of property consistent with the constitution. Consistent with this policy, it is desired that a procedure be established for the review of actions that may involve the issue of a constitutional taking. These provisions are to assist governments in considering decisions that may involve constitutional takings. It is intended that a procedure for such a review is to be provided, as well as guidelines for such considerations. This chapter is further intended and shall be construed to provide objectively and fairly, review of claims by citizens compensation, yet preserve the ability of the town to lawfully regulate real property and fulfill its other duties and functions.

### **1.22.020 DEFINITION OF CONSTITUTIONAL TAKING**

- A. Constitutional taking means actions by the town involving the physical taking or exaction of private real property that might require compensation to a private real property owner because of:
  - 1. The fifth or fourteenth amendment to the constitution of the United States;
  - 2. Article 1, section 22, of the Utah constitution;
  - 3. Any court ruling governing the physical taking or exaction of private real property by a government entity.
- B. Actions by the town involving the physical taking or exaction of private real property is not a constitutional taking if it:
  - 1. Bears an essential nexus to a legitimate governmental interest; and
  - 2. Is roughly proportionate and reasonably related, on an individualized property basis, both in nature and extent, to the impact of the proposed development on the legitimate government interest.

### **1.22.030 GUIDELINES ADVISORY**

The guidelines adopted and decisions rendered pursuant to the provisions of this chapter are advisory, and shall not be construed to expand or limit the scope of the town's ability for a constitutional taking. The reviewing body or person shall not be required to make any determination under this chapter, except pursuant to HMC 1.22.040.

### **1.22.040 REVIEW OF DECISION**

Any owner of private real property who claims there has been a constitutional taking of their private real property shall request a review of a final decision of any officer,

employee, board, commission or council. The following are specific procedures established for such a review:

- A. Final Determination Required: The person requesting a review must have obtained a final and authoritative determination, internally, within the town, relative to the decision from which they are requesting review.
- B. Request for Review: Within thirty (30) days from the date of the final decision that gave rise to the concern that a constitutional taking has occurred, the person requesting the review shall file in writing, in the office of the town clerk, a request for review of that decision. A copy shall also be filed with the town attorney.
- C. Review Time Set: The town, or an individual or body designated by the town, shall immediately set a time to review the decision that gave rise to the constitutional takings claim.
- D. Required Information; Materials: In addition to the written request for review, the applicant must submit prior to the date of the review, the following:
  - 1. Name of the applicant requesting review;
  - 2. Name and business address of current owner of the property, form of ownership, whether sole proprietorship, for profit or not for profit corporation, partnership, joint venture or other, and if owned by a corporation, partnership or joint venture, name and address of all principal shareholders or partners;
  - 3. A detailed description of the grounds for the claim that there has been a constitutional taking;
  - 4. A detailed description of the property taken;
  - 5. Evidence and documentation as to the value of the property taken, including the date and cost at the date the property was acquired. This should include any evidence of the value of that same property before and after the alleged constitutional taking, the name of the party from whom purchased, including the relationship if any, between the person requesting a review and the party from whom the property was acquired;
  - 6. Nature of the protectable interest claimed to be affected, such as, but not limited to, fee simple ownership, leasehold interest;
  - 7. Terms (including sales price) of any previous purchase or sale of a full or partial interest in the property in the three (3) years prior to the date of application;
  - 8. All appraisals of the property prepared for any purpose, including financing, offering for sale, or ad valorem taxation, within the three (3) years prior to the date of application;
  - 9. The assessed value of and ad valorem taxes on the property for the previous three (3) years;

10. All information concerning current mortgages or other loans secured by the property, including name of the mortgagee or lender, current interest rate, remaining loan balance and term of the loan and other significant provisions, including, but not limited to, right of purchasers to assume the loan;
  11. All listings of the property for sale or rent, price asked and offers received, if any, within the previous three (3) years;
  12. All studies commissioned by the petitioner or agents of the petitioner within the previous three (3) years concerning feasibility of development or utilization of the property;
  13. For income producing property, itemized income and expense statements from the property for the previous three (3) years;
  14. Information from a title policy or other source showing all recorded liens or encumbrances affecting the property; and
  15. The town or their designee may request additional information reasonably necessary, in their opinion, to arrive at a conclusion concerning whether there has been a constitutional taking.
- E. Certification of Application: An application shall not be deemed to be "complete" or "submitted" until the reviewing body/official certifies to the applicant that all the materials and information required above have been received by the town. The reviewing body/official shall promptly notify the applicant of any incomplete application.
- F. Evidence Considered: The town, or an individual or body designated by them, shall hear all the evidence related to and submitted by the applicant, town or any other interested party.
- G. Approval, Rejection; Time Limit: A final decision on the review shall be rendered within fourteen (14) days from the date the complete application for review has been received by the town. The decision of the town regarding the results of the review shall be given in writing to the applicant and the office, employee, board, commission or council that rendered the final decision that gave rise to the constitutional takings claim.
- H. Failure to Review: If the town council fails to hear and decide the review within fourteen (14) days, the decision appealed from shall be presumed to be approved.

### **1.22.050 REVIEWING GUIDELINES**

The town shall review the facts and information presented by the applicant to determine whether or not the action by the town constitutes a "constitutional taking", as defined in this chapter. In doing so, they shall consider:



- A. Whether the physical taking or exaction of the private real property bears an essential nexus to a legitimate governmental interest.
- B. Whether a legitimate governmental interest exists for the action taken by the town.
- C. Is the property and exaction taken roughly proportionate and reasonably related, on an individual property basis, both in nature and extent to the impact caused by the activities that are the subject of the decision being reviewed.

### **1.22.060 RESULTS OF REVIEW**

After completing the review, the reviewing person/body shall make a determination regarding the above issues and where determined to be necessary and appropriate, shall make a recommendation to the officer, employee, board, commission or council that made the decision that gave rise to the constitutional taking claim.

### **1.24 CODE ENFORCEMENT**

#### **1.24.010 POWER AND AUTHORITY OF OFFICIALS**

#### **1.24.020 NOTICE OF VIOLATION**

#### **1.24.030 FAILURE TO RESPOND**

### **1.24.010 POWER AND AUTHORITY OF OFFICIALS**

The town building inspector, enforcement officer and other town law enforcement personnel, including, but not limited to, the Wasatch County sheriff's department and Wasatch County animal control (enforcing officer), Hideout Town police officer and any person authorized by the mayor and town council to enforce the town's ordinances, are hereafter empowered and authorized to issue a notice of violation in a form approved by the town attorney. The enforcement officer and Wasatch County sheriff's office are hereby authorized to enforce all ordinances of the Town of Hideout. Except that the enforcement officer is not authorized to enforce provisions of the state traffic code, criminal code, or building or fire codes.

### **1.24.020 NOTICE OF VIOLATION**

- A. Issuance: The enforcement officer may set down on the notice the reason for which the notice is issued, which should give the person or entity receiving the notice a reasonable time in which to rectify the perceived violation.
- B. Not Mandatory: The issuance of a notice as provided for in this section is in addition to, and not in lieu of, any other methods or procedures currently in place for prosecuting violations of town ordinances and the issuance of such notice is not and shall not be considered mandatory or a prerequisite for otherwise finding a violation of a town ordinance.

### **1.24.030 FAILURE TO RESPOND**

If a person or entity receiving a notice as described in this chapter does not respond and rectify the perceived violation within the time permitted by the notice, then and in that event, such failure shall be considered a violation of this chapter.

## **1.26 CAMPAIGN FINANCE**

### **1.26.010 SCOPE**

### **1.26.020 DEFINITIONS - CAMPAIGN FINANCE**

### **1.26.030 FILING OF DISCLOSURE REPORTS**

### **1.26.040 TIME OF FILING**

### **1.26.050 CONTENTS OF STATEMENTS**

### **1.26.060 PUBLIC INFORMATION**

### **1.26.070 PENALTY**

### **1.26.010 SCOPE**

All candidates for elective municipal office shall comply with the following campaign disclosure requirements.

### **1.26.020 DEFINITIONS - CAMPAIGN FINANCE**

The following words and phrases used in this chapter shall have the following meaning unless a different meaning clearly appears from the context:

**CANDIDATE:** Any person who files a declaration of candidacy for an elective office of the town; or is nominated by a committee or party; or received contributions or made expenditures or consents to another person receiving contributions or making expenditures with a view to bringing about such person's nominations or election to such office; or causes on his behalf, any written material or advertisement to be printed, published, broadcast, distributed or disseminated which indicates an intention to seek such office.

**CONTRIBUTION:** Monetary and non-monetary contributions such as in-kind contributions and contributions of tangible things, but shall not include personal services provided without compensation by individuals volunteering their time on behalf of a candidate.

**ELECTION:** Both primary and general elections.

**EXPENDITURE:** A purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value made for the purpose of influencing the nomination or election of any candidate.

### **1.26.030 FILING OF DISCLOSURE REPORTS**

Each candidate for elective offices shall file with the town clerk dated, signed, and sworn financial reports, which comply with this chapter.

### **1.26.040 TIME OF FILING**

The reports required by this chapter shall be filed at least once seven (7) days before the primary and general municipal election, and at least once thirty (30) days after the municipal election.

#### **1.26.050 CONTENTS OF STATEMENTS**

A. The statement filed seven (7) days before the election shall include:

1. A list of each contribution of more than fifty dollars (\$50.00) received by the candidate, and the name of the donor;
2. An aggregate total of all contributions of fifty dollars (\$50.00) or less received by the candidate; and
3. A list of each expenditure for political purposes made during the campaign period, and the recipient of each expenditure.

B. The statement filed thirty (30) days after the elections shall include:

1. A list of each contribution of more than fifty dollars (\$50.00) received after the cutoff date for the statement filed seven (7) days before the election, and the name of the donor;
2. An aggregate total of all contributions of fifty dollars (\$50.00) or less received by the candidate after the cutoff date for the statement filed seven (7) days before the elections; and
3. A list of all expenditures for political purposes made by the candidate after the cutoff date for the statement filed seven (7) days before the election, and the recipient of each expenditure.

#### **1.26.060 PUBLIC INFORMATION**

The statements required by this chapter shall be public documents and shall be available for public inspection and copying during all regular town business hours.

#### **1.26.070 PENALTY**

Any candidate who fails to comply with this chapter is guilty of an infraction.

#### **1.28 AGENCIES, BOARDS AND COMMITTEES**

##### **1.28.030 WATER AND SEWER ADVISORY COMMITTEE**

##### **1.28.040 COMMUNITY DEVELOPMENT AND RENEWAL AGENCY**

#### **1.28.030 WATER AND SEWER ADVISORY COMMITTEE**

A. Definitions: For the purpose of this section the following words shall have meaning as given in this section:

TOWN: Means and has reference to Town of Hideout, a municipal corporation of

the state of Utah.

TOWN COUNCIL: A duly elected legislative body of the Town.

COMMITTEE: The Town public utilities advisory committee.

COMMITTEE MEMBER OR MEMBERS: A person or persons appointed by the Town council of the Town who is a duly qualified and acting voting member of the committee.

MAYOR: The duly elected or appointed and qualified mayor of the Town.

PERSON: An individual.

- B. Created; Composition: There is created the Town public utilities advisory committee, hereinafter referred to as "committee", which body shall consist of (5) appointed voting members. The mayor, the Town Engineer and the Town attorney shall be ex officio, nonvoting members.
- C. Appointment; Term; Oath of Office: All appointments and removals of members of the committee shall be made by the mayor, with the advice and consent of the Town council. In making initial appointments, the council shall designate one member to serve one year, two (2) to serve two (2) years, and two (2) to serve three (3) years. At least three (3) members, at the time of their appointment, must reside outside of the corporate limits of the Town. Any fraction of a year in the initial appointment shall be considered a full year. Thereafter, all appointments shall be made for a four (4) year term. Each member's term of office shall expire on the applicable third Monday in January. Each member shall perform service on a voluntary basis without compensation, and on such basis shall be immune from liability with respect to any decision or action taken during the course of those services, as provided by Utah Code § 63-306-2, 1953, as amended, or its successor. Members of the committee shall sign the oath of office required by law to be signed by Town officials and file the same in the office of the Town recorder. Every member who shall fail within ten (10) days after notification of such member's appointment to file with the Town recorder such member's oath of office to perform faithfully, honestly and impartially the duties of his or her office, shall be deemed to have refused such appointment, and thereupon another person shall be appointed in the manner prescribed in this code. Vacancies occurring in the membership of the committee shall be filled by appointment by the Town council for the unexpired term.
- D. Membership Eligibility Requirements: A person to be eligible to be appointed as a member of the committee shall meet the following prerequisites:
  - 1. Be not less than twenty one (21) years of age;
  - 2. Be a resident of the state; and
  - 3. No person shall be eligible to serve on the committee as a member while actively engaged or employed in any commercial activity which sells

goods or services directly to the public utilities of the Town.

- E. **Members' Ethics:** Members shall be subject to and bound by the provisions of the municipal officers and employees disclosure act, Utah Code § 10-3-1301 et seq., 1953, as amended, or its successor. Any violation of the provisions of such act, or as the act shall be from time to time amended, shall be grounds for removal from office.
- F. **Removal from Office:** Any member of the committee may be removed from office by the board for cause, prior to the normal expiration of term for which such member was appointed.
- G. **Election of Committee Officers:** Each year the committee at its first regular meeting after the third Monday in January shall select one of its members as chairperson and another of its members as vice chairperson, who shall perform the duties of chairperson during the absence or disability of the chairperson. The Mayor shall make available a secretary or the Town Clerk to the committee when required.
- H. **Attorney and Engineer appointed to Board:** The Town attorney and the Town Engineer shall be the attorney and engineer, respectively.
- I. **Meetings:**
  - 1. The committee shall convene for regular meetings to be held not less than monthly throughout the year. The committee shall keep its meetings open to the public. Special meetings may be ordered by a majority of the committee, the chairperson or the mayor. The order for a special meeting must be signed by the members, chairperson, mayor or council person calling such meeting and, unless waived in writing, each member not joining in the order for such special meeting must be given not less than three (3) hours' notice. The notice shall be served personally or left at the member's residence or business office. The committee may also hold executive sessions, for the purpose of discussing sensitive matters such as negotiations or personalities, at such time as the committee shall determine, which may not be open to the public; provided, however, no resolution, rule or regulation shall be finally approved at such executive session and such sessions shall be held infrequently as it is recognized that almost all issues are to be discussed in public. Meetings shall be held at the office of the director of public utilities or at such other public place as may be designated by the committee. Three (3) members of the committee shall constitute a quorum for the transaction of business. The committee may act officially by an affirmative vote of any of the three (3) members. A member of the committee may attend the meeting electronically and participate in the proceedings electronically.
  - 2. The committee shall cause a written record of its proceedings to be kept which shall be available for public inspection in the office of the director of public utilities. The committee shall record in the record the ye and nay votes on the voting of any action taken by it.

3. The committee shall adopt a system of rules of procedure under which its meetings are to be held. The committee may suspend the rules of procedure by unanimous vote of the members of the committee who are present at the meeting. The committee shall not suspend the rules of procedure beyond the duration of the meeting at which the suspension of the rules occurs.
- J. Committees: The committee may designate such subcommittee or subcommittees as it desires to study, consider and make recommendations on matters which are presented to the committee. Subcommittee members may be members, but the committee shall have the power to appoint such subcommittee members as it deems appropriate and advisable even though they may not be members.
- K. Power and Duties: The committee shall have the following powers and duties:
1. To annually review the department's water and sewer system capital improvements program;
  2. To review annually the department's operations and maintenance budget and expenditures;
  3. Annually review the water and sewer revenue requirements and recommend to the mayor any rate adjustments as they deem necessary;
  4. Review and make recommendations on proposed legislation relating to water and sewer;
  5. Consult with the mayor relative to water resources and sewage reclamation requirements;
  6. The power to determine and establish such rules and regulations for the conduct of the committee as the members shall deem advisable; provided, however, that such rules and regulations shall not be in conflict with this chapter or any other Town, state or federal law;
  7. To adopt and alter all rules and regulations which it shall from time to time deem in the public interest and most likely to advance, enhance, foster and promote the public utility systems of the Town and for the purposes of carrying out the objects of this chapter; but such rules and regulations shall not be in conflict with the terms of this chapter or any other Town ordinance, state or federal law;
  8. Assist the public utilities director in every way possible for the continuing orderly development and operation of the public utility systems of the Town in order to best serve the users thereof;
  9. Hear and decide appeals arising from decisions granting or denying a riparian protection permit.
- L. Review of Action; Veto Power of the Mayor: Except for appeals regarding riparian protection permits, all action taken by the committee shall constitute



recommendations to the mayor and shall not constitute official action. All action shall be reduced to writing and submitted to the Town Clerk's office for presentment to the mayor. The Town Clerk shall present the same to the mayor. The mayor shall have the power to review, ratify, modify or veto any action submitted by the committee. The Town clerk shall promptly notify the committee in writing of the action taken by the mayor. No action shall be implemented until the committee is notified in writing that it has been ratified by the mayor, or that the action was modified and adopted by the mayor and in such event it shall be implemented as modified. In the event the mayor shall desire to hold any matter for further study, the chairperson of the committee shall be notified. Action will take effect only upon ratification by the mayor.

#### **1.28.040 COMMUNITY DEVELOPMENT AND RENEWAL AGENCY**

- A. The Council hereby creates an Agency to be known as the "Town of Hideout Community Development and Renewal Agency" (the "Town of Hideout Agency"). The Town of Hideout Agency will be deemed created upon the issuance by the Lieutenant Governor of a certificate of creation under the Act.
- B. The geographic boundaries of the Town of Hideout Agency shall be coterminous with the geographic boundaries of the unincorporated area of the Town as of the date hereof and as otherwise authorized by law.
- C. The governing Council of the Town of Hideout Agency shall be a five (5) member Council consisting of the members of the Town Council. Upon a change in the membership of the Town Council, the governing Council of the Town of Hideout Agency shall likewise change to match the membership of the Town Council.

## **2 FINANCES, FEES AND TAXATION**

### **2.02 TELECOMMUNICATIONS TAX**

#### **2.04 MUNICIPAL ENERGY AND USE TAX**

### **2.02 TELECOMMUNICATIONS TAX**

#### **2.02.010 DEFINITIONS - TELECOMMUNICATIONS TAX**

##### **2.02.020 LEVY OF TAX**

##### **2.02.030 TAX RATE**

##### **2.02.040 RATE LIMITATION AND EXEMPTION**

##### **2.02.050 EFFECTIVE DATE OF TAX LEVY**

##### **2.02.060 CHANGES IN RATE OR REPEAL**

##### **2.02.070 INTERLOCAL AGREEMENT FOR COLLECTION OF TAX**

##### **2.02.080 TAXES ERRONEOUSLY RECOVERED FROM CUSTOMERS**

##### **2.02.090 REPEAL OF INCONSISTENT TAXES AND FEES**

#### **2.02.010 DEFINITIONS - TELECOMMUNICATIONS TAX**

As used in this chapter:

COMMISSION: The State Tax Commission

CUSTOMER:

- A. Subject to Paragraphs B and C of this definition, "customer" means the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract.
- B. For purposes of this chapter, "customer" means:
  - 1. The person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract; or
  - 2. If the end user is not the person described in Paragraph B,1 of this definition, the end user of telecommunications service.
- C. "Customer" does not include a reseller does not include a reseller for telecommunications service, or for mobile telecommunications service, of a serving carrier under an agreement to serve the customer outside the telecommunications provider's licensed service area.

END USER:

- A. The person who uses a telecommunications service.
- B. For purposes of telecommunications service provided to a person who is not an individual, "end user" means the individual who uses the telecommunications

service on behalf of the person who is provided the telecommunications service.

**GROSS RECEIPTS ATTRIBUTED TO THE MUNICIPALITY:** Those gross receipts from a transaction for telecommunications services that is located within the municipality for the purposes of sales and use taxes under Utah Code Title 59-12, sales and use tax act and determined in accordance with Utah Code § 59-12-207.

**GROSS RECEIPTS FROM TELECOMMUNICATIONS SERVICE:** The revenue that a telecommunications provider receives for telecommunications service rendered except for amounts collected or paid as:

- A. A tax, fee, or charge imposed by a governmental entity, separately identified as a tax, fee or charge in the transaction with the customer for the telecommunications service, and imposed only on a telecommunications provider;
- B. Sales and use taxes collected by the telecommunications provider from a customer under Utah Code Title 59-12, Sales and Use Tax Act; or
- C. Interest, a fee, or a charge that is charged by a telecommunications provider on a customer for failure to pay for telecommunications service when payment is due.

**MOBILE TELECOMMUNICATIONS SERVICE:** Is as defined in the mobile telecommunications sourcing act, 4 USC § 124.

**MUNICIPALITY:** Town of Hideout.

**PLACE OF PRIMARY USE:**

- A. For telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be the residential street address of the customer or the primary business street address of the customer; or
- B. For mobile telecommunications service, is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

**SERVICE ADDRESS:** Notwithstanding where a call is billed or paid:

- A. If the location described in this section is known, the location of the telecommunications equipment to which a call is charged, and from which the call originates or terminates;
- B. If the location described in this section is not known, the location of the origination point of the signal of the telecommunications service first identified by the telecommunications system of the telecommunications provider, or if the system used to transport the signal is not a system of the telecommunications

provider, information received by the telecommunications provider from its service provider; or

- C. If the locations described in Paragraphs A or B of this definition are not known, the location of a customer's place of primary use.

#### TELECOMMUNICATIONS PROVIDER:

- A. Subject to Paragraphs B and C of this definition, a person that owns, controls, operates, or manages a telecommunications service, or engages that engages in owning, controlling, operating or managing a telecommunications service for the shared use with or resale to any person of the telecommunications service.
- B. A person described in Paragraph A is a telecommunications provider whether or not the Public Service Commission of Utah regulates that person, or the telecommunications service that the person owns, controls, operates, or manages.
- C. "Telecommunications provider" does not include an aggregator as defined in Utah Code § 54-8b-2 as amended.

#### TELECOMMUNICATIONS SERVICE:

- A. Telephone service, as defined in Utah Code § 59-12-102, as amended, other than mobile telecommunications service, that originates and terminates within the boundaries of this state; and
- B. Mobile telecommunications service, as defined in Utah Code § 59-12-102, as amended, that originates and terminates within the boundaries of one state, and only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

### **2.02.020 LEVY OF TAX**

There is hereby levied a municipal telecommunications license tax on the gross receipts from telecommunications service attributed to this municipality.

### **2.02.030 TAX RATE**

The rate of the tax levy shall be 3.5% of the telecommunication provider's gross receipt from telecommunications service that are attributed to the municipality. If the location of a transaction is determined to be other than this municipality then the rate imposed on the gross receipts for telecommunications services shall be determined pursuant to the provisions of Utah Code § 10-1-407.

### **2.02.040 RATE LIMITATION AND EXEMPTION**

The rate of this levy shall not exceed 4% of the telecommunication provider's gross receipts from telecommunication service attributed to the municipality, unless a higher

rate is approved by a majority vote of the voters in this municipality that vote in a municipal general election, a regular general election, or a local special election. If the location of a transaction is determined to be other than this municipality then the rate imposed on the gross receipts for telecommunications services shall be determined pursuant to the provisions of Utah Code § 10-1-407.

#### **2.02.050 EFFECTIVE DATE OF TAX LEVY**

This tax shall be levied beginning January 1, 2010.

#### **2.02.060 CHANGES IN RATE OR REPEAL**

This chapter is subject to the requirements of Utah Code § 10-1-403. If the tax rate is changed or the tax is repealed, then the appropriate notice shall be given as provided in Utah Code § 10-1-403.

#### **2.02.070 INTERLOCAL AGREEMENT FOR COLLECTION OF TAX**

On or before the effective date hereof, the municipality shall enter into the uniform inter-local agreement with the Commission as described in Utah Code § 10-1-405 under which the Commission collects, enforces, and administers the municipal telecommunications license tax.

#### **2.02.080 TAXES ERRONEOUSLY RECOVERED FROM CUSTOMERS**

Pursuant to the provisions of Utah Code § 10-1-408, a customer may not bring a cause of action against a telecommunications provider on the basis that the telecommunications provider erroneously recovered from the customer municipal telecommunications license taxes authorized by this part unless the customer meets the same requirements that a purchaser is required to meet to bring a cause of action against a seller for a refund or credit as provided in Utah Code § 59-12-110.1(3).

#### **2.02.090 REPEAL OF INCONSISTENT TAXES AND FEES**

Any tax or fee previously enacted by this municipality under authority of Utah Code § 10-1-203 or Utah Code Title 11-26, local taxation of utilities limitation is hereby repealed.

Nothing in this chapter shall be interpreted to repeal any municipal ordinance or fee which provides that the municipality may recover from a telecommunications provider the management costs of the municipality caused by the activities of the telecommunications provider in the rights of way of the municipality, if the fee is imposed in accordance with Utah Code § 72-7-102 and is not related to the municipality's loss of use of a highway as a result of the activities of the telecommunications provider in a right-of-way, or increased deterioration of a highway as a result of the activities of the telecommunications provider in a right-of-way nor does this chapter limit the municipality's right to charge fees or taxes on persons that are not subject to the municipal telecommunications license tax under this chapter and locate telecommunications facilities, as defined in Utah Code § 72-7-108, in this municipality.

## **2.04 MUNICIPAL ENERGY AND USE TAX**

### **2.04.010 PURPOSE**

### **2.04.020 DEFINITIONS**

### **2.04.030 MUNICIPAL ENERGY SALES AND USE TAX**

### **2.04.040 EXEMPTIONS FROM THE MUNICIPAL ENERGY SALES AND USE TAX**

### **2.04.050 TAX COLLECTION CONTRACT WITH UTAH STATE TAX COMMISSION**

### **2.04.060 INCORPORATION OF UTAH CODE TITLE 59-12 PART 1, INCLUDING AMENDMENTS**

### **2.04.070 NO ADDITIONAL LICENSE TO COLLECT THE MUNICIPAL ENERGY SALES AND USE TAX REQUIRED; NO ADDITIONAL LICENSE OR REPORTING REQUIREMENTS**

#### **2.04.010 PURPOSE**

It is the intent of the Town of Hideout to adopt the municipal energy and use tax pursuant to, and in conformance with, Utah Code § 10-1-301, et seq., 1953, as amended, "The Municipal Energy Sales and Use Tax."

#### **2.04.020 DEFINITIONS**

CONSUMER: A person who acquires taxable energy for any use that is subject to the Municipal Energy Sales and Use Tax.

DELIVERED VALUE: The fair market value of the taxable energy delivered for sale or use in the town and includes:

- A. The value of the energy itself; and
- B. Any transportation, freight, customer demand charges, services charges, or other costs typically incurred in providing taxable energy in usable form to each class of customer in the municipality.

DELIVERED VALUE: Does not include the amount of a tax paid under Utah Code Title 59-12 Part 1 or Part 2.

ENERGY SUPPLIER: A person supplying taxable energy, except for persons supplying a de minimus amount of taxable energy, if such persons are excluded by rule promulgated by the State Tax Commission.

PERSON: Any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state or any group or combination as a unit.

SALE: Any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of taxable energy for consideration. It includes:

- A. Installment and credit sales;



- B. Any closed transaction constituting a sale;
- C. Any transaction under which right to acquire, use, or consume taxable energy is granted under a lease or contract and the transfer would be taxable if an outright sale were made.

STORAGE: Any keeping or retention of taxable energy in the City for any purpose except sale in the regular course of business .

USE: The exercise of any right or power over taxable energy incident to the ownership or the leasing of the taxable energy.

USE: Does not include the sale, display, demonstration, or trial of the taxable energy in the regular course of business and held for resale.

TAXABLE ENERGY: Gas and electricity.

#### **2.04.030 MUNICIPAL ENERGY SALES AND USE TAX**

There is hereby levied, subject to the provisions of this chapter, a tax on every sale or use of taxable energy made within the Town of Hideout equaling six percent (6%) of the delivered value of the taxable energy to the consumer. This tax shall be known as the Municipal Energy Sales and Use Tax.

- A. The tax shall be calculated on the delivered value of the taxable energy to the consumer.
- B. The tax shall be in addition to any sales or use tax or taxable energy imposed by the Town of Hideout authorized by Utah Code Title 59-12, Part 2, The Local Sales and Use Tax Act.

#### **2.04.040 EXEMPTIONS FROM THE MUNICIPAL ENERGY SALES AND USE TAX**

- A. No exemptions are granted from the municipal Energy Sales and Use Tax except as expressly provided in Utah Code § 10-1-305(2)(b), as amended; notwithstanding an exemption granted by Utah Code § 59-12-104, as amended.
- B. The following are exempt from the Municipal Energy Sales and Use Tax, pursuant to Utah Code § 10-1-305(2)(b):
  - 1. Sales and use of aviation fuel, motor fuel, and special fuels , subject to taxation under Utah Code Title 59-13;
  - 2. Sales and use of taxable energy that is exempt from taxation under federal law, the United States Constitution, or the Utah Constitution;
  - 3. Sales and use of taxable energy purchased or stored for resale;
  - 4. Sales or use of taxable energy to a person, of the primary use of the taxable energy is for use in compounding or producing taxable energy or a fuel subject to taxation under Utah Code Title 59-13;

5. personal Taxable energy brought into the state by a nonresident for the nonresident's own
  6. The sale or use of taxable energy for any purpose other than as a fuel or energy; and
  7. The sale of taxable energy for use outside the boundaries of the City.
- C. The sale, storage, use, or other consumption of taxable energy is exempt from the Municipal Energy Sales and Use Tax levied by this chapter, provided:
1. The delivered value of the taxable energy has been subject to a municipal energy sales or use tax levied by another municipality within the state authorized by Utah Code Title 59-12, Part 3; and
  2. The Town has paid the difference between the tax paid to the other municipality and the tax that would otherwise be due under this chapter, if the tax due under this chapter exceeds the tax paid to the other municipality.

#### **2.04.050 TAX COLLECTION CONTRACT WITH UTAH STATE TAX COMMISSION**

On or before the effective date of this chapter, the Town shall contract with the Utah State Tax Commission to perform all functions incident to the administration and collection of the Municipal Energy Sales and Use Tax, in accordance with this chapter. This contract may be a supplement an existing contract with the Commission to administer and collect tax for the Town. The Mayor is hereby authorized to enter supplementary agreements with the Utah State Tax Commission that may be necessary to the continued administration and operation of the Municipal Energy Sales and Use Tax by this chapter.

#### **2.04.060 INCORPORATION OF UTAH CODE TITLE 59-12 PART 1, INCLUDING AMENDMENTS**

- A. Except as herein provided and except insofar as they are inconsistent with the provisions of Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act, as well as this chapter, all of the provisions of Utah Code Title 59-12 Part 1, and in force and effect on the effective date of this chapter, insofar as they relate to levying or collecting a municipal energy sales and use tax, are hereby adopted and made a part of this chapter as if fully set forth herein.
- B. Any amendments made to Utah Code Title 59-12 Part 1, which would be applicable to the Town for purposes of carrying out this chapter are hereby incorporated herein by reference and shall be effective upon the date that they are effective as a Utah statute.

#### **2.04.070 NO ADDITIONAL LICENSE TO COLLECT THE MUNICIPAL ENERGY SALES AND USE TAX REQUIRED; NO ADDITIONAL LICENSE OR REPORTING**

## **REQUIREMENTS**

No additional license to collect or report the Municipal Energy Sales and Use Tax levied by this chapter is required, provided the energy supplier collecting the tax has a license issued under Utah Code § 59-12-106.

### **3 PLANNING COMMISSION**

#### **3.02 PLANNING COMMISSION**

#### **3.02 PLANNING COMMISSION**

##### **3.02.010 CREATION**

##### **3.02.020 QUALIFICATIONS**

##### **3.02.030 REMOVAL FROM COMMISSION**

##### **3.02.040 COMPENSATION**

##### **3.02.050 POWERS AND DUTIES**

##### **3.02.060 COOPERATION WITH COUNTY**

##### **3.02.070 RECORD OF PROCEEDINGS**

##### **3.02.080 RULES AND REGULATIONS**

##### **3.02.090 NOTICE REQUIREMENTS**

#### **3.02.010 CREATION**

- A. Composition; Appointment: Pursuant to the provisions of Utah Code, there is hereby created a planning commission for Hideout. The planning commission shall consist of five (5) members, to be appointed by the mayor, with the advice and consent of the council. Initially, the members shall be appointed with one (1) member having their term expire January 1, 2010, and two (2) members having their terms expire January 1, 2012. Thereafter, every even numbered year, in the month of January, the mayor, with the advice and consent of the council, shall appoint members of said commission, for a term of four (4) years. The terms shall be staggered in such a manner that no more than three (3) terms expire in a given year. All terms expire on January 1 in the applicable year.
- B. Term: Each member of the planning commission shall serve until the expiration of the term for which they are appointed or until their successor is appointed and qualified. At the expiration of each term, new appointments shall be promptly made in the same manner as original appointment as provided in this section.
- C. Vacancy: Any vacancy occurring during an unexpired term, due to death, resignation or removal from office shall be promptly filled by the mayor, with the advice and consent of the council, for the unexpired portion of the term.
- D. Alternates: Two (2) alternate members of the planning commission may be selected in the same manner and for the same length of time as a regular member. The alternate member may sit in for a full time member of the commission, at the request of the chairperson, when the full time member is not able to be in attendance. The alternate may only vote at such time as they are acting for the full time member.

#### **3.02.020 QUALIFICATIONS**

Members of the planning commission must qualify by taking, subscribing and filing with the clerk the oath of office required by section 10, article IV of the constitution of Utah.

### **3.02.030 REMOVAL FROM COMMISSION**

The council may remove any member of the planning commission, with or without cause, upon written notice.

### **3.02.040 COMPENSATION**

The council may fix per diem compensation for the members of the planning commission, based upon necessary and reasonable expenses and on meetings actually attended.

### **3.02.050 POWERS AND DUTIES**

The planning commission shall have such powers and functions and shall perform such duties as prescribed by Utah Code Title 10-9a, and any further amendments of or supplements to which may hereafter be enacted, and shall also have such powers and functions and perform such other duties in connection with the planning and zoning of the town as may hereafter be prescribed by any ordinance.

### **3.02.060 COOPERATION WITH COUNTY**

The planning commission, in the exercise of its powers and the discharge of its duties, shall seek to cooperate with any planning commission or other official body of the county having similar powers and duties.

### **3.02.070 RECORD OF PROCEEDINGS**

The planning commission shall keep a public record of its proceedings, which shall be filed in the office of the clerk.

### **3.02.080 RULES AND REGULATIONS**

The planning commission shall submit to the council rules and regulations subject to the provisions of the laws of the state and the planning and zoning ordinances of the town, to provide for the regulation of its procedure and the conduct of its duties, and may submit amendments to such rules from time to time to the council.

### **3.02.090 NOTICE REQUIREMENTS**

- A. If any citizen or applicant desires to have an item placed on the agenda for the regular meeting of the Planning Commission, a description of the agenda item must be delivered to the Town Clerk no later than 10:00 a.m. fifteen (15) calendar days prior to the Planning Commission's regularly scheduled meeting. All supporting content (electronic or otherwise), if any, must be submitted to the Town Clerk no later than 10:00 a.m. seven (7) calendar days prior to the date of the regularly scheduled Planning Commission meeting. If agenda items or materials supporting such agenda items are delivered after the time set forth in this section, such agenda items will be placed on the agenda for the following regular meeting of the Planning Commission.

- B. This section makes no changes to any Land Use application schedule or deadlines outlined within existing Town Code or within any duly adopted Master Development Agreement. Those schedules and/or deadlines must be completed prior to any affected item being placed upon the agenda as outlined above.



## **4 BUSINESS LICENSES AND REGULATIONS**

### **4.02 DEFINITIONS - BUSINESS LICENSES AND REGULATIONS**

#### **4.04 BUSINESS LICENSES GENERALLY**

#### **4.06 HOME OCCUPATION BUSINESS LICENSES**

#### **4.08 ALCOHOLIC BEVERAGES**

#### **4.10 CHARITABLE SOLICITATIONS**

#### **4.12 OFFENSIVE BUSINESS AND FACILITIES**

#### **4.14 RESIDENTIAL SOLICITATION**

#### **4.16 SEXUALLY ORIENTED BUSINESSES**

#### **4.18 (RESERVED)**

#### **4.20 SPECIAL EVENT PERMITS**

## **4.02 DEFINITIONS - BUSINESS LICENSES AND REGULATIONS**

### **4.02.010 DEFINITIONS - BUSINESS LICENSES AND REGULATIONS**

#### **4.02.010 DEFINITIONS - BUSINESS LICENSES AND REGULATIONS**

As used in this title:

**BUSINESS:** Means and includes all activities engaged in within this municipality 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 provided.

**EACH SEPARATE PLACE OF BUSINESS:** Each separate establishment or place of operation, whether or not operating under the same name, within the municipality, including a home or other place of lodging if the same is held out by advertisements, listings or otherwise as the establishment or place of operation of a person engaging in the business of selling tangible, personal property at either retail or wholesale, or both, in the municipality.

**EMPLOYEE:** The operator, owner or manager of a place of business and any persons employed by such person in the operation of such place of business in any capacity and also any salesperson, agent or independent contractor engaged in the operation of the place of business in any capacity.

**ENGAGING IN BUSINESS:** Includes, but is not limited to, the sale of tangible personal 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.

**PLACE OF BUSINESS:** Each separate location maintained or operated by the licensee within this municipality from which business activity is conducted or transacted.

WHOLESALE: A sale of tangible personal property by wholesalers to retail merchants, jobbers, dealers or other wholesalers for resale, and does not include a sale by wholesalers or retailers to users or consumers not for resale, except as otherwise specified.

WHOLESALE: A person doing a regularly organized wholesale or jobbing business and selling to retail merchants, jobbers, dealers or other wholesalers, for the purpose of resale.

#### **4.04 BUSINESS LICENSES GENERALLY**

##### **4.04.010 BUSINESS LICENSE REQUIRED**

##### **4.04.020 EXCEPTIONS TO LICENSE**

##### **4.04.030 RECIPROCAL RECOGNITION OF LICENSE**

##### **4.04.040 LICENSE ASSESSOR AND COLLECTOR**

##### **4.04.050 APPLICATIONS FOR LICENSE**

##### **4.04.060 ISSUANCE OF BUSINESS LICENSE**

##### **4.04.070 BRANCH ESTABLISHMENTS; SEPARATE LICENSE REQUIRED**

##### **4.04.080 JOINT LICENSE ALLOWED WHEN**

##### **4.04.090 DISPLAY**

##### **4.04.100 TRANSFER OF LICENSE PROHIBITED**

##### **4.04.110 REVOCATION OR DENIAL OF BUSINESS LICENSE**

##### **4.04.120 PAYMENT DATES**

##### **4.04.130 PENALTY FOR LATE PAYMENT**

##### **4.04.140 ANNUAL FEE LEVIED; SCHEDULE**

##### **4.04.150 FEE NOT TO CONSTITUTE UNDUE BURDEN ON INTERSTATE COMMERCE**

#### **4.04.010 BUSINESS LICENSE REQUIRED**

It shall be a class B misdemeanor for any person to transact, engage in or carry on any business, trade, profession, calling or to operate a vending, pinball or coin operated machine without first receiving the class or type of license required by the municipality.

#### **4.04.020 EXCEPTIONS TO LICENSE**

- A. No license requirement shall be imposed under HMC 4.04.010 on any person engaged in business for a nonprofit purpose which is tax exempt under the laws of the United States and the state, nor shall any license requirement 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; nor shall any license requirement be imposed upon any person not maintaining a place of business within this municipality.
- B. The license assessor and collector may, with approval of the governing body, enter into reciprocal agreements with the proper officials of other taxing units, as may be deemed equitable and proper in effecting the exemption provided for in Paragraph A of this section.

#### **4.04.030 RECIPROCAL RECOGNITION OF LICENSE**

- A. No license shall be required for operation of any vehicle or equipment in this municipality when:
1. Such vehicle is merely passing through the municipality;
  2. Such vehicle is used exclusively in intercity or interstate commerce.
- B. No license shall be required, by this chapter and HMC 4.04.040, of any person whose only business activity in this municipality is the mere delivery in the municipality of property sold by him at a regular place of business maintained by him outside the municipality where:
1. Such person's business is at the time of such delivery licensed by the Utah municipality or county in which such place of business is situated; and
  2. The authority licensing such business, grants to licensees of this municipality making deliveries within its jurisdiction the same privileges, upon substantially the same terms, as are granted by this section; and
  3. Neither the property delivered nor any of the facilities by which it was manufactured, produced or processed are subject to inspection by authority of this municipality for compliance with health or sanitary standards prescribed by this municipality; and
  4. The truck or other conveyance by which such delivery is made prominently displays at all times a license plate or symbol issued by the licensing authority to evidence such business license. Such plate or symbol shall identify the licensing authority by which it is issued, shall indicate that it evidences a license issued thereby, and shall specify the year or term for which it is effective.
- C. The Town Clerk shall, at the request of any person, certify a copy of this section to any municipality or county of the state to which a copy has not previously been certified.

#### **4.04.040 LICENSE ASSESSOR AND COLLECTOR**

The Town Clerk is designated and appointed as ex officio assessor of license fees for this municipality. On receipt of any application for a license, the Town Clerk shall assess the amount due thereon and shall collect all license fees based upon the rate established by ordinance. He shall enforce all provisions of this chapter, and shall cause to be filed complaints against all persons violating any of the provisions of this chapter.

#### **4.04.050 APPLICATIONS FOR LICENSE**

- A. All applications for license shall include:

1. The name, social security number, date of birth, and home address of the person applying for the license;
2. The registered name of the business, if applicable;
3. The federal tax number of the corporation, if applicable;
4. The type of business to be engaged in;
5. The location of the place of business;
6. A state tax number, if applicable;
7. A state contractor's number, if applicable;
8. Proof that the business is state licensed or registered, if applicable;
9. A space for the applicant or applicant's authorized agent to sign under penalty of law that all the information contained therein is true; and
10. The information regarding any other business licenses held in any other jurisdiction.
11. Authorize the Town to conduct a background check on the applicant and other business principals

B. In the event that the license application relates to a coin operated machine or device, the application shall identify the machine or device to which it applies and the location thereof.

#### **4.04.060 ISSUANCE OF BUSINESS LICENSE**

- A. An applicant for a business license shall fill out the application in full and sign it as verification under penalty of law that all information contained therein is true.
- B. The application shall be completed and fees paid.
- C. Copies of the application shall be submitted to the appropriate Town staff for their review.
- D. After staff review and approval of the completed application, a business license certificate shall be prepared.
- E. The applicant shall ensure that the business location is within a zoning district that allows said land use.

#### **4.04.070 BRANCH ESTABLISHMENTS; SEPARATE LICENSE REQUIRED**

A separate license must be obtained for each separate place of business in the municipality 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 section shall not be deemed to be separate places of business or branch establishments.

#### **4.04.080 JOINT LICENSE ALLOWED WHEN**

Whenever any person is engaged in two (2) or more businesses at the same location within the municipality, such person shall not be required to obtain separate licenses for conducting each of such businesses, but shall be issued one license which shall specify on its face all such businesses. The license fee to be paid shall be computed at the highest license fee applicable to any of the businesses being conducted at such location. The sale of beer or any other product or service requiring an additional license shall be subject to such additional licensing requirement. Where two (2) or more persons conduct separate businesses at the same location, each such person shall obtain a license for such business and pay the required license fee for such business.

#### **4.04.090 DISPLAY**

- A. Every certificate of license issued under this title shall be posted by the licensee in a conspicuous place upon the wall of the building, room or office of the place of business so that the same may be easily seen. When such certificate of license has expired, it shall be removed by the licensee from such place in which it has been posted, and no certificate of license which is not in force and effect shall be permitted to remain posted upon the wall or any part of any room within the place of business. If the licensee's business is such that a license cannot be displayed due to the transient or mobile nature of the business, then the licensee shall carry the license on his person ready to be shown on request by an authorized officer during all such time or times while the licensee is engaged in or pursuing the business for which a license is granted.
- B. In the event the license is for a coin operated machine or device, the certificate shall be attached or displayed in the immediate vicinity of the machine for which it has been issued.

#### **4.04.100 TRANSFER OF LICENSE PROHIBITED**

No license granted or issued under any ordinance of this municipality shall be assigned or transferred to any other person. It shall not be deemed to authorize any person other than therein named to do business or to authorize any other business, calling, trade or profession than is therein named, unless by permission of the governing body.

#### **4.04.110 REVOCATION OR DENIAL OF BUSINESS LICENSE**

- A. Any license issued pursuant to the provisions of this code or of any ordinance of this municipality may be revoked and any application denied by the planning commission because of:
  - 1. The failure of the licensee or applicant to comply with the conditions and requirement of this code or any ordinance of the municipality.

2. Unlawful activities conducted or permitted on the premises where the business is conducted.
  3. The license was obtained by fraud or deceit.
- B. The Town shall notify the applicant of the denial or revocation of a license and the reason for such denial or revocation.
- C. A license denial or revocation may be appealed to the Town council by filing written notice of appeal with the Town recorder within ten (10) days of the notice of denial or revocation. The Town council shall hear the appeal within thirty (30) days of the notice of appeal.

#### **4.04.120 PAYMENT DATES**

All business licenses are for a one year period and the fees therefor shall be due and payable as follows, except as may be otherwise provided in the applicable ordinance:

- A. Annual fees shall be payable before the expiration of the license in advance.
- B. Annual fees shall be due prior to the expiration of the license and shall become delinquent if not paid within (30) days of the license expiration date.

#### **4.04.130 PENALTY FOR LATE PAYMENT**

If any license fee is not paid within thirty (30) days of the due date, a penalty of ten percent (10%) of the amount of such license fee shall be added to the original amount thereof. No license shall be issued until all penalties legally assessed have been paid in full.

#### **4.04.140 ANNUAL FEE LEVIED; SCHEDULE**

There is imposed and levied a fee of fifty dollars (\$50.00) on the business, location, trade, calling or profession of every person engaged in a business within this municipality.

#### **4.04.150 FEE NOT TO CONSTITUTE UNDUE BURDEN ON INTERSTATE COMMERCE**

None of the license fees provided for by HMC 4.04.140 shall be applied as to occasion an undue burden on interstate commerce. In any case, where a license fee is believed by a licensee or applicant for license to place an undue burden upon such commerce, he may apply to the license assessor and collector for an adjustment of the fees so that it shall not be discriminatory, unreasonable or unfair as to such commerce. Such application may be made before, at or within six (6) months after payment of the prescribed license fees. The applicant shall, by affidavit and supporting testimony, show his method of business and the gross volume or estimated gross volume of business and such other information as the license assessor and collector may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The



license assessor and collector shall then conduct an investigation, comparing applicant's business with other businesses of like nature and shall make findings of fact from which he shall determine whether the fees fixed by HMC 4.04.140 is discriminatory, unreasonable or unfair as to applicant's business and shall recommend to the governing body a license fees for the applicant in an amount that is nondiscriminatory, reasonable and fair, and if the governing body is satisfied that such license fees is the amount that the applicant should pay, it shall fix the license fees in such amount. If the regular license fee has already been paid, the governing body shall order a refund of the amount over and above the fees fixed by the governing body. In fixing the fee to be charged, the license assessor and collector shall have the power to base the fee upon a percentage of gross sales, or employees, or may use any other method which will assure that the fee assessed shall be uniform with that assessed on businesses of like nature.

#### **4.06 HOME OCCUPATION BUSINESS LICENSES**

##### **4.06.010 HOME OCCUPATION BUSINESS LICENSE REQUIRED**

##### **4.06.020 PURPOSE AND INTENT OF CHAPTER**

##### **4.06.030 DEFINITIONS - HOME OCCUPATION BUSINESS LICENSES**

##### **4.06.040 APPROVAL REQUIRED**

##### **4.06.050 APPLICATION FOR HOME OCCUPATION BUSINESS LICENSE**

##### **4.06.060 PROCEDURE**

##### **4.06.070 CONDITIONS**

##### **4.06.080 FEES**

##### **4.06.090 COURTESY NOTICE TO NEIGHBORS**

##### **4.06.100 STATE SALES TAX LICENSE**

##### **4.06.110 RENEWAL**

##### **4.06.120 REVOCATION OF DENIAL OF HOME OCCUPATION LICENSE**

##### **4.06.130 APPEAL**

##### **4.06.140 CHANGE TO CHAPTER**

#### **4.06.010 HOME OCCUPATION BUSINESS LICENSE REQUIRED**

It shall be a class B misdemeanor for any person to utilize any portion of their residence as a place of business without first receiving a home occupation business license as required by the Town.

#### **4.06.020 PURPOSE AND INTENT OF CHAPTER**

The purpose and intent of this chapter is to allow Town residents, who comply with the requirements of this chapter and are issued a license, to utilize a portion of their residential premises as a place of business. Such business shall only be operated by residents in the home, and shall not be of such nature or scope that the operation of the business disrupts neighbors or detracts from the residential character of the neighborhood in which it is located.

#### **4.06.030 DEFINITIONS - HOME OCCUPATION BUSINESS LICENSES**

As used in this chapter:

IN-HOME OFFICE: The use of a portion of the residential premises for office use only, including record storage, filing, invoicing, accounting, billing, order taking, making appointments and telephone contacts.

RESIDENCE: The building on the residential premises that is the home or dwelling unit that has been designed for use as the living and sleeping place for its occupants as distinguished from a detached garage or other accessory building.

RESIDENTIAL PREMISES: The parcel of land and structures on it that is located in an area of the Town, which is zoned a residential district as distinguished from a commercial or industrial district. Residential zoning includes, but is not limited to, residential estates, single-family residential and multiple-family residential districts.

#### **4.06.040 APPROVAL REQUIRED**

To assure compliance with the provisions of this chapter and to protect the character of residential neighborhoods in the Town, a home occupation business license shall be approved by the Planning Commission before a structure on the residential premises may be used for business purposes. Application for the home occupation business license shall be obtained from the Town offices.

#### **4.06.050 APPLICATION FOR HOME OCCUPATION BUSINESS LICENSE**

All applications for license shall include:

- A. The name, social security number, date of birth and home address of the person applying for the license;
- B. The registered name of the business, if applicable;
- C. The federal tax number of the corporation, if applicable;
- D. The type of business to be engaged in;
- E. The location of the place of business;
- F. A state tax number, if applicable;
- G. A state contractor's number, if applicable;
- H. Proof that the business is state licensed or registered, if applicable;
- I. A space for the applicant or applicant's authorized agent to sign under penalty of law that all the information contained therein is true; and
- J. Other information that may be required on a case by case basis.

#### **4.06.060 PROCEDURE**

A. In-Home Offices:

1. Town staff may, upon application, issue a home occupation business

license, which shall state the in-home office use permitted and any limitations imposed thereon.

2. The license shall not be issued until the applicant represents that the applied for use will not violate covenants, conditions and restrictions or other deed restrictions affecting the use of the property involved.
3. The license shall not be issued unless the Town staff is satisfied that the applicant will meet all of the conditions listed below, and that the applicant has agreed in writing to comply with all said conditions.

**B. Home Occupations Other Than In-Home Offices:**

1. The Town Planning Commission may, upon application, issue a home occupation business license, which shall state the home occupation business permitted, the conditions attached thereto, and any time limitations imposed thereon.
2. The license shall not be issued until the applicant represents that the applied for use will not violate covenants, conditions and restrictions or other deed restrictions affecting the use of the property involved.
3. The license shall not be issued unless the planning commission is satisfied that the applicant will meet all of the conditions listed in this section, and that the applicant has agreed in writing to comply with all said conditions.
4. If the proposed home occupation business involves children in any way, then prior to an application being put on the planning commission agenda for approval, a criminal background check shall be obtained on the applicant and all other persons who would be involved with the home occupation business or who would be at the home occupation business location when children are present during business hours.

**4.06.070 CONDITIONS**

- A. The home occupation business shall not alter the residential character of the premises by reason of activity, color, design, materials, storage, construction, lighting, sounds, noises, vibrations, dust, odors, noxious fumes, etc., nor shall it unreasonably disturb the peace and quiet of an individual and/or the residential neighborhood, nor interfere with area radio or television reception.
- B. No persons other than residents in the home shall work at the residential premises of the home occupation business. No independent contractors shall come upon the residential premises to conduct the work of the home occupation business.
- C. Outside storage of equipment and/or materials associated with the home occupation business shall not be permitted.
- D. Only two (2) vehicles may be used in association with the home occupation

business and they shall be capable of being parked in the garage. Any vehicles used for the home occupation business shall be limited to a maximum size of one ton gross vehicle weight.

- E. The number of square feet used for conducting the home occupation business, whether in the residence or other permitted structure, shall not exceed twenty five percent (25%) of the total area of the home, plus attached garage, not to exceed five hundred (500) square feet.
- F. The home occupation business may be conducted in a garage attached to the residence subject to the following:
  - 1. The garage may not be altered in any way that prevents the parking of vehicles within.
  - 2. Sufficient off street parking must be available for the vehicles displaced by using the garage to conduct the home occupation business.
- G. No business signs are to be displayed on the residential premises in connection with the home occupation business.
- H. The home occupation business shall not create noise in excess of that which is customary to the immediate neighborhood.
- I. The home occupation business shall not generate pedestrian or vehicular traffic in excess of that customarily associated with the residential neighborhood in which the use is located.
- J. There shall be complete conformity with fire, building, plumbing, electrical and health codes, and with all state and Town laws and ordinances. The residential premises shall be subject to inspection by the Town for compliance purposes.
- K. The home occupation business shall not cause a demand for municipal or utility services, or community facilities in excess of those usually and customarily provided for residential uses.
- L. There shall be complete conformity with any special condition established and made of record in the home occupation business license by the planning commission, as it deems necessary to carry out the intent of this chapter.
- M. Retail operations shall not be allowed as a home occupation.

#### **4.06.080 FEES**

Fees will be charged in accordance with the Town consolidated fee schedule.

#### **4.06.090 COURTESY NOTICE TO NEIGHBORS**

Along with the completed application, the applicant shall provide envelopes bearing first class postage that are addressed to all property owners, as shown on the county tax rolls on the date of application, within three hundred feet (300') from each of the exterior boundaries of the subject residential property. Town staff shall mail notification of the

home occupation license application to the neighbors specified. The intent of the courtesy notice to neighbors is to inform neighbors of activity within their neighborhood and should not be construed as a legal notice.

#### **4.06.100 STATE SALES TAX LICENSE**

If required by the state, a state license will be required with the Town listed as a business location.

#### **4.06.110 RENEWAL**

All home occupation business licenses shall be valid for the period of time specified on the license application, and shall be renewed annually, provided there have been no reported violations or detrimental characteristics which may, in the opinion of the planning commission, require revocation of the home occupation business license and termination of said home occupation business.

#### **4.06.120 REVOCATION OF DENIAL OF HOME OCCUPATION LICENSE**

- A. Any license issued pursuant to the provisions of this chapter may be revoked and any application denied by the planning commission because of:
  - 1. The failure of the licensee or applicant to comply with the conditions and requirements of this chapter or any ordinance of the municipality or any conditions imposed by the Town;
  - 2. Unlawful activities conducted or permitted on the premises where the business is conducted; or
  - 3. The license was obtained by fraud or deceit.
- B. The Town shall notify the applicant of the denial or revocation of a license and the reason for such denial or revocation.

#### **4.06.130 APPEAL**

A home occupation business license denial or revocation may be appealed to the Town council by filing written notice of appeal with the Town recorder within ten (10) days of the notice of denial or revocation. The Town council shall hear the appeal within thirty (30) days of the notice of appeal.

#### **4.06.140 CHANGE TO CHAPTER**

Any change to this chapter must be submitted for comment to the Planning Commission.

### **4.08 ALCOHOLIC BEVERAGES**

#### **4.08.010 GENERAL PROVISIONS**

#### **4.08.020 OFF PREMISES BEER RETAIL LICENSE, GENERAL FOOD STORES AND**

## CONVENIENCE STORES

### 4.08.030 ON PREMISES BEER RETAIL LICENSE

### 4.08.040 RESTAURANT LIQUOR LICENSE

### 4.08.050 LIMITED RESTAURANT LIQUOR LICENSE

### 4.08.060 ON PREMISES BANQUET LICENSE

### 4.08.070 PRIVATE CLUB LIQUOR LICENSE

### 4.08.080 SINGLE EVENT PERMIT

### 4.08.090 TEMPORARY SPECIAL EVENT PERMIT

## **4.08.010 GENERAL PROVISIONS**

- A. Governing Laws: All sales of alcoholic beverages and alcohol products within the town shall be governed by the Utah Alcoholic Beverage Control Act ("the Act"), Utah Code Title 32A, as amended. To the extent authorized by the Act, this chapter and applicable provisions of the town zoning ordinance shall also regulate the sale, distribution and consumption of alcoholic beverages and alcoholic products within the town.
- B. Definitions: The words and phrases used in this chapter shall have the meanings specified in the Act, unless a different meaning is clearly evident.
- C. License Required:
1. License Required: It shall be unlawful for any person to engage in the business of selling or serving beer or liquor without first having procured a license therefor from the town and having paid the required license fee.
  2. Sales after Revocation: It shall be unlawful for any person to sell or serve beer or liquor after the revocation of the license issued pursuant to this chapter.
  3. Separate License; Display: A separate license shall be required for each place of sale, and the license shall at all times be conspicuously displayed. All licensees shall comply with the Act and the regulations of the Utah Alcoholic Beverage Control Commission ("Commission").
  4. License Not Transferable: Licenses issued pursuant to this chapter shall not be transferable from the original licensee to any other person or entity, including partnerships, limited liability companies or corporations.
- D. Classification of Licenses and Permits:
1. Off Premises Beer Retail License: An off premises beer retail license shall entitle the licensee to sell beer on the premises described therein in original containers not to exceed one quart capacity for consumption off the premises. Eighty percent (80%) of the gross sales receipts must come from the sale of items other than beer. Businesses that may be allowed to have an off premises beer retail license are general food stores and convenience stores.
  2. On Premises Beer Retail License: An on premises beer retail license



shall entitle the licensee to sell beer for consumption on the licensed premises only in conjunction with a restaurant in which hot food sales constitute no less than seventy percent (70%) of the gross monetary receipts of the licensee's business.

3. Public Liquor Licenses: Only the following public liquor licenses shall be allowed within the town:

- a. Restaurant Liquor License: A restaurant liquor license shall entitle the licensee to sell, serve and allow the consumption of liquor on its premises in conjunction with a restaurant liquor license issued by the commission.
- b. Limited Restaurant License: A limited restaurant license shall entitle the licensee to sell, serve and allow the consumption of only beer, heavy beer, and wine on its premises, but not spirituous liquor, in conjunction with a limited restaurant license issued by the commission.
- c. On Premises Banquet License: An on premises banquet license shall entitle the licensee to sell, serve and allow the consumption of alcoholic beverages in connection with the licensee's banquet and room service activities. This license shall be issued in connection with an on premises banquet license issued by the commission.
- d. Private Club Liquor License: A private club liquor license shall entitle the licensee to sell, serve and allow the consumption of alcoholic beverages in connection with the licensee's private club. This license shall be issued in connection with a private club liquor license issued by the commission.

4. Single Event Permit: A single event permit shall entitle a qualified entity conducting a convention, civic or community enterprise to sell, serve and allow consumption of liquor for a period not to exceed one hundred twenty (120) consecutive hours.

5. Temporary Special Event Beer Permit: A temporary special event beer permit shall entitle a person to sell beer for on premises consumption at a temporary special event that does not last longer than thirty (30) days.

E. Taverns, Package Agencies and State Stores Prohibited in Town: The licensing and operation of a "tavern", "package agency" or "state store", as defined in the Act, is strictly prohibited within the town.

F. License Duration; Fees:

1. Duration: All licenses shall expire on one year from the date of issue, unless revoked prior thereto. All licensees shall immediately notify the town recorder if their state issued license is denied, suspended or

revoked for any reason. All renewal applications must attach a copy of a valid state license.

2. Fee: In addition to any other business license fee which may be required, there is hereby imposed on the business location a fee for the type of beer or liquor license or permit required. Fees shall be established by the town council from time to time by resolution. New and renewal applications provided for in this chapter shall be accompanied by the fees established. If the license application is denied, fifty percent (50%) of the license fee will be retained by the town to pay the costs of processing the application. If a license that has been granted is later revoked by the town, the license fee paid by the licensee shall be forfeited to the town.

#### G. Licensee Qualifications:

1. No alcoholic beverage control license may be granted under this chapter to any person who has been convicted of:
  - a. A felony under any federal or state law;
  - b. Any violation of any federal or state law or local ordinance concerning the sale, manufacture, distribution, brewing, warehousing, adulteration or transportation of alcoholic beverages;
  - c. Any crime involving moral turpitude; or
  - d. On two (2) or more occasions within the five (5) years before the day on which the license is granted, driving while under the influence of alcohol, any drug, or the combined influence of alcohol and any drug.
2. In the case of a partnership, corporation or limited liability company, the proscription under Paragraph G,1 of this section applies if any of the following have been convicted of any of the offenses described in Paragraph G,1 of this section:
  - a. A partner;
  - b. A managing agent;
  - c. A manager;
  - d. An officer;
  - e. A director;
  - f. A stockholder who holds at least twenty percent (20%) of the total issued and outstanding stock of the applicant corporation; or
  - g. A member who owns at least twenty percent (20%) of the applicant limited liability company.

3. The proscription under Paragraph G,1 of this section applies if any person employed to act in a supervisory or managerial capacity for the applicant has been convicted of an offense described in Paragraph G,1 of this section.
4. The Town may immediately suspend or revoke an alcoholic beverage control license issued under this Chapter if, after the day on which the license is granted, a person described in Paragraphs G,1, G,2 or G,3 of this section:
  - a. Is found to have been convicted of any offense described in Paragraph G,1 of this section; or
  - b. On or after the day on which the license is granted:
    - (1) Is convicted of an offense described in Paragraphs G,1,a, G,1,b or G,1,c of this section; or
    - (2) Is convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug, and was previously convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug, within five (5) years.
5. The Town may immediately suspend an alcoholic beverage control license issued under this Chapter for the period during which the criminal matter is being adjudicated if a person described in Paragraphs G,1, G,2 or G,3 of this section:
  - a. Is arrested on a charge for an offense described in Paragraphs G,1,a, G,1,b or G,1,c of this section; or
  - b. Is arrested on a charge of driving under the influence of alcohol, any drug or the combined influence of alcohol and any drug, and was previously convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug within five (5) years.
6. No alcoholic beverage control license may be granted under this Chapter to any person who has had any type of license, agency or permit issued under this Chapter revoked within the last three (3) years. For an applicant that is a partnership, corporation or limited liability company, no alcoholic beverage control license may be granted under this Chapter if any partner, managing agent, manager, officer, director, stockholder who holds at least twenty percent (20%) of the total issued and outstanding stock of the applicant corporation, or member who owns at least twenty percent (20%) of the applicant limited liability company is or was:
  - a. A partner or managing agent of any partnership that had any type of license, agency or permit issued under this Chapter revoked

- within the last three (3) years;
- b. A managing agent, officer, director or stockholder who holds or held at least twenty percent (20%) of the total issued and outstanding stock of any corporation that had any type of license, agency or permit issued under this chapter revoked within the last three (3) years; or
  - c. A manager or member who owns or owned at least twenty percent (20%) of any limited liability company that had any type of license, agency or permit issued under this Chapter revoked within the last three (3) years.
7. A minor may not be granted an alcoholic beverage control license under this Chapter; nor may an alcoholic beverage control license be granted to an applicant that is a partnership, corporation, or limited liability company if any of the following is a minor:
- a. A partner or managing agent of the applicant partnership;
  - b. A managing agent, officer, director or stockholder who holds at least twenty percent (20%) of the total issued and outstanding stock of the applicant corporation; or
  - c. A manager or member who owns at least twenty percent (20%) of the applicant limited liability company.
8. If any person to whom a license has been issued under this Chapter no longer possesses the qualifications required by this chapter for obtaining that license, the town may suspend or revoke that license.
9. For purposes of this title “drunk driving” or “driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug” shall include the offense of impaired driving.

#### H. Restrictions on Location, Number of Licenses and Establishments:

1. Location Restrictions: No alcoholic beverage control license shall be issued to any person where the premises would be located within six hundred feet (600') of a school, church, library, playground or park, as measured from the nearest entrance of the outlet by following the shortest route of either ordinary pedestrian traffic, or where applicable, vehicular travel along public thoroughfares, whichever is the closer, to the property boundary of a public or private school, church, library, playground or park. The premises of a licensee may not be established within two hundred feet (200') of any school, church, library, playground or park, measured in a straight line from the nearest entrance of the proposed outlet to the nearest property boundary of the school, church, library, playground or park. Nothing herein prevents the town council from considering the proximity of any educational, religious and

recreational facility or any other relevant factor in reaching a decision on a proposed location.

2. **Exceptions To Location Restrictions:** The restrictions contained in Paragraph H,1 of this section govern the issuance of all alcoholic beverage control licenses under this chapter, unless the town council determines that compliance with the distance requirements would result in peculiar and exceptional practical difficulties or exceptional and undue hardships to the applicant, that alternative locations for establishing the requested type of alcoholic beverage control license within the town are limited, and that establishing a license would not be detrimental to the public health, peace, safety and welfare of the town. In that event, the town council may, after giving full consideration to all attending circumstances and after compliance with public notice and public hearing requirements as specified in Paragraph K of this section, authorize a variance from the distance requirements to relieve the difficulties or hardships, if the variance may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this chapter.
3. **Number of Licenses:** The Town Council reserves the right at its sole discretion to restrict the number of new alcoholic beverage control licenses and the locations of establishments licensed under this chapter within the corporate limits of the town.
4. **Separate Licenses:** Any license issued under this chapter shall be able to sell alcoholic beverages or otherwise conduct permitted activities only at the specific place and in the specific manner provided in such license. A separate license shall be obtained for each license classification and for each different location for which the applicant desires to carry on activities regulated by this Chapter.

#### I. General Application Requirements

1. **Contents:** All applications for alcoholic beverage control licenses shall be made pursuant to this section regardless of whether the application is for a new license, renewal, or due to a change of ownership, a change of lessee of an existing licensed premises, or a change of location of an existing licensed premises. All applications authorized by this chapter shall be made on forms provided by the town and shall conform with this Chapter, other Town ordinances, the laws of the state, including the Act and regulations issued by the Commission. The application shall include, without limitation, the following:
  - a. Name, current address and telephone number of the applicant;
  - b. Applicant's age and date of birth;
  - c. Applicant's driver's license number and issuing state;
  - d. Applicant's social security number;

- e. Applicant's federal tax identification number;
  - f. Applicant's state sales tax identification number;
  - g. Copy of applicant's current business license;
  - h. Citizenship of the applicant;
  - i. All addresses of the applicant for the previous five (5) years, including any temporary domiciles;
  - j. The type of alcoholic beverage control license desired;
  - k. Location of the premises or place of business to be licensed;
  - l. A statement verifying that the applicant meets all of the requirements of this chapter, town ordinances, the Act and regulations issued by the commission;
  - m. A statement verifying whether or not the applicant has ever forfeited bail or been convicted for drunk driving or any felony or a violation of any law or ordinance relating to alcoholic beverages, or any crime involving moral turpitude, or had any license or permit involving alcoholic beverages revoked within the last five (5) years;
  - n. A signed statement that the applicant has read, understands and will comply with all laws, ordinances, rules and regulations that are currently in force or that may be amended from time to time by the state, Wasatch County Health Department and the town relating to alcoholic beverages;
  - o. A signed consent authorizing any authorized representative of the town or law enforcement officer to investigate the applicant's criminal background;
  - p. A signed consent form granting any authorized representative of the town or law enforcement officer the unrestricted right to enter the licensed premises during business hours;
  - q. A sworn statement signed by the applicant that all the facts included in the application are true;
  - r. Any other information, documents and evidence as the town may require to allow a complete evaluation of the application.
2. False Statements: It shall be unlawful to make any false statement or misrepresentation on the alcoholic beverage control license application. Any false statement or misrepresentation shall be grounds for denial, suspension or revocation of the license.
3. Business Entities: If the applicant is a partnership, limited liability company, association or corporation, the applicant shall provide the above information with respect to any shareholder owning more than



twenty percent (20%) of the business entity and each partner, limited liability company member, association member, corporate officer or director, although the application need only be signed by a single partner, manager, member or officer. If the establishment for which the applicant seeks a license will be managed or operated by a person other than the applicant, the town shall also require that the agent, manager or operator submit an application for the purpose of a background investigation, and, if the manager or operator does not meet the requirements of this chapter, the town may deny the applicant's request for a license.

4. Fingerprinting and Photographs: Each applicant shall, at the time of filing his license application, present himself to the police chief, or his designee, to be fingerprinted and photographed. Such fingerprints and photographs shall be clearly marked as having been taken in connection with the application.
5. Vicinity Map: Each applicant shall provide a map showing the distance from the premises to the nearest school, church, library, playground or park.
6. Site Plan and Building Floor Plan: Each applicant shall provide with his initial application a site plan and building floor plan, indicating all public places, security measures, plans for public entrances and exits, locations where the applicant proposes to keep, store and sell alcoholic beverages, and public and private ingress and egress to the premises.

J. Application Review: In addition to any other review of applications which may be requested by the town council or the town staff, each application for license to be issued under the provisions of this chapter shall be referred to the police chief, fire chief, building official and to the Wasatch County health department for inspection and report as follows:

1. The applicable law enforcement entity shall make a report to the town council of the general reputation and character of the licensee, whether he is over the age of twenty one (21) years, whether he is a citizen of the United States, whether he has forfeited bail on a charge or has been convicted of a felony or crime involving driving under the influence of alcohol, moral turpitude, and whether he has violated any state or federal law or local ordinance regarding the sale, manufacture, distribution, adulteration or transportation of alcoholic beverages. If the applicant is a partnership, limited liability company, association or corporation, each partner, association member, agent, manager, corporate officer, director or shareholder owning more than twenty percent (20%) of the entity shall be subject to all the foregoing scrutiny and restrictions as if such individual were the applicant. In addition, the applicable law enforcement entity shall report as to: the general reputation and character of the persons who habitually frequent such place; the nature and kind of business conducted at such place by the applicant or by any other person or by the applicant at any other place; whether said place is or

has been conducted in a lawful, quiet or orderly manner; the nature and kind of entertainment, if any, at such place; whether gambling is or has been permitted on the premises or by the applicant at any other place; and the proximity of such premises to any school, church, library, playground or park. The applicable law enforcement entity shall also add to such report his recommendation as to whether or not the application should be granted.

2. The application shall also be referred and delivered to the applicable fire department for inspection and report to the town council. The report to the town council shall state whether the proposed licensed premises complies with all applicable laws, ordinances and regulations relating to public safety in the event of fire or panic, and whether the same is reasonably safe for its intended use.
3. The application shall also be referred and delivered to the building official for inspection and report. The report shall state whether the proposed licensed premises complies with all applicable building laws, ordinances, codes and regulations relating to the construction of the building for its specified use.
4. Upon receipt of an application for a license to be issued under the provisions of this chapter, the health official of the Wasatch County Health Department shall inspect, or shall cause to be inspected, all premises to be licensed to assure compliance with the sanitary and health laws and rules and regulations of the state, Wasatch County Health Department and the town in the preparation, storage, distribution and sale of alcoholic beverages. If the health official determines that the premises fulfill all health and sanitary requirements, the health official shall issue or cause to be issued an appropriate sanitary permit to the licensee. A copy of the permit shall be attached to the application for license.

K. Public Hearing: Upon receipt of the report of the applicable law enforcement entity, applicable fire department, building official and Wasatch County Health Department, the town council, upon recommendation from the planning commission, may consider the application for a license under this Chapter. No application will be considered by the planning commission or town council until a public hearing has been held by both the planning commission and town council. All property owners within six hundred feet (600') of the property line of the proposed licensed business shall have been notified in writing at least fourteen (14) days prior to the hearing. The applicant: 1) shall be responsible for the accuracy and completeness of the list of property owners; and 2) will provide the mailing labels with the names and addresses of property owners within six hundred feet (600'). Notice of the public hearing shall be published at least fourteen (14) days in advance of the public hearing in a newspaper of general circulation. As a minimum, the advertisement shall state the date, time, location and reason for the public hearing. For purposes of this section, notice shall be considered given on the date it is deposited in the U.S. mail.

- L. Issuance of License: After receiving a recommendation from the planning commission and holding a public hearing, the town council has the sole discretion to grant, deny or to grant with conditions an alcoholic beverage control license under this chapter. The town council may issue a license only after considering the following as a minimum: type of business operation, menu items offered and emphasized, hours of operation; location; square footage, parking availability, physical characteristics, building capacity, seating capacity and condition of the proposed licensed premises; the character, background, management experience and qualifications of the applicant; the nature and class of the proposed license; the proximity to and density of other state stores, package agencies and licensed outlets; the demographics and population served; the extent of and proximity to any school, church, library, playground or park; and public input with respect to issuance of the license; and after finding that the public convenience requires and the best interests of the community will be served by the issuance of the license.
- M. License is Revocable Privilege and Confers No Vested Rights: The issuance of a license pursuant to this chapter shall grant only a revocable privilege as provided hereunder and under the laws of the state and shall not confer any vested rights of any kind or nature upon a licensee. If the license application is denied by the town council, no new application shall be made for the premises until after the expiration of one year following the denial of the initial application.
- N. Term of License: All alcoholic beverage control licenses, no matter when issued, shall expire one year from the date of issue.
- O. License Transfer Prohibited: No license issued under this chapter shall be assigned, transferred, leased, subleased, sold or otherwise transferred.
- P. Duty to Report Change of Ownership: If, during the term of the license year, after the license has been granted hereunder, there shall be a change in the officers, directors, managers or agents of any licensed partnership, limited liability company or corporation, the licensee shall forthwith report any such changes in personnel in writing to the Town license officer.
- Q. Monetary Value of License: A person, having been granted an alcoholic beverage control license may not sell, exchange, barter, give, or attempt in any way to dispose of the license, whether for monetary gain or not. An alcoholic beverage control license has no monetary value for the purpose of any type of disposition.
- R. Display of License Certificates: Every license certificate issued by the town or the department of alcoholic beverage control pursuant to the Act or this Chapter shall be posted by the licensee in a conspicuous place upon the wall of the building, room, or office of the place of business next to the business license certificate so that the same be easily seen. When the certificate of license has expired or been suspended or revoked, it shall be removed. No license certificate or business license which is not in force and effect shall be permitted to remain posted within the place of business.

- S. **Renewal of License:** Each year, licensees shall renew their alcoholic beverage control licenses by completing an application on forms provided by the town for a license renewal. The application shall be signed under penalty of law that all information contained therein is true and returning it along with proper fees to the town within the time frame set forth in Paragraph T of this section. Renewal applications shall be submitted to the police department, fire department and building department to ascertain whether the licensee still meets the necessary qualifications. Upon receipt of the application, fees and police department, fire department and building department approval, the town shall be authorized to prepare and issue a certificate of license as provided in this chapter.
- T. **Current Status of Other Charges:** No license shall be issued to any applicant who is in arrears in the payment to the town for any business license, or who is otherwise indebted to the town. Failure to pay business license fees or other charges assessed by the town when due shall be a basis to deny, suspend or revoke any license application or license issued hereunder.
- U. **License Fees, Payment Dates and Penalties:** Alcoholic beverage control application fees and license fees shall be adopted by resolution by the town council. New license fees shall be due and payable upon making application to the town. No alcoholic beverage control license application shall be processed until all required fees are paid. Alcoholic beverage control license fees for license renewals shall be due and payable on or before the expiration thereof. If the fee is not paid within (30) days thereof then the business shall be considered to be operating without a license in violation of Paragraph C of this section and subject to criminal prosecution for every day of operation after that day. Licenses who have not paid all fees and penalties and completed renewal prior to the expiration of the (30) day period, pursuant to this chapter, shall not be granted a new license for one year.
- V. **License Reversion to Town:** A license issued under this chapter which is not used by the licensee within a period in excess of ninety (90) consecutive days shall automatically revert to the town and shall no longer have any validity.
- W. **Bond to Guarantee Compliance:** The town council reserves, for implementation at a future time, the right to require of establishments licensed under this chapter, additional bonding other than required by this chapter to guarantee compliance with all laws and ordinances and which may be forfeited to the town upon such conditions as the governing body may, at a future time, adopt and specify by ordinance.
- X. **Certification of Employees:** The right to a license hereunder shall be conditioned at all times upon compliance with the following:
1. **Beer Handler's Permit:** A licensee involved in the transaction of retail beer sales for off premises consumption shall require all employees involved in the transaction of retail beer sales to obtain a beer handler's permit from the public safety department. All employees of a licensee involved in the transaction of retail beer sales will be required to possess and wear a beer handler's permit while on duty. This permit shall be worn

in a conspicuous place such that the permit shall be clearly visible to any person. New employees of a licensee shall obtain a beer handler's permit within thirty (30) days of hire.

a. Applications for Beer Handler's Permit: To obtain a beer handler's permit, applicants must:

- (1) Fill out and file a beer handler's permit application form and criminal background authorization with the public safety department;
- (2) Produce acceptable photo identification showing the identity of the applicant;
- (3) Attend a beer handler's permit training session administered by the public safety department; and
- (4) Pass the beer handler's permit test given by the public safety department with a score of at least eighty percent (80%) correct.

b. Qualifications for Beer Handler's Permit: If all of the requirements of Paragraph X,1,a,(1) of this section are satisfied, the public safety department shall issue the applicant a beer handler's permit photo identification card. A permit shall not be granted to any individual who has had a felony conviction within five (5) years, or a misdemeanor conviction involving alcohol or controlled substances within three (3) years.

c. Compliance Checks: Licensees shall permit law enforcement officers to conduct random beer handler's permit compliance checks on the licensee's premises.

d. Licensee Duty To Inform: The licensee is required to inform the public safety department within thirty (30) days of any employee possessing a beer handler's permit whose employment is terminated for conduct that would be punishable under the statutes or ordinances regulating alcoholic beverages, or when the licensee becomes aware of any other violation involving the sale of an alcoholic beverage.

e. Penalties for Violations by Permit Holder: A violation of this section shall be a class B misdemeanor. Additionally, an employee possessing a beer handler's permit who is convicted of violating any law involving the sale of an alcoholic beverage is not only subject to prosecution, but shall incur a suspension of the employee's beer handler's permit as follows:

- (1) First violation, automatic suspension of the employee's beer handler's permit for a period of ninety (90) days;
- (2) Second violation, automatic suspension of the employee's

beer handler's permit for a period of six (6) months;

- (3) Any subsequent violation, automatic suspension of the employee's beer handler's permit for a period of two (2) years.

- 2. State Training: All employees of a licensee and any licensee who will be authorized to sell, furnish or serve alcoholic beverages to the public shall be at least twenty one (21) years of age and complete, within thirty (30) days after the issuance of a license or commencement of employment, an alcohol training and education seminar as set forth in Utah Code Â§ 62A-15-401, as amended, and shall thereafter maintain a current certification under this section. Any licensee or employee who sells, furnishes or serves alcoholic beverages without obtaining certification required herein shall, in addition to any other penalty provided herein, be prohibited from obtaining certification for a period of one year from the date of violation.
- 3. Certification Denial: No certificate shall be issued to an employee or licensee who has been convicted of a drug or alcohol related offense during a period of one year preceding the application for a certificate, unless this condition is expressly waived in writing by the public safety department after investigation of the circumstances. If charges are pending against an employee or licensee arising out of a drug or alcohol related offense, no certificate shall be issued until such charges are resolved and, if there is a conviction, none shall be issued for a period of one year thereafter.
- 4. Drug or Alcohol Convictions: If any certified employee or certified licensee is convicted of any drug or alcohol related offense, including the crime of driving under the influence, their certificate shall be automatically revoked and such employee or licensee shall not be permitted to sell, furnish or serve alcoholic beverages for a period of one year and until a new certification is obtained.
- 5. Appeal: The procedures for revoking, suspending or refusing to renew a beer handler's permit or certification under this section shall be the same as set forth in Paragraph AA of this section.

Y. Unlawful Acts; Grounds for Revocation, Suspension or Refusal to Renew License: It shall be a class B misdemeanor, and the town council may revoke, suspend or refuse to renew an alcoholic beverage control license, if a licensee violates any operational restrictions of the license, any unlawful acts set forth in this chapter or the Act, or any of the following grounds for revocation, suspension or refusal to renew a license:

1. Unlawful Acts:

- a. Intoxicated Person on Licensed Premises: It shall be unlawful for



any person or for any of his agents or employees to allow intoxicated persons to remain in or about any licensed premises.

- b. Advertising Sale: It shall be unlawful to advertise the sale of alcoholic beverages on billboards or other media in violation of the Utah Alcoholic Beverage Control Act.
- c. Wholesaler and Retailer not to have Common Interests: It shall be unlawful for any dealer, brewer, warehouser or wholesaler to either directly or indirectly supply, give or pay for any furniture, furnishings or fixtures of a retailer, and it shall be unlawful for any dealer or brewer to advance funds, money or pay for any license of a retailer or to be financially interested either directly or indirectly in the conduct or operation of the business of any retailer.
- d. Violence and Disorderly Conduct on Premises: It shall be unlawful for any licensee to suffer or allow any violence or disorderly conduct to be committed, or suffer or allow any disorderly person to be or remain, upon any licensed premises.
- e. Minimum Light and Open View Required In Licensed Premises: It shall be unlawful for any person to own, operate or manage any premises licensed for the sale of beer without complying with the following lighting and view requirements:
  - (1) During business hours, a minimum of three (3) candlepower of light measured at a level five feet (5') above the floor shall be maintained; and
  - (2) No enclosed booths, blinds or stalls shall be erected or maintained.
- f. Employees: It shall be unlawful for anyone to be employed by a licensee who has been convicted of a felony within five (5) years prior to employment or who has not secured an expungement of record of any felony conviction entered prior to such five (5) year period, or who has within three (3) years prior been convicted of any violation of any law or ordinance involving moral turpitude, controlled substances or relating to alcoholic beverages, driving charges involving alcohol or drugs, or keeping a gambling or disorderly house, or who has pleaded guilty to or has forfeited bail on any such charge.
- g. Employers: It shall be unlawful for a licensee not to inform the public safety department of any employees whose employment is terminated for conduct that would be punishable under the statutes or ordinances regulating alcoholic beverages, regardless of whether the conduct has been previously reported to the public safety department.

- h. Inspection of Premises and Duty to Furnish Samples: All premises licensed pursuant to this Chapter or the Act shall be subject to inspection by any law enforcement agency or by any designated agent of the town as well as by the Wasatch County Health Department or State board of health. It shall be unlawful for any licensee to refuse, at the request of the board of health, to furnish samples of beer which the licensee holds for sale.
  - i. Premises Accessibility to Law Enforcement: It shall be unlawful for any door or other means of ingress or egress from any licensed premises to be locked or barred or barricaded in any way so as to interfere with the free entrance of the licensed premises by any law enforcement officer or any other peace officer at any time while the premises are occupied or open to the public. All doors or other means of entrance thereto during the time the premises is occupied or open to the public shall be left unlocked or unfastened so that any law enforcement may enter the same without any hindrance or delay; provided, however, that there may be maintained upon the premises a locked storeroom for the keeping of goods and supplies used in the business. Such storerooms shall at all times be subject to search and inspection by any law enforcement officer upon compliance with procedural requirements. It is unlawful for any licensee to deny any peace officer immediate access to the storeroom for search or inspection upon demand made for such access. It is unlawful for any licensee to suffer any person, except a bona fide employee of the licensee or peace officer, to enter or remain in the storeroom.
  - j. Warning of Approach of Law Enforcement: It shall be unlawful for any person commonly known as a "lookout" to be stationed or maintained to give warning of the approach of any peace officer to the premises. It shall be unlawful to maintain or operate any electrical or other device which is used or capable of being used to give warning to persons within any such licensed premises of any peace officer.
  - k. Solicitation for Immoral Purposes on Premises: It is unlawful for any person to solicit any other person upon any licensed premises for any sexual purpose, or to be upon such premises for the purpose of solicitation. It is unlawful for any licensee to suffer or allow any violation of the immediately preceding prohibition upon the licensed premises.
2. Additional Grounds for Revocation, Suspension or Refusal to Renew License:
- a. False or Fraudulent Information: The licensee submits false or fraudulent information on any application or document filed with the town.

- b. Delinquent Fees: The licensed business is delinquent for more than ninety (90) days in the payment of any fee or charge due the town.
  - c. License Transfer: The licensee attempts to, or does, assign, transfer or sell a license in violation of this chapter.
  - d. Records and Documents: The licensee fails to keep, or make available to the town upon reasonable request, all records, invoices, records, bills or other papers and documents relating to the purchase, sale and delivery of alcoholic beverages.
  - e. Convictions: The licensee is convicted of a felony or any violation of any law or ordinance relating to alcoholic beverages, driving under the influence of alcohol or alcohol related reckless driving, keeping a gambling house or disorderly house, or any law or ordinance involving moral turpitude.
  - f. Violations of Law or Regulations: The licensee violates or fails to comply with this Chapter or the Act, or ceases to possess all of the qualifications required by this Chapter or the Act.
  - g. Failure to Meet License Qualifications: The licensee no longer possesses the qualifications required for the alcoholic beverage control license.
- Z. Business Owner Responsible for Concessionaire: If otherwise permitted by law, business or premises owners who contract out the sale of alcoholic beverages on the business premises to an independent concessionaire, violation by said concessionaire of any provision of this chapter shall constitute grounds for suspension and/or revocation of the license of said business or premises owner.
- AA. Procedures for Revoking, Suspending or Refusing to Renew License: The Town should follow the following procedures in suspending, revoking or refusing to renew an alcoholic beverage control license:
- 1. Investigation: The Public Safety Director shall receive all complaints of alleged violations of this chapter and is responsible for ordering through its department or other appropriate department the investigation of all allegations of a violation of, or noncompliance with, this chapter, the Act, or any condition imposed upon the licensee by the Town in issuing the license. If, upon completion of the investigation, the Public Safety Director determines that there is good cause to believe that a violation has occurred, he/she shall cause a written notice of the violation to be delivered to the licensee, which may be delivered by U.S. mail, postage prepaid to the address shown on the application of a license under this chapter, which notice shall contain the following: a) the date and nature of the alleged violation; b) a statement that said violation may be grounds for suspension or revocation of the license; c) a statement that the licensee may request a hearing before a hearing officer by filing a written

request therefor within ten (10) days after receipt of the notice of violation; and d) a statement that failure of the licensee to file a written request for hearing shall be deemed an admission of the truthfulness of the alleged violation. In the event that the licensee fails to file a written request for hearing, the hearing may immediately suspend or revoke the license. In the event that the licensee files a written request for hearing, the license officer shall then set a hearing before the hearing officer and shall send notice of the date, time and place of hearing to the licensee.

2. Hearing: The hearing officer shall conduct a hearing and may accept any relevant and material evidence and testimony and apply any evidentiary rules set forth in the rules of the Utah department of alcoholic beverage control. The town shall prepare an official record of the hearing, including all testimony recorded mechanically or stenographically and all exhibits introduced. The town is not required to transcribe such record except pursuant to an appeal; however, the town may transcribe the record or allow for its transcription by the person requesting it. Hearings before the hearing officer are open to the public and are informal, with technical rules of evidence not applying to the proceedings. The licensee involved and any person requesting a hearing may be present and cross examine witnesses and give evidence at the hearing.
3. Decision: If the hearing is conducted, the hearing officer shall issue a decision no later than ten (10) days following the hearing. Such decision may be in writing or entered on the record at the hearing. Such decision shall then be final for purposes of appeal.
4. Emergency Suspension: Upon the arrest of any proprietor, officer, director, manager, managing agent or licensee holding any alcoholic beverage control license from the town, the town council may take emergency action by immediately suspending the operation of the licensee for the period during which the criminal matter is being adjudicated.

AB. Applicability: This Chapter shall be applicable to all persons holding valid licenses hereunder at the effective date hereof, or who may hold such in the future.

AC. Penalties for Violation:

1. General Provisions: In addition to the denial, suspension, revocation or refusal to renew an alcoholic beverage control license, the licensee or any person who shall violate the provisions of this chapter shall be guilty of a class B misdemeanor, unless otherwise established by law. For purposes of this chapter, a violation can be found either as the result of a criminal conviction or as the result of an administrative hearing under the licensing provisions of this chapter or state law.
2. Enhancement for Licensees: This Paragraph applies to any conviction of class B misdemeanors, or more serious classification of offenses, under

this chapter or similar state laws. It is specifically provided, that in case of a licensee's second conviction, within a twenty four (24) month period, the minimum penalty prescribed shall be not less than five hundred dollars (\$500.00), and in case of a licensee's third or subsequent conviction under this chapter within a twenty four (24) month period, the minimum penalty shall be not less than one thousand dollars (\$1,000.00). For the purposes of this chapter, the forfeiture of bail on a charge is deemed a prior conviction. This does not preclude the enforcement of any civil or administrative penalties applicable to said violations.

3. Civil Penalties for Licensees: Violations of this chapter by an alcoholic beverage control licensee, officer, manager, employee, agent or beer handler's permit shall result in the following administrative sanctions in addition to any criminal penalties assessed:
  - a. First violation, fourteen (14) day suspension of an alcoholic beverage control license or beer handler's permit.
  - b. Second violation within twenty four (24) month period, six (6) month suspension of an alcoholic beverage control license or beer handler's permit.
  - c. Third violation within forty eight (48) month period, one year suspension of an alcoholic beverage control license or beer handler's permit.
  - d. Fourth violation within forty eight (48) month period, permanent revocation of alcoholic beverage control license or beer handler's permit.
4. Time Calculation: Any time period, during which a permit is suspended, shall be excluded when calculating the time period in determining the applicable enhancing civil penalty.

#### **4.08.020 OFF PREMISES BEER RETAIL LICENSE, GENERAL FOOD STORES AND CONVENIENCE STORES**

##### **A. Off Premises Beer Retail License:**

1. Permitted Sales: An off premises beer retail license shall entitle the licensee to sell beer on the premises described therein in original containers, not to exceed one quart, for consumption off the premises.
2. Applicability: An off premises beer retail license may be issued by the town to a general food store or a convenience store.
3. Beer Sales as Percent of Sales: Each off premises beer retail licensee shall maintain at least eighty percent (80%) of its total monetary gross receipts from the sale of products other than beer.
4. Prohibited Actions: It shall be unlawful for any person to sell or provide

beer for consumption off the premises without first having obtained an off premises beer retail license to do so from the Town. It shall also be unlawful for an off premises beer retail licensee to permit the consumption of beer or other alcoholic beverages on the licensed premises.

5. Commercial Zones: Any license under this chapter may only be granted if the use is allowed within the applicable zoning district. Off premises beer retail licenses may not be granted in any other zoning district of the town.
6. Employment of Minors: A licensee holding an off premises beer retail license may employ persons eighteen (18) years of age through twenty (20) years of age to transact the sale of or handle beer in its sealed original containers, provided they are under the supervision of a person at least twenty one (21) years of age and who is on the premises. Said licensee may also employ persons sixteen (16) years of age through seventeen (17) for the handling of beer, exclusive of transactions, in its sealed original containers, provided they are under the supervision of a person at least twenty one (21) years of age and who is on the premises. Said activity is limited to locating or transporting beer upon the premises.
7. Record Requirements: Holders of off premises beer retail licenses shall maintain records which shall disclose the gross sale of beer during each and every year. Such records shall be available for inspection and audit by an authorized town employee at any time following the end of each year and for eighteen (18) months thereafter. Failure of a licensee to properly maintain the required records or failure to submit such records for inspection and audit shall be cause for suspension or revocation of an off premises beer retail license.
8. Advertising: No advertising shall take place in violation of the Utah Alcoholic Beverage Control Act or regulations issued by the Utah department of alcoholic beverage control.
9. Shoplifting Controls: An off premises beer retail licensee shall make every reasonable effort to limit the potential for theft of alcoholic beverages from licensed premises. A clear, unobstructed view of all portions of the interior shall be available at all times from a point within the licensed premises at or near the main public entrance. An alcoholic beverage inventory shrinkage record shall be kept by the licensee and made available at any time upon request to the law enforcement agency or town staff for inspection or audit. Failure of a licensee to properly maintain the alcoholic beverage inventory shrinkage record or failure to submit such records for inspection and audit shall be a class B misdemeanor and shall be cause for suspension or revocation of the off premises beer retail license.

#### **4.08.030 ON PREMISES BEER RETAIL LICENSE**



- A. Application and Renewal Requirements: It shall be unlawful for any person to sell, serve or allow the consumption of beer on its premises without first having obtained an on premises beer retail license to do so from both the town and the commission. In addition to the general application requirements of this chapter, a person seeking an on premises beer retail license shall provide to the town the same information required by Utah Code Â§ 32A-10-202 of the Act, as amended.
- B. Operational Restrictions: Each on premises beer retail licensee shall abide by all of the operational restrictions set forth in Utah Code Â§ 32A-10-206 of the Act, as amended, that are not in conflict with this section.
- C. Commercial Zones: An on premises beer retail license may only be granted if the licensee's premises is located in a zoning district wherein such use is allowed. On premises beer retail licenses may not be granted in any other zoning district of the town.
- D. Record Requirements: Holders of on premises beer retail licenses shall maintain records required by Utah Code Â§ 32A-10-206 of the Act, as amended, and such records shall be available for inspection and audit by an authorized town employee at any time following the end of each year and for eighteen (18) months thereafter. Failure of a licensee to properly maintain the required records or failure to submit such records for inspection and audit shall be cause for suspension or revocation of an on premises beer retail license.
- E. Bonding Requirements: Each on premises beer retail licensee shall post a cash or corporate surety bond in the penal sum of ten thousand dollars (\$10,000.00), payable to the town, which the licensee has procured and must maintain for so long as the licensee continues to operate as an on premises beer retail licensee. The bond shall be in a form approved by the town attorney, conditioned upon the licensee's faithful compliance with this title and the ordinances and rules and regulations of the town and the commission. If the ten thousand dollar (\$10,000.00) corporate surety bond is canceled due to the licensee's negligence, a three hundred dollar (\$300.00) reinstatement fee may be assessed by the town. No part of any cash or corporate bond so posted may be withdrawn during the period the license is in effect, or while revocation proceedings are pending against the licensee. A bond filed by the licensee may be forfeited if the license is finally revoked.

#### **4.08.040 RESTAURANT LIQUOR LICENSE**

- A. Application and Renewal Requirements: It shall be unlawful for any person to sell, serve, or allow the consumption of beer or liquor on its premises without first having obtained a restaurant liquor license to do so from both the town and the commission. In addition to the general application requirements of this Chapter, a person seeking a restaurant liquor license shall provide to the town the same information required by Utah Code Â§ 32A-4-102 of the Act, as amended.
- B. Operational Restrictions: Each restaurant liquor licensee shall abide by all of the

operational restrictions set forth in Utah Code Â§ 32A-4-106 of the Act, as amended, that are not in conflict with this part.

- C. Commercial Zones: A restaurant liquor license may only be granted if the licensee's premises is located in a zoning district wherein such use is allowed. Restaurant liquor licenses may not be granted in any other zoning district of the town.
- D. Record Requirements: Holders of restaurant liquor licenses shall maintain records required by Utah Code Â§ 32A-4-106 of the Act, as amended, and such records shall be available for inspection and audit by an authorized town employee at any time following the end of each year and for eighteen (18) months thereafter. Failure of a licensee to properly maintain the required records or failure to submit such records for inspection and audit shall be cause for suspension or revocation of a restaurant liquor license.
- E. Bonding Requirements: Each restaurant liquor licensee shall post a cash or corporate surety bond in the penal sum of one thousand dollars (\$1,000.00), payable to the town, which the licensee has procured and must maintain for so long as the licensee continues to operate as a restaurant liquor licensee. The bond shall be in a form approved by the town attorney, conditioned upon the licensee's faithful compliance with this title and the ordinances and rules and regulations of the town and the commission. If the one thousand dollar (\$1,000.00) corporate surety bond is canceled due to the licensee's negligence, a three hundred dollar (\$300.00) reinstatement fee may be assessed by the town. No part of any cash or corporate bond so posted may be withdrawn during the period the license is in effect, or while revocation proceedings are pending against the licensee. A bond filed by the licensee may be forfeited if the license is finally revoked.

#### **4.08.050 LIMITED RESTAURANT LIQUOR LICENSE**

- A. Definitions: For purposes of this Section, the term "wine" shall be defined as set forth in Utah Code Â§ 32A-4-301 of the Act, as amended.
- B. Application and Renewal Requirements: It shall be unlawful for any person to sell, serve, or allow the consumption of beer, heavy beer or wine on its premises without first having obtained a limited restaurant liquor license to do so from both the town and the commission. In addition to the general application requirements of this chapter, a person seeking a limited restaurant liquor license shall provide to the town the same information required by Utah Code Â§ 32A-4-303 of the Act, as amended.
- C. Operational Restrictions: Each limited restaurant liquor licensee shall abide by all of the operational restrictions set forth in Utah Code Â§ 32A-4-307 of the Act, as amended, that are not in conflict with this Section.
- D. Commercial Zones: A limited restaurant liquor license may only be granted if the licensee's premises are located in a zoning district wherein such use is allowed.

Limited restaurant liquor licenses may not be granted in any other zoning district of the town.

- E. Record Requirements: Holders of limited restaurant liquor licenses shall maintain records required by Utah Code Â§ 32A-4-307 of the Act, as amended, and such records shall be available for inspection and audit by an authorized town employee at any time following the end of each year and for eighteen (18) months thereafter. Failure of a licensee to properly maintain the required records or failure to submit such records for inspection and audit shall be cause for suspension or revocation of a limited restaurant liquor license.
- F. Bonding Requirements: Each limited restaurant liquor licensee shall post a cash or corporate surety bond in the penal sum of one thousand dollars (\$1,000.00), payable to the town, which the licensee has procured and must maintain for so long as the licensee continues to operate as a limited restaurant liquor licensee. The bond shall be in a form approved by the town attorney, conditioned upon the licensee's faithful compliance with this title and the ordinances and rules and regulations of the town and the commission. If the one thousand dollar (\$1,000.00) corporate surety bond is canceled due to the licensee's negligence, a three hundred dollar (\$300.00) reinstatement fee may be assessed by the town. No part of any cash or corporate bond so posted may be withdrawn during the period the license is in effect, or while revocation proceedings are pending against the licensee. A bond filed by the licensee may be forfeited if the license is finally revoked.

#### **4.08.060 ON PREMISES BANQUET LICENSE**

- A. Definitions: For purposes of this Section, the terms "banquet", "hotel", and "resort facility" and "room service" shall be defined as set forth in Utah Code Â§ 32A-4-401 of the Act, as amended.
- B. Application and Renewal Requirements: It shall be unlawful for any person to sell, serve or allow consumption of beer or other alcoholic beverages in connection with that person's banquet and room service activities without first having obtained an on premises banquet license to do so from both the town and the commission. In addition to the general application requirements of this chapter, a person seeking an on premises banquet license shall provide to the town the same information required by Utah Code Â§ 32A-4-402 of the Act, as amended.
- C. Operational Restrictions: Each on premises banquet licensee shall abide by all of the operational restrictions set forth in Utah Code Â§ 32A-4-406 of the Act, as amended, that are not in conflict with this Section.
- D. Commercial Zones: An on premises banquet license may only be granted if the licensee's premises is located in a zoning district wherein such use is allowed. On premises banquet licenses may not be granted in any other zoning district of the town.  
Record Requirements: Holders of on premises banquet licenses shall maintain

records required by Utah Code Â§ 32A-4-406 of the Act, as amended, and such records shall be available for inspection and audit by an authorized town employee at any time following the end of each year and for eighteen (18) months thereafter. Failure of a licensee to properly maintain the required records or failure to submit such records for inspection and audit shall be cause for suspension or revocation of an on premises banquet license.

- E. Bonding Requirements: Each on premises banquet licensee shall post a cash or corporate surety bond in the penal sum of one thousand dollars (\$1,000.00), payable to the town, which the licensee has procured and must maintain for so long as the licensee continues to operate as an on premises banquet licensee. The bond shall be in a form approved by the town attorney, conditioned upon the licensee's faithful compliance with this title and the ordinances and rules and regulations of the town and the commission. If the one thousand dollar (\$1,000.00) corporate surety bond is canceled due to the licensee's negligence, a three hundred dollar (\$300.00) reinstatement fee may be assessed by the town. No part of any cash or corporate bond so posted may be withdrawn during the period the license is in effect, or while revocation proceedings are pending against the licensee. A bond filed by the licensee may be forfeited if the license is finally revoked.

#### **4.08.070 PRIVATE CLUB LIQUOR LICENSE**

- A. Application and Renewal Requirements: It shall be unlawful for a private club to sell, serve, or allow the consumption of beer or other alcoholic beverages on its premises without first having obtained a private club liquor license to do so from both the Town and the Commission. In addition to the general application requirements of this chapter, a person seeking a private club liquor license shall provide to the town the same information required by Utah Code Â§ 32A-5-102 of the Act, as amended.
- B. Operational Restrictions: Each private club liquor licensee shall abide by all of the operational restrictions set forth in Utah Code Â§ 32A-5-107 of the Act, as amended, that are not in conflict with this Section.
- C. Commercial Zones: A private club liquor license may only be granted if the licensee's premises is located in a zoning district wherein such use is allowed. Private club liquor licenses may not be granted in any other zoning district of the town.
- D. Record Requirements: Holders of private club liquor licenses shall maintain records required by Utah Code Â§ 32A-5-107 of the Act, as amended, and such records shall be available for inspection and audit by an authorized town employee at any time following the end of each year and for eighteen (18) months thereafter. Failure of a licensee to properly maintain the required records or failure to submit such records for inspection and audit shall be cause for suspension or revocation of a private club liquor license.
- E. Bonding Requirements: Each private club liquor licensee shall post a cash or

corporate surety bond in the penal sum of one thousand dollars (\$1,000.00) payable to the town, which the licensee has procured and must maintain for so long as the licensee continues to operate as a private club liquor licensee. The bond shall be in a form approved by the Town attorney, conditioned upon the licensee's faithful compliance with this title and the ordinances and rules and regulations of the town and the commission. If the one thousand dollar (\$1,000.00) corporate surety bond is canceled due to the licensee's negligence, a three hundred dollar (\$300.00) reinstatement fee may be assessed by the town. No part of any cash or corporate bond so posted may be withdrawn during the period the license is in effect, or while revocation proceedings are pending against the licensee. A bond filed by the licensee may be forfeited if the license is finally revoked.

#### **4.08.080 SINGLE EVENT PERMIT**

- A. Application and Renewal Requirements: It shall be unlawful for a "qualified entity", as defined under Utah Code Â§ 32A-7-101 of the Act, as amended, that is conducting a convention, civic or community enterprise, to sell, serve or allow the consumption of liquor without first having obtained a single event permit to do so from both the town and the commission. In addition to the general application requirements of this Chapter, a person seeking a single event permit shall provide to the town the same information required by Utah Code Â§ 32A-7-102 of the Act, as amended. The Town shall not issue more than four (4) single event permits in any one calendar year to the same qualified entity.
- B. Operational Restrictions: Each single event permittee shall abide by all of the operational restrictions set forth in Utah Code Â§ 32A-7-106 of the Act, as amended, that are not in conflict with this Section.
- C. Commercial Zones: A single event permit may only be granted if the permittee's premises is located in a zoning district wherein such use is allowed. A single event permit may not be granted in any other zoning district of the town.
- D. Bonding Requirements: Each applicant for a single event permit shall post a cash or corporate surety bond in the penal sum of one thousand dollars (\$1,000.00), with the exception of a class D private club liquor license for which the bond shall be ten thousand dollars (\$10,000.00), payable to the town, which the licensee has procured and must maintain for so long as the permit is in effect. The bond shall be in a form approved by the Town attorney, conditioned upon the permittee's faithful compliance with this chapter, the Act, and the rules and regulations of the commission. No part of any cash or corporate bond so posted may be withdrawn during the period the permit is in effect. A bond filed by the permittee may be forfeited if the permit is revoked.

#### **4.08.090 TEMPORARY SPECIAL EVENT PERMIT**

- A. Application and Renewal Requirements: It shall be unlawful for a person to sell beer for on premises consumption at a temporary special event without first

having obtained a temporary special event permit to do so from both the town and the commission. In addition to the general application requirements of this chapter, a person seeking a temporary special event permit shall provide to the town the same information required by Utah Code Â§ 32A-10-302 of the Act, as amended.

- B. Operational Restrictions: Each temporary special event permittee shall abide by all of the operational restrictions set forth in Utah Code Â§ 32A-10-303 of the Act, as amended, that are not in conflict with this Section.
- C. Commercial Zones: A temporary special event permit may only be granted if the permittee's premises is located in a zoning district wherein such use is allowed. A temporary special event permit may not be granted in any other zoning district of the town.
- D. Bonding Requirements: Each applicant for a temporary special event permit shall post a cash or corporate surety bond in the penal sum of five hundred dollars (\$500.00), payable to the town, which the licensee has procured and must maintain for so long as the permit is in effect. The bond shall be in a form approved by the town attorney, conditioned upon the permittee's faithful compliance with this chapter, the Act, and the rules and regulations of the commission. No part of any cash or corporate bond so posted may be withdrawn during the period the permit is in effect. A bond filed by the permittee may be forfeited if the permit is revoked.
- E. Duration of Permit: The duration of any temporary special event permit granted hereunder shall not exceed thirty (30) days. The sale of beer under a series of permits issued to the same person may not exceed a total of ninety (90) days in any one calendar year.

#### **4.10 CHARITABLE SOLICITATIONS**

##### **4.10.010 DEFINITIONS - CHARITABLE SOLICITATIONS**

##### **4.10.020 USE OF PERSON'S NAME WITHOUT CONSENT FOR SOLICITING CONTRIBUTIONS PROHIBITED; EXCEPTION**

##### **4.10.030 USE OF NAME WITHOUT CONSENT ON STATIONERY OR AS ONE WHO CONTRIBUTED TO ORGANIZATION PROHIBITED**

##### **4.10.040 VIOLATION; PENALTY**

#### **4.10.010 DEFINITIONS - CHARITABLE SOLICITATIONS**

As used in this chapter:

CHARITABLE ORGANIZATION: Any organization that is benevolent, philanthropic, patriotic or eleemosynary, or one purporting to be such.

CONTRIBUTION: The promise or grant of any money or property of any kind or value.

PERSON: Any individual, organization, group, association, partnership, corporation or any combination of them.



PROFESSIONAL FUNDRAISER: Any person who, for compensation or any other consideration, plans, conducts or manages the solicitation of contributions for or on behalf of any charitable organization or any other person, or who engages in the business of, or holds himself out to persons as independently engaged in the business of soliciting contributions for such purpose, but shall not include a bona fide officer or employee of a charitable organization.

PROFESSIONAL SOLICITOR: Any person who is employed or retained for compensation by a professional fundraiser to solicit contributions in this municipality for charitable purposes.

#### **4.10.020 USE OF PERSON'S NAME WITHOUT CONSENT FOR SOLICITING CONTRIBUTIONS PROHIBITED; EXCEPTION**

No charitable organization, professional fundraiser or professional solicitor, seeking to raise funds for charitable purposes, shall use the name of any other person for the purpose of soliciting contributions without the written consent of the person; provided, that this section shall not apply to religious corporations or organizations, charities, agencies and organizations operated, supervised or controlled by or in connection with a religious corporation or organization.

#### **4.10.030 USE OF NAME WITHOUT CONSENT ON STATIONERY OR AS ONE WHO CONTRIBUTED TO ORGANIZATION PROHIBITED**

It is deemed to be a violation of this chapter to use, without written consent, the name of a person for the purpose of soliciting contributions if the person's name is listed on any stationery, advertisement, brochure or correspondence, or a charitable organization, or his name is listed or referred to as one who has contributed to, sponsored or endorsed the charitable organization or its activities.

#### **4.10.040 VIOLATION; PENALTY**

Any person who violates the provisions of this chapter is guilty of a class B misdemeanor.

### **4.12 OFFENSIVE BUSINESS AND FACILITIES**

#### **4.12.010 OFFENSIVE BUSINESS; PERMIT REQUIRED**

#### **4.12.020 PERMITS; ISSUANCE**

#### **4.12.030 EXISTING OFFENSIVE BUSINESSES AND FACILITIES**

#### **4.12.040 CONTROL OF ANIMAL AND FOWL FACILITIES**

#### **4.12.010 OFFENSIVE BUSINESS; PERMIT REQUIRED**

- A. No person shall commence or change the location of an offensive business or establishment in or within one mile of the limits of this municipality without first filing an application for a permit to do so with the Town Recorder.
- B. "Offensive businesses", within the meaning of this chapter, shall include, but not be limited to, packing houses, dairies, tanneries, canneries, renderies, junk or

salvage yards, bone factories, slaughterhouses, butcher shops, soap factories, foundries, breweries, distilleries, livery stables, blacksmith shops, or any other enterprise or establishment which creates excessive odors, fumes, smoke, gases or noises.

- C. The application for a permit shall specify the location at which the business or establishment is to be operated and maintained or the new location to which it is to be moved. The application shall describe the type of activity which will be conducted and describe the manner in which the business or establishment shall eliminate, control or modify the emission by the business of the undesirable odors, fumes, noises and other noisome features and the manner in which it shall be screened from public view, if its appearance is offensive.

#### **4.12.020 PERMITS; ISSUANCE**

- A. The town recorder shall cause a study to be made of the proposed business or relocation of any offensive business or establishment by the board of health and by personnel engaged in the inspection of buildings and other facilities. A report and recommendation shall be made to the governing body. The governing body, after review, may grant to the applicant an opportunity to be heard and present additional facts. Thereafter the governing body may:

1. Deny the application;
2. Recommend a modification thereof;
3. Grant a limited permit to enter into the business or make the change of location subject to the requirement that the business or facility conform to standards established by the governing body with reference to controlling the offensive features of the business.

- B. In the event a permit is granted, it shall be subject to revocation either upon failure of the operator or owner to conduct his business in the manner specified by the governing body at the time of the granting of the permit, or because a change of circumstances makes the continued operation or maintenance of the business or facility a public nuisance.

- C. The governing body shall have power to revoke or modify the permission to operate and maintain the business in such a manner as it deems necessary for the public good.

#### **4.12.030 EXISTING OFFENSIVE BUSINESSES AND FACILITIES**

- A. The governing body may require an investigation of any existing offensive business or facility to determine whether or not it should be permitted to remain in existence in or within one mile of the municipal limits. If the governing body determines that the continuation of the business or facility has become a nuisance to persons situated within the municipal limits, or that ample control is not being exercised to minimize the creation of excessive odors, fumes, smoke,

gases and noise, it shall notify the owner or operator thereof that the governing body is considering revoking or modifying the operator's license.

- B. If the governing body decides to require a modification of the manner in which the business or facility is to be maintained, it shall specify the standards or specifications to which the enterprise must conform or otherwise lose its license to engage thereafter in the business or activity.

#### **4.12.040 CONTROL OF ANIMAL AND FOWL FACILITIES**

- A. The governing body shall have the power to prohibit or control the location and management of any offensive, unwholesome business or establishment in or within one mile of the municipality and may compel the owner of any pigsty, privy, barn, corral, furbearing animal farm, feed yard, poultry farm or other unwholesome or nauseous house or place to cleanse, abate or remove the same.
- B. The governing body may on its own initiative and shall, on complaint of a member of the public, examine the operation, control or location of any business or facility for the purpose of determining whether or not the operation of such business or facility should be improved so as to minimize the offensive and unwholesome characteristics or whether the business or activity should be moved or abated.
- C. In the event that the governing body decides that the business or facility should be abated, removed or controlled, it shall notify the owner or operator of the business or facility of such fact.
- D. After a hearing, the governing body may issue a limited license wherein it may prescribe the specifications and standards which must be followed by the business or facility in order to be permitted to continue in operation.
- E. Upon determination by the governing body that the business or facility is a nuisance, it shall have power to order the abatement or removal of the facility or establishment. If the owner fails to conform to such order, the governing body shall have the power to bring all necessary legal proceedings to force removal, abatement or adherence to standards.

#### **4.14 RESIDENTIAL SOLICITATION**

##### **4.14.010 PURPOSE**

##### **4.14.020 NO OTHER TOWN LICENSE OR APPROVAL REQUIRED**

##### **4.14.030 DEFINITIONS - RESIDENTIAL SOLICITATION**

##### **4.14.040 EXCEPTIONS FROM CHAPTER**

##### **4.14.050 UNREGISTERED SOLICITATION PROHIBITED**

##### **4.14.060 REGISTRATION OF SOLICITORS**

##### **4.14.070 APPLICATION FORM**

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#### **4.14.010 PURPOSE**

Residents of the Town have an inalienable interest in their personal safety, well-being, and privacy in their residences, as well as their ability to provide or receive information regarding matters of personal belief, political or charitable activities, and goods and services lawfully in commerce. The Town has a substantial interest in protecting the well-being, tranquility, personal safety, and privacy of its citizens, which includes the ability to protect citizens from unwanted intrusions upon residential property. The Town also has a substantial interest in protecting citizens from fraud or otherwise unfair consumer sales practices as well as criminal activity.

There must be a balance between these substantial interests of the Town and its citizens, and the effect of the regulations in this Chapter on those who are regulated. Based on the collective experiences of Town officials derived from regulating business activity, protecting persons and property from criminal conduct, responding to the inquiries of citizens regarding door-to-door solicitation, the experience of its law enforcement officers and those affected by door-to-door canvassing and solicitation, as well as judicial decisions regarding door-to-door solicitation, the Town adopts this Chapter to promote the Town's substantial interests in:

- A. Respecting citizen's decisions regarding privacy in their residences;
- B. Protecting persons from criminal conduct;
- C. Providing equal opportunity to advocate for and against religious, political position, or charitable activities; and
- D. Permitting truthful and non-misleading door-to-door solicitation regarding lawful goods or services in intrastate or interstate commerce.

The Town finds that the procedures, rules, and regulations set forth in this Chapter are narrowly tailored to preserve and protect the Town interests referred to herein while at the same time balancing the rights of those regulated.

#### **4.14.020 NO OTHER TOWN LICENSE OR APPROVAL REQUIRED**

- A. Registered solicitors and persons exempt from registration need not apply for, nor obtain, any other license, permit, or registration from the Town to engage in door-to-door solicitation.
- B. Any business licensed by the Town under another Town ordinance that uses employees, independent contractors, or agents for door-to-door solicitation in an effort to provide any tangible or intangible benefit to the business, shall be required to have such solicitors obtain a certificate, unless otherwise exempt from registration.
- C. Those responsible persons or entities associated with registered solicitors need not apply for, nor obtain, any other license, permit, or registration from the Town, provided they do not establish a temporary or fixed place of business in the Town.
- D. Nothing herein is intended to interfere with or supplant any other requirement of federal, state, or other local government law regarding any license, permit, or certificate that a registered solicitor is otherwise required to have or maintain.

#### **4.14.030 DEFINITIONS - RESIDENTIAL SOLICITATION**

For the purposes of this Chapter, the following definitions shall apply:

**ADVOCATING:** Speech or conduct intended to inform, promote, or support religious belief, political position, or charitable activities.

**APPEALS OFFICER:** The Mayor or designee of the Town responsible for receiving the information from the Town and appellant regarding the denial, suspension, or revocation of a certificate and issuing a decision as required by this Chapter.

**APPELLANT:** The person or entity appealing the denial, suspension, or revocation of a certificate, either personally as an applicant or registered solicitor, or on behalf of the applicant or registered solicitor.

**APPLICANT:** An individual who is at least sixteen (16) years of age and not a corporation, partnership, limited liability company, or other lawful entity who applies for a certificate permitting door-to-door solicitation.

**APPLICATION FORM:** A standardized form provided by the Town to an applicant to be completed and submitted as part of registration.

**BCI:** Bureau of Criminal Identification.

**BUSINESS:** A commercial enterprise that is to be licensed by the Town as a person or entity under this Title, having a fixed or temporary physical location within the Town.

**CERTIFICATE:** An annual or renewal certificate permitting door-to-door solicitation in the Town applied for or issued pursuant to the terms of this Chapter.

**CHARITABLE ACTIVITIES:** Advocating by persons or entities that either are, or support, a charitable organization.

**CHARITABLE ORGANIZATION:** As defined in Utah Code Â§ 13-22-2, (as amended), or listed in Utah Code Â§ 13-22-8(1) thereof.

**COMPETENT INDIVIDUAL:** A person claiming or appearing to be at least eighteen (18) years of age and of sufficiently sound mind and body to be able to engage in rational thought, conversation, and conduct.

**COMPLETED APPLICATION:** A fully completed application form, a BCI background check, two (2) copies of the original identification relied on by the applicant to establish proof of identity, and the tendering of fees.

**CRIMINALLY CONVICTED:** The final entry of a conviction, whether by a plea of no contest, guilty, entry of a judicial or jury finding of guilt, or entry of a no contest, or guilty plea, which has not been set aside on appeal or pursuant to a writ of habeas corpus. The criminal conviction is that offense to which the applicant or registered solicitor has pleaded guilty or no contest, without regard to the reduced status of the charge after completion of conditions of probation or parole, and without regard to charges dismissed under a plea in abeyance or diversion agreement.

**DISQUALIFYING STATUS:** Anything defined in this Chapter as requiring the denial or suspension of a certificate as set forth in this Chapter.

**DOOR-TO-DOOR SOLICITATION:** The practice of engaging in or attempting to engage in conversation with any person at a residence, whether or not that person is a competent individual, while making or seeking to make or facilitate a home solicitation sale, or attempting to further the sale of goods and or services.

**ENTITY:** A corporation, partnership, limited liability company, or other lawful entity, organization, society or association, or a natural person.

**FEES:** The cost charged to the applicant or registered solicitor for the issuance of a certificate and/or identification badge.

**FINAL CIVIL JUDGMENT:** A civil judgment that would be recognized under state law as a judgment to which collateral estoppel would apply.

**GOODS:** One or more tangible items, wares, objects of merchandise, perishables of any kind, subscriptions, or manufactured products offered, provided, or sold.

**HOME SOLICITATION SALE:** To make or attempt to make a sale of goods or services by a solicitor at a residence by means of door-to-door solicitation, regardless of:

- A. The means of payment or consideration used for the purchase;
- B. The time of delivery of the goods or services; or



- C. The previous or present classification of the solicitor as a solicitor, peddler, hawker, itinerant merchant, or similar designation.

**LICENSING OFFICER:** The Town employee(s) or agent(s) responsible for receiving from an applicant or registered solicitor the completed application and either granting, suspending, or denying the applicant's certificate.

**NO SOLICITATION SIGN:** A reasonably visible and legible sign that states "No Soliciting," "No Solicitors," "No Salespersons," "No Trespassing," or words of similar import.

**POLITICAL POSITION:** Any actually held belief or information for, against, or in conjunction with any political, social, environmental, or humanitarian belief or practice.

**REGISTERED SOLICITOR:** Any person who has been issued a current certificate by the Town.

**REGISTRATION:** The process used by the Town licensing officer to accept a completed application and determine whether or not a certificate will be denied, granted, or suspended.

**RELIGIOUS BELIEF:** Any sincerely held belief, or information for, against, or in conjunction with, any theistic, agnostic, or atheistic assumption, presumption or position, or religious doctrine, dogma, or practice regardless of whether or not the belief or information is endorsed by any other person or public or private entity.

**RESIDENCE:** Any living unit contained within any building or structure that is occupied by any person as a dwelling consistent with the zoning laws of the Town, together with the lot or other real property on which the living unit is located. This does not include the sidewalk, public street, or public rights-of-way.

**RESPONSIBLE PERSON OR ENTITY:** That person or entity responsible to provide the following to an applicant, registered solicitor, and the competent individual in a residence

to whom a sale of goods or services is made or attempted to be made by means of a home solicitation sale:

- A. Maintaining a state sales tax number, a special events sales tax number, computing the sales taxes owing from any sale of goods or services, paying the sales taxes, and filing any required returns or reports;
- B. Facilitating and responding to requests from consumers who desire to cancel the sale pursuant to applicable contractual rights or law; and
- C. Refunding any monies paid or reversing credit card charges to those persons who timely rescind any sale pursuant to applicable contractual rights or law.

**SALE OF GOODS OR SERVICES:** The conduct and agreement of a solicitor and the competent individual in a residence regarding a particular good(s) or service(s) that

entitles the consumer to rescind the same within three (3) days under any applicable federal, state, or local law.

**SERVICES:** Those intangible goods or personal benefits offered, provided, or sold to a competent individual of a residence.

**SOLICITING OR SOLICIT OR SOLICITATION:** Any of the following activities:

- A. Seeking to obtain sales or orders for the exchange of goods, wares, merchandise or perishables of any kind, for any kind of remuneration or consideration, regardless of whether advance payment is sought;
- B. Seeking to obtain prospective customers to apply for or to purchase insurance, subscriptions to publications, or publications;
- C. Seeking to obtain contributions of money or any other thing of value for the benefit of any person or entity;
- D. Seeking to obtain orders or prospective customers for goods or services;
- E. Seeking to engage an individual in conversation at a residence for the purpose of promoting or facilitating the receipt of information regarding religious belief, political position, charitable conduct, or a home solicitation sale; or
- F. Other activities falling within the commonly accepted definition of soliciting, such as hawking or peddling.

**SOLICITOR OR SOLICITORS :** A person(s) engaged in door-to-door solicitation.

**WAIVER:** The written form provided to applicant by the Town wherein applicant agrees that the Town may obtain a name/date of birth BCI background check on the applicant for licensing purposes under this Chapter, and which contains applicant's notarized signature.

#### **4.14.040 EXCEPTIONS FROM CHAPTER**

The following are exempt from registration under this Chapter:

- A. Persons specifically invited to a residence by a competent individual prior to the time of the person's arrival at the residence;
- B. Persons whose license, permit, certificate, or registration with the state of Utah permits them to engage in door-to-door solicitation to offer goods or services to an occupant of the residence;
- C. Persons delivering goods to a residence pursuant to a previously made order, or persons providing services at a residence pursuant to a previously made request by a competent individual;
- D. Persons advocating or disseminating information for, against, or in conjunction with, any religious belief, or political position;

- E. Persons representing a charitable organization. The charitable exemption shall apply to students soliciting contributions to finance extracurricular social, athletic, artistic, scientific or cultural programs, provided that the solicitation has been approved in writing by the school administration, and that such student solicitors carry current picture student identification from the educational institution for which they are soliciting; and
- F. Persons involved in de minimus solicitation, involving the sale, exchange, or contribution of money, services, goods, or other consideration valued at less than Twenty Dollars (\$20.00).

Those Persons exempt from registration are not exempt from the duties and prohibitions outlined in HMC 4.14.170, HMC 4.14.180, and HMC 4.14.190 while advocating or soliciting.

#### **4.14.050 UNREGISTERED SOLICITATION PROHIBITED**

Unless otherwise registered, authorized, permitted, or exempted pursuant to the terms and provisions of this Chapter, the practice of being in and upon private property or a private residence within the Town by solicitors, for the purpose of home solicitation sales or to provide goods or services, is prohibited and is punishable as set forth in this Chapter.

#### **4.14.060 REGISTRATION OF SOLICITORS**

Unless otherwise exempt under this Chapter, all persons desiring to engage in door-to-door solicitation within the Town, prior to doing so, shall submit a completed application to the licensing officer and obtain a certificate.

#### **4.14.070 APPLICATION FORM**

The licensing officer shall provide a standard application form for use for the registration of solicitors. Upon request to the licensing officer, or as otherwise provided, any person or entity may obtain in person, by mail, or facsimile, a copy of this application form. Each application form shall require disclosure and reporting by the applicant of the following information, documentation, and fee:

- A. Review of written disclosures. An affirmation that the applicant has received and reviewed the disclosure information required by this Chapter.
- B. Contact information.
  - 1. Applicant's true, correct and legal name, including any former names or aliases used during the last ten (10) years;
  - 2. Applicant's telephone number, home address, and mailing address, if different;
  - 3. If different from the applicant, the name, address, and telephone number of the responsible person or entity; and

4. The address by which all notices to the applicant required under this Chapter are to be sent.
- C. Proof of identity. An in-person verification by the licensing officer of the applicant's true identity by use of any of the following which bear a photograph of said applicant:
1. A valid driver's license issued by any state of the United States;
  2. A valid passport issued by the United States;
  3. A valid identification card issued by any state of the United States; or
  4. A valid identification issued by a branch of the United States military.
- D. Proof of registration with Department of Commerce. The applicant shall provide proof that either the applicant, or the responsible person or entity, has registered with the Utah State Department of Commerce.
- E. Special events sales tax number. The applicant shall provide a special events sales tax number for either the applicant, or for the responsible person or entity for which the applicant will be soliciting.
- F. Marketing information.
1. The goods or services offered by the applicant, including any commonly known, registered or trademarked names; and
  2. Whether the applicant holds any other licenses, permits, registrations, or other qualifications required by federal or state law to promote, provide, or render advice regarding the offered goods or services.
- G. BCI background check. The applicant shall provide:
1. An original or a certified copy of a BCI background check dated within the last one hundred eighty (180) days as defined in 3.07.003; and
  2. A signed copy of a waiver whereby applicant agrees to allow the Town to obtain a name and date of birth in order to perform a background check on applicant for purposes of enforcement of this Chapter. (See Utah Code Â§ 53-10-108(1)(b) (as amended)).
- H. Responses to questions regarding "disqualifying status." The applicant shall be required to affirm or deny each of the following statements on the application form:
1. Whether the applicant has been criminally convicted of:
    - a. felony homicide,
    - b. physically abusing, sexually abusing, or exploiting an adult or minor,

- c. the sale or distribution of controlled substances, or
  - d. a sexual offense of any kind;
- 2. Whether there are any criminal charges currently pending against the applicant for:
  - a. felony homicide,
  - b. physically abusing, sexually abusing, or exploiting an adult or minor,
  - c. the sale or distribution of controlled substances, or (iv) a sexual offense of any kind.
- 3. Whether the applicant has been criminally convicted of a felony within the last ten (10) years;
- 4. Whether the applicant has been incarcerated in a federal or state prison within the past five (5) years;
- 5. Whether the applicant has been criminally convicted of a misdemeanor within the past five (5) years involving a crime of: (i) moral turpitude, or (ii) violent or aggravated conduct involving persons or property;
- 6. Whether a final civil judgment has been entered against the applicant within the last five (5) years indicating that:
  - a. the applicant had either engaged in fraud, deceit, false statements, dishonesty, or misrepresentation, or
  - b. that a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. 523(a)(2), (a)(4), (a)(6), or (a)(19);
- 7. Whether the applicant, within the last five (5) years, has been enjoined by any court, or is the subject of an administrative order issued in any state, if the injunction or order includes a finding or admission of fraud, material misrepresentation, or if the injunction or order was based on a finding of lack of integrity or honesty;
- 8. Whether the applicant is currently on parole or probation to any court, penal institution, or governmental entity, including being under house arrest or subject to a tracking device;
- 9. Whether the applicant has an outstanding arrest warrant from any jurisdiction;
- 10. Whether the applicant is currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction; or
- 11. Whether the applicant has two (2) or more convictions of or any combination of the following: Trespass, trespassery voyeurism, any property crimes, and any violation of this Chapter.

- I. Fee. The applicant shall pay such fees as set forth in the Town's Consolidated Fee Schedule.
- J. Execution of application. The applicant shall execute the application form, stating upon oath or affirmation, under penalty of perjury, that based on the present knowledge and belief of the applicant, the information provided is complete, truthful, and accurate.
- K. Two (2) recent photographs of the applicant, one for the identification badge and one to be kept with the application. The photographs shall reflect the current appearance of the applicant, shall be primarily of the face and shall be approximately 1 ½" x 1 ½" in size.

#### **4.14.080 WRITTEN DISCLOSURES**

The application form shall be accompanied by written disclosures notifying the applicant of the following:

- A. The applicant's submission of the application authorizes the Town to verify information submitted with the completed application including:
  - 1. The applicant's address;
  - 2. The applicant's and/or responsible person or entity's state tax identification and special use tax numbers, if any; and
  - 3. The validity of the applicant's proof of identity;
- B. The Town may consult any publicly available sources for information on the applicant, including but not limited to, databases for any outstanding warrants, protective orders, or civil judgments.
- C. Establishing proof of identity is required before registration is allowed;
- D. Identification of the fee amount that must be submitted by applicant with a completed application;
- E. The applicant must submit a BCI background check with a completed application;
- F. To the extent permitted by state and/or federal law, the applicant's BCI background check shall remain a confidential, protected, private record not available for public inspection;
- G. The Town will maintain copies of the applicant's application form, proof of identity, and identification badge. These copies will become public records available for inspection on demand at the Town offices whether or not a certificate is denied, granted, or renewed;
- H. The criteria for disqualifying status, denial, suspension, or revocation of a certificate under the provisions of this Chapter; and



- I. That a request for a certificate will be granted or denied within three (3) business days from when a completed application is submitted.

#### **4.14.090 WHEN REGISTRATION BEGINS**

The licensing officer shall not begin the registration process unless the applicant has submitted a completed application. The original identification submitted to establish proof of identity shall be returned after the licensing officer verifies the applicant's identity. A copy of the identification may be retained by the licensing officer. If an original BCI background check is submitted by the applicant, the licensing officer shall make a copy of the BCI and return the original to the applicant.

#### **4.14.100 ISSUANCE OF CERTIFICATES**

The licensing officer shall review the completed application submitted by the applicant and issue a certificate in accordance with the following:

##### **A. Certificate.**

1. A certificate shall be issued or denied within three (3) business days of submittal of a completed application. Said certificate allows the applicant to begin door-to-door solicitation upon the following conditions:
  - a. Applicant's submission of a completed application;
  - b. Applicant's submission of the required fee; and
  - c. Applicant establishes proof of identity;
2. The issuance or denial will be based on a review of whether:
  - a. The application shows a disqualifying status;
  - b. The background check shows a disqualifying status; and
  - c. The applicant has not previously been denied a certificate by the Town, or had a certificate revoked for grounds that still constitute a disqualifying status under this Chapter.

- B. Renewal certificate. A certificate shall be valid for one (1) year from the date of issuance and shall expire at midnight on the anniversary date of issuance. Any annual certificate that is not suspended, revoked, or expired may be renewed upon the request of the registered solicitor and the submission of a new completed application and payment of the fee, unless any of the conditions for the denial, suspension, or revocation of a certificate are present as set forth in HMC 4.04.140, or a disqualifying status is present. Said renewal application shall be submitted between thirty (30) and fifteen (15) days prior to the expiration of the current certificate.

#### **4.14.110 FORM OF CERTIFICATE AND IDENTIFICATION BADGE**

- A. Certificate form. Should the licensing officer determine that the applicant is entitled to a certificate, the licensing officer shall issue a certificate to the applicant. The certificate shall list the name of the registered solicitor and the responsible person or entity, if any, and the date on which the certificate expires. The certificate shall be dated and signed by the license officer. The certificate shall be carried by the registered solicitor at all times while soliciting in the Town.
- B. Identification badge. With the certificate, the Town shall issue each registered solicitor an identification badge that shall be worn prominently on his or her person while soliciting in the Town. The identification badge shall bear the name of the Town and shall contain:
  - 1. the name of the registered solicitor;
  - 2. address and phone number of the registered solicitor, or the name, address, and phone number of the responsible person or entity is provided;
  - 3. a recent photograph of the registered solicitor; and
  - 4. the date on which the certificate expires.

#### **4.14.120 MAINTENANCE OF REGISTRY**

The licensing officer shall maintain and make available for public inspection a copy or record of every completed application received and the certificate or written denial issued by the Town. The applicant's BCI background check shall remain a confidential, protected, private record not available for public inspection. The licensing officer may furnish to the Chief of Police a listing of all applicants, those denied, and those issued a certificate.

#### **4.14.130 NON-TRANSFERABILITY OF CERTIFICATES**

Certificates shall be issued only in the name of the applicant and shall list the responsible party or entity, if any. The certificate shall be non-transferable. A registered solicitor desiring to facilitate or attempt to facilitate home solicitation sales with different:

- A. goods or services; or
- B. responsible person or entity, from those designated in the originally submitted completed application, shall submit a written change request to the licensing officer. If the proposed changes comport with the Town's Code, a new certificate based on the amended information shall be issued for the balance of time remaining on the solicitor's previous certificate before the amendment was filed. Before the new certificate is given to the registered solicitor, the registered solicitor shall obtain a revised identification badge from the Town, after payment of the fee for the identification badge.

#### **4.14.140 DENIAL, SUSPENSION, OR REVOCATION OF A CERTIFICATE OF REGISTRATION**

A. Denial. Upon review, the licensing officer shall refuse to issue a certificate to an applicant for any of the following reasons:

1. The application form is not complete;
2. The applicant failed to establish proof of identity, provide a BCI background check, or pay the fees;
3. The completed application or BCI indicates that the applicant has a disqualifying status;
4. The applicant has previously been denied a certificate by the Town, or has had a certificate revoked for grounds that still constitute a disqualifying status under this Chapter; or
5. The applicant has provided information on the application that is false, incomplete, or incorrect.
6. The information submitted by the applicant is found to be incomplete or incorrect;
7. Since the submission of the completed application, the applicant is subject to a previously undisclosed or unknown disqualifying status;
8. The Town has received a substantiated report regarding the past or present conduct of the applicant;
9. The Town or other governmental entity has either criminally convicted or obtained a civil injunction against the applicant for violating this Chapter or similar federal, state, or municipal laws in a manner rising to the level of a disqualifying status; or
10. A final civil judgment has been entered against the applicant indicating that:
  - a. the applicant had either engaged in fraud, deceit, false statements, dishonesty, or misrepresentation, or
  - b. that a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. 523(a)(2), (a)(4), (a)(6), or (a)(19).

B. Denial of renewal certificate may be based on:

1. The information submitted by the applicant when seeking renewal of a certificate is found to be incomplete or incorrect;
2. Since the submission of the renewal application, the applicant is subject to a previously undisclosed or unknown disqualifying status;
3. Failure to complete payment of the fees;

4. Since the submission of the application or granting of a certificate, the Town has received a substantiated report regarding the past or present conduct of the solicitor;
  5. The Town or other governmental entity has either criminally convicted or obtained a civil injunction against the applicant for violating this Chapter or similar federal, state, or municipal laws in a manner rising to the level of a disqualifying status; or
  6. Since the submission of the application, a final civil judgment has been entered against the applicant indicating that:
    - a. the applicant had either engaged in fraud, deceit, false statements, dishonesty, or misrepresentation, or
    - b. that a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. 523(a)(2), (a)(4), (a)(6), or (a)(19).
- C. Suspension or revocation. The Town shall either suspend or revoke a certificate when any of the reasons warranting the denial of a certificate occurs.
- D. Notice of denial, suspension, or revocation. Upon determination of the licensing officer to deny an applicant's application or to suspend or revoke a registered solicitor's certificate, the Town shall cause written notice to be sent to the applicant or registered solicitor to the address shown in the completed application. Said mailing constitutes proper notice. The notice shall specify the grounds for the denial, suspension, or revocation, the documentation or information the Town relied on to make the decision, the availability of the documentation for review by applicant upon three (3) business days notice to the Town, and the date upon which the denial, suspension, or revocation of the certificate shall take effect. It shall further state that the applicant or registered solicitor shall have ten (10) business days from the receipt of the notice of denial, suspension, or revocation to appeal the same. The denial, suspension, or revocation of the certificate shall be effective no sooner than two (2) calendar days from the date the notice is sent, unless that suspension or revocation is based on exigent circumstances, in which case, the suspension is effective immediately. The denial, suspension, or revocation shall remain effective unless and until the order is rescinded, overturned on appeal, or determined by a court to be contrary to equity or law. Failure to appeal the suspension of a certificate automatically results in its revocation.

#### **4.14.150 APPEAL**

An applicant or registered solicitor whose certificate has been denied, suspended, or revoked shall have the right to appeal to the Mayor or its designee. Any appeal must be submitted by either the applicant, the responsible person or entity, or legal counsel for either who: (a) documents the relationship with the applicant or responsible person or entity; or (b) is licensed or authorized by the state of Utah to do so, and makes the

assertion of an agency relationship. The following procedures and requirements shall apply:

- A. Any appeal must be submitted in writing to the Town Clerk with a copy to the license officer within ten (10) business days of the decision from which the appeal is taken. Such appeal shall describe in detail the nature of the appeal, the action complained of and the grounds for appeal.
- B. Upon request of the applicant or registered solicitor, within three (3) business days, the Town will make available any information upon which it relied in making the determination to either deny or suspend the certificate.
- C. The appeals officer shall review, de novo, all written information submitted by the applicant or registered solicitor to the licensing officer, any additional information relied upon by the licensing officer as the basis for denial, suspension, or revocation, and any additional information supplied by the Town, applicant or registered solicitor. Any additional information submitted by any party to the appeals officer shall be simultaneously submitted to the opposing party. If desired, any party shall have three (3) business days to submit rebuttal documentation to the appeals officer regarding the additional information submitted by the opposing party.
- D. The appeals officer will render a decision no later than fifteen (15) calendar days from the date the appeal was taken, unless an extension of time is agreed upon by the parties. In the event that any party to the appeal submits rebuttal information as allowed in Paragraph C, the fifteen (15) calendar days shall be extended to include the additional three (3) days for rebuttal.
  - 1. The denial, suspension, or revocation of the certificate shall be reversed by the appeals officer if, upon review of the written appeal and information submitted, the appeals officer finds that the licensing officer made a material mistake of law or fact in denying or suspending the applicant or registered solicitor's certificate.
  - 2. If the written appeal and information submitted indicates that the licensing officer properly denied, suspended, or revoked the certificate of the applicant or registered solicitor, the denial, suspension, or revocation of the certificate shall be affirmed and constitute a determination that the suspended certificate is revoked.
  - 3. The decision of the appeals officer shall be delivered to the applicant or registered solicitor by mailing it to the address shown in the completed application, or as otherwise agreed upon when the appeal was filed.
- E. After the ruling of the appeals officer, the applicant or solicitor is deemed to have exhausted all administrative remedies with the Town.
- F. Nothing herein shall impede or interfere with the applicant's, solicitor's, or Town's right to seek relief in a court of competent jurisdiction.

#### **4.14.160 DECEPTIVE SOLICITING PRACTICES PROHIBITED**

- A. No solicitor shall intentionally make any materially false or fraudulent statement in the course of soliciting.
- B. A solicitor shall immediately disclose to the consumer during face-to-face solicitation:
  - 1. the name of the solicitor;
  - 2. the name and address of the entity with whom the solicitor is associated; and
  - 3. the purpose of the solicitor's contact with the person and/or competent individual. This requirement may be satisfied through the use of the badge and an informational flyer.
- C. No solicitor shall use a fictitious name, an alias, or any name other than his or her true and correct name.
- D. No solicitor shall represent directly or by implication that the granting of a certificate of registration implies any endorsement by the Town of the solicitor's goods or services or of the individual solicitor.

#### **4.14.170 "NO SOLICITING" NOTICE**

- A. Any occupant of a residence may give notice of a desire to refuse solicitors by displaying a "No Solicitation" or similar sign which may be posted on or near the main entrance door or on or near the property line adjacent to the sidewalk leading to the residence, or otherwise located so as to give reasonable notice thereof.
- B. The display of such sign or placard shall be deemed to constitute notice to any solicitor that the inhabitant of the residence does not desire to receive and/or does not invite solicitors.
- C. It shall be the responsibility of the solicitor to check each residence for the presence of any such notice.
- D. The provisions of this Section shall apply also to solicitors who are exempt from registration pursuant to the provisions of this Chapter.

#### **4.14.180 DUTIES OF SOLICITORS**

- A. Every person soliciting or advocating has an affirmative legal obligation to check each residence for any "No Soliciting" sign or placard or any other notice or sign notifying a solicitor not to solicit on the premises, such as, but not limited to, "No Solicitation" signs. If such sign or placard is posted such solicitor shall desist from any efforts to solicit at the residence or dwelling and shall immediately



depart from such property. Possession of a certificate of registration does not in any way relieve any solicitor of this duty.

- B. It is a violation of this Chapter for any person soliciting or advocating to knock on the door, ring the doorbell, or in any other manner attempt to attract the attention of an occupant of a residence that bears a "No Solicitation" sign or similar sign or placard for the purpose of engaging in or attempting to engage in advocating, a home solicitation sale, door-to-door soliciting, or soliciting. Said conduct may also be prosecuted as a violation of laws regarding trespass.
- C. It is a violation of this Chapter for any solicitor through ruse, deception, or fraudulent concealment of a purpose to solicit, to take action calculated to secure an audience with an occupant at a residence.
- D. Any solicitor who is at any time asked by an occupant of a residence or dwelling to leave shall immediately and peacefully depart.
- E. The solicitor shall not intentionally or recklessly make any physical contact with, or touch another person without the person's consent.
- F. The solicitor shall not follow a person into a residence without their explicit consent.
- G. The solicitor shall not continue repeated soliciting after a person and/or competent individual has communicated clearly and unequivocally their lack of interest in the subject, goods or services of the solicitor.
- H. The solicitor shall not use obscene language or gestures.

#### **4.14.190 TIME OF DAY RESTRICTIONS**

It shall be unlawful for any person, whether licensed or not, to solicit at a residence before 9:00 a.m. or after 9:00 p.m. Mountain Time, unless the solicitor has express prior permission from the resident to do so.

#### **4.14.200 BUYER'S RIGHT TO CANCEL**

In any home solicitation sale, unless the buyer requests the solicitor to provide goods or services without delay in an emergency, the seller or solicitor shall present to the buyer and obtain buyer's signature to a written statement which informs the buyer of the right to cancel on or before the third business day after signing an agreement to purchase. Such notice of "buyer's right to cancel" shall be in the form required by Utah Code Â§ 70C-5-103, (as amended), or a current version thereof or any state or federal law modifying or amending such provision.

#### **4.14.210 PENALTIES**

Unless categorized otherwise by any other law, any person who violates any term or provision of this Chapter shall be guilty of a class "B" Misdemeanor and shall be punished in accordance therewith.

#### **4.14.220 PRIVATE ACTION**

It is not the intent of this Chapter to preclude any individual from pursuing a cause of action against any solicitor for damages or injuries.

#### **4.16 SEXUALLY ORIENTED BUSINESSES**

##### **4.16.010 GENERAL PROVISIONS**

##### **4.16.020 LOCATION REGULATIONS**

##### **4.16.030 LICENSING PROVISIONS**

##### **4.16.040 ADDITIONAL BUILDING REGULATIONS**

##### **4.16.050 EMPLOYEE REGULATIONS**

##### **4.16.060 GENERAL APPLICABILITY, ACTIONS FOR VIOLATIONS, DEFENSES**

#### **4.16.010 GENERAL PROVISIONS**

- A. Purpose: It is the purpose of this chapter to regulate sexually oriented businesses in order to promote the health, safety, morals and general welfare of the citizens of the town, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the town. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the first amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.
- B. Findings: Based on evidence of the adverse secondary effects of adult uses presented in case law and in reports made available to the town council, and on the findings incorporated in the cases of *Pap's A.M. v. City of Erie*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 426 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *Heideman v. South Salt Lake City*, 348 F.3d 1182 (10th Cir. 2003); *O'Connor v. City and County of Denver*, 894 F.2d 1210 (10th Cir. 1990); *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *Z.J. Gifts D-2, L.L.C. v. City of Aurora*, 136 F.3d 683 (10th Cir. 1998); *Dodger's Bar & Grill, Inc. v. Johnson County*, 98 F.3d 1262 (10th Cir. 1996); *Sundance Assocs. v. Reno*, 139 F.3d 804 (10th Cir. 1998); *Dodger's Bar & Grill, Inc. v. Johnson County*, 32 F.3d 1436 (10th Cir. 1994); *American Bush v. City of South Salt Lake*, 2006 P.3d (2006 UT 40); and other cases; and reports of secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Phoenix, Arizona - 1979; Tucson, Arizona - 1990; Garden Grove, California - 1991; Los Angeles, California - 1977; Whittier, California - 1978; Adams County, Colorado - 1998; Denver, Colorado - 1998; Environmental Research Group to the American Center for Law & Justice - 1996; Manatee County, Florida - 1987; Indianapolis, Indiana - 1984; Kansas City, Kansas - 1998; Minneapolis, Minnesota - 1980; Saint Paul, Minnesota -

1988; Las Vegas, Nevada - 1978; Ellicottville, New York - 1998; Islip, New York - 1980; New York City, New York - 1994; Times Square, New York - 1994; New Hanover, North Carolina - 1989; Oklahoma City, Oklahoma - 1986; Amarillo, Texas - 1977; Austin, Texas - 1986; Beaumont, Texas - 1982; Cleburne, Texas - 1997; Dallas, Texas - 1997; El Paso, Texas - 1986; Fort Worth, Texas - 1986; Houston, Texas - 1983 and 1997; Newport News, Virginia - 1996; Bellevue, Washington - 1998; Des Moines, Washington - 1984; Seattle, Washington - 1989; Saint Croix County, Wisconsin - 1993; and also on findings from the paper entitled "Strip Clubs According To Strippers: Exposing Workplace Sexual Violence", by Kelly Holsopple, program director, freedom and justice center for prostitution resources, Minneapolis, Minnesota; Proponent Testimony - Sexually Oriented Businesses: An Insider's View, by David Sherman, presented to the Michigan house committee on ethics and constitutional law, January 12, 2000, Proponent Testimony - Sexually Oriented Businesses: An Insider's View, by David Sherman, presented to the Ohio senate judiciary committee on civil justice, December 3, 2002; Proponent Testimony - Sexually Oriented Businesses: An Insider's View, presented to the Ohio house civil and commercial law committee, April 28, 2004; and Proponent Testimony - Sexually Oriented Businesses: An Insider's View, by Carolyn McKenzie, presented to the Ohio house civil and commercial law committee, April 28, 2004, the city council finds:

1. Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by unlicensed operators of the establishments. Further, there is presently no effective mechanism in this town to make the owners and operators of these establishments responsible for the activities that occur on their premises.
2. Certain employees of unregulated "sexually oriented businesses" defined in this chapter as adult theaters and cabarets engage in higher incidence of certain types of illicit sexual behavior than employees of other establishments.
3. Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semiprivate booths or cubicles for viewing films, videos or live sex shows.
4. Offering and providing such unregulated space encourages such activities, which creates unhealthy conditions.
5. Persons frequent certain adult theaters, adult arcades and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses (or for the purpose of purchasing or selling illicit drugs).
6. Numerous communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis, salmonella, campylobacter and shigella infections,

chlamydia, mycoplasmal and ureoplasmal infections, trichomoniasis and chancroid.

7. According to research from the Kaiser family foundation, an estimated six hundred fifty thousand (650,000) to nine hundred thousand (900,000) Americans are infected with HIV. The number of new HIV infections occurring each year is now about forty one thousand (41,000). Men and women of all races are most likely to be infected by sexual contact.
8. Relevant statistics revealed that one thousand six hundred seventy two (1,672) AIDS cases had been reported in Utah as of January 1, 1999. Utah has required HIV case reporting since 1989, and shows one thousand five hundred fifty (1,550) people living with HIV (762) or AIDS (788) in the state.
9. The Center for Disease Control and Prevention estimates that as many as one in three (3) people with HIV do not know they are infected.
10. The number of cases of early (less than one year) syphilis in the United States reported annually has risen, with thirty three thousand six hundred thirteen (33,613) cases reported in 1982 and forty five thousand two hundred (45,200) through November of 1990.
11. The number of cases of gonorrhea in the United States reported annually remains at a high level, with over five hundred thousand (500,000) cases being reported in 1990.
12. The Surgeon General of the United States in his report of October 22, 1986, has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.
13. According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts. See, e.g., findings of U.S. department of health and human services.
14. Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.
15. Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view "adult" oriented films.
16. The findings noted herein raise substantial governmental concerns.
17. Sexually oriented businesses have operational characteristics that should be reasonably regulated in order to protect those substantial governmental concerns.

18. A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place a heretofore nonexistent incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the town. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.
  19. Removal of doors on adult booths and requiring sufficient lighting on premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in sexually oriented businesses.
  20. Requiring licensees of sexually oriented businesses to keep information regarding current employees and certain past employees will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and by preventing minors from working in such establishments.
  21. The disclosure of certain information by those persons ultimately responsible for the day to day operation and maintenance of the sexually oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases and will prevent the further secondary effects of dissemination of illegal obscenity, child pornography, and to minors, materials harmful to them.
  22. It is desirable in the prevention of the spread of communicable diseases to obtain a limited amount of information regarding certain employees who may engage in the conduct which this chapter is designed to prevent or who are likely to be witnesses to such activity.
  23. The fact that an applicant for an adult use has been convicted of a sexually related crime leads to the rational assumption that the applicant may engage in that conduct in contravention of this chapter.
  24. The barring of such individuals from employment in sexually oriented businesses for a specified period of years serves to prevent distribution of illegal material, to prevent conduct which leads to the transmission of sexually transmitted diseases, and to preclude the establishment of criminal enterprises within the town.
  25. The general welfare, health, morals and safety of the citizens of the town will be promoted by the enactment of this chapter.
- C. Definitions: For purposes of this chapter, the words and phrases defined in this section shall have the meanings therein respectively ascribed to them unless a different meaning is clearly indicated by the context:

**ADULT ARCADE:** Any place to which the public is permitted or invited wherein coin operated or slug operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image producing devices, are regularly maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by their emphasis upon matter exhibiting or describing "specified sexual activities" or "specified anatomical areas".

**ADULT BOOKSTORE, ADULT NOVELTY STORE, ADULT VIDEO STORE:** A commercial establishment which has a significant or substantial portion of its stock in trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising, or maintains a substantial section of its sales or display space to the sale or rental, for any form of consideration, of any one or more of the following:

1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes, compact discs, slides, or other visual representations which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas";
2. Instruments, devices or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.

**ADULT CABARET:** A nightclub, bar, juice bar, restaurant bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features:

1. Persons who appear seminude;
2. Live performances which are characterized by the exposure of "specified sexual activities" or "specified anatomical areas"; or
3. Films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas".

**ADULT MOTEL:** A motel, hotel or similar commercial establishment which:

1. Offers public accommodations, for any form of consideration, and which regularly provides patrons with closed circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas" and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right of way, or by means of any off premises advertising, including, but not



limited to, newspapers, magazines, pamphlets or leaflets, radio or television; and

2. Offers a sleeping room for rent for a period of time less than ten (10) hours; or
3. Allows a tenant or occupant to subrent the sleeping room for a time period of less than ten (10) hours.

**ADULT MOTION PICTURE THEATER:** A commercial establishment where films, motion pictures, videocassettes, slides or similar photographic reproductions which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas" are regularly shown for any form of consideration.

**ADULT THEATER:** A theater, concert hall, auditorium or similar commercial establishment which, for any form of consideration, regularly features persons who appear live in a state of seminudity or live performances which are characterized by their emphasis upon the exhibition of "specified sexual activities" or "specified anatomical areas".

**BUSINESS LICENSE OFFICIAL:** The town business license officer or his designee.

**CONTROLLING INTEREST:** The power, directly or indirectly, to direct the operation, management or policies of a business or entity, or to vote twenty percent (20%) or more of any class of voting securities of a business. The ownership, control or power to vote twenty percent (20%) or more of any class of voting securities of a business shall be presumed, subject to rebuttal, to be the power to direct the management, operation or policies of the business.

**DISTINGUISHED OR CHARACTERIZED BY AN EMPHASIS ON:** The dominant or principal theme of the object described by such phrase. For instance, when the phrase refers to films which are "distinguished or characterized by an emphasis on" the exhibition or description of "specified sexual activities" or "specified anatomical areas". The films so described are those whose dominant or principal character and theme are the exhibition or description of "specified sexual activities" or "specified anatomical areas".

**EMPLOY, EMPLOYEE AND EMPLOYMENT:** Describes and pertains to any person who performs any service on the premises of a sexually oriented business, on a full time, part time or contract basis, whether or not the person is designated an employee, independent contractor, agent or otherwise. "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

**ESTABLISH OR ESTABLISHMENT:** Includes any of the following:

1. The opening or commencement of any sexually oriented business as a

new business;

2. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
3. The addition of any sexually oriented business to any other existing sexually oriented business; or
4. The relocation of any sexually oriented business.

HEARING OFFICER: The mayor of Town of Hideout or a designee of the mayor.

LICENSEE: A person in whose name a license to operate a sexually oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for a sexually oriented business license. In case of an "employee", it shall mean the person in whose name the employee license has been issued.

OPERATE OR CAUSE TO OPERATE: To cause to function or to put or keep in a state of doing business.

OPERATOR: Any person on the premises of a sexually oriented business who is authorized to exercise overall operational control of the business or who causes to function or who puts or keeps in operation the business. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner or licensee of the business.

PARK: Public land which has been designated for park or recreational activities, including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, open space, wilderness areas, or similar public land within the town which is under the control, operation or management of the town park and recreation authorities, including, but not limited to, existing parks and facilities: such as, but not limited to, trails, parking lots, playgrounds and ball fields.

PECUNIARY COMPENSATION: Any commission, fee salary, tip, gratuity, profit, reward, or any other form of consideration. PERSON: An individual, proprietorship, partnership, corporation, association or other legal entity.

PLACE OPEN TO PUBLIC VIEW: An area capable of observance by persons from the general community, where an expectation for privacy is not reasonably justified, and includes a dedicated roadway, sidewalk, a parking lot, any public way, a theater, a restaurant, a movie theater, any room in a hotel or motel other than a guestroom, or any other place where an expectation for privacy is not reasonably justified.

PROTECTED USES: Churches, public libraries, public parks or parkways, public recreation centers, public and private schools, and any residence or residential district.

**REGULARLY FEATURES OR REGULARLY SHOWN:** A consistent or substantial course of conduct such that the films or performances exhibited constitute a substantial portion of the films or performances offered as a part of the ongoing business of the sexually oriented business. **SEMINUDE:** A state of dress in which any opaque clothing covers no more than the genitals, anus, anal cleft or cleavage, pubic area, vulva, and the female breast, as well as portions of the body covered by supporting straps or devices.

**SEXUALLY ORIENTED BUSINESS:** An adult arcade, adult bookstore, adult motion picture theater, adult novelty store, adult theater, adult video store, adult cabaret, and adult motel.

**SPECIFIED ANATOMICAL AREAS:** Includes:

1. Human male genitals in a state of sexual arousal; or
2. Less than completely and opaquely covered anus, anal cleft or cleavage, male or female genitals, or a female breast.

**SPECIFIED CRIMINAL ACTIVITY:** Includes any of the following offenses as they are defined by applicable Utah state statute:

1. Prostitution or promotion of prostitution; dissemination of obscenity or illegal pornographic materials; sale, distribution or display of harmful material to a minor; sexual abuse; sexual abuse of a child; sexual exploitation of children; sexual performance by a child; possession or distribution of child pornography; sexual battery; rape; indecent exposure; indecency with a child; the crimes of criminal pandering, tax violations, embezzlement or racketeering, if such crimes are directly related to the operation of a sexually oriented business; sexual assault; molestation of a child; or distribution of a controlled substance; criminal attempt, conspiracy or solicitation to commit any of the foregoing offenses or offenses involving the same elements from any jurisdiction if the offenses were committed in the state of Utah, regardless of the exact title of the offense; for which:
  - a. Less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
  - b. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or
  - c. Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or combination of

misdemeanor offenses occurring within any twenty four (24) month period.

2. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

**SPECIFIED SEXUAL ACTIVITY:** Acts of, or simulating, masturbation, sexual intercourse, sexual copulation with a person or a beast, fellatio, cunnilingus, bestiality, pederasty, buggery, sodomy, and/or excretory functions as part of or in connection with any of the foregoing.

**TRANSFER OF OWNERSHIP OR CONTROL OF A SEXUALLY ORIENTED BUSINESS:** Any of the following:

1. The sale, lease or sublease of the business;
2. The transfer of securities which constitutes a controlling interest in the business, whether by sale, exchange or similar means; or
3. The establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

**VIEWING ROOM:** The room, booth or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film, videocassette or other video reproduction.

#### **4.16.020 LOCATION REGULATIONS**

- A. **Zoning:** It is unlawful for any sexually oriented business to do business at any location within the town not zoned for such business. Businesses regulated by this chapter shall not be located closer than six hundred feet (600') to each other and not closer than six hundred feet (600') to protected uses.
- B. **Sexually Oriented Business; Additional Location Requirements:** It is unlawful for any business licensed as a sexually oriented business to be located within six hundred feet (600') of a business licensed for the consumption of alcohol or liquor.
- C. **Method of Measurement:** The six hundred foot (600') limitation is measured from the nearest property line of the business regulated by this chapter to the nearest property line of the other sexually oriented business or business licensed for the sale or consumption of alcohol, or area of protected use.
- D. **Single Location and Name:** It is unlawful:
  1. To conduct business under a license issued pursuant to this chapter at any location other than the licensed premises; or
  2. For any sexually oriented business to do business in the town under any name other than the business name specified in the application.

- E. Moving of Business Location: It is unlawful for any sexually oriented business, as regulated herein, to relocate or otherwise move its location or area of operation. A sexually oriented business wishing to relocate must submit the appropriate application for a license as required under this chapter. Such application shall be reviewed under the terms and conditions of this chapter and applicable town ordinances.

#### **4.16.030 LICENSING PROVISIONS**

- A. Business Categories: The categories of sexually oriented businesses are adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, and adult theater.

- B. Hours of Operation: All premises licensed to operate a sexually oriented business shall only operate between the hours of ten o'clock (10:00) A.M. and two o'clock (2:00) A.M. of the following day.

- C. Business License Required: It is unlawful:

1. For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the town pursuant to this chapter;
2. For any person who operates a sexually oriented business to employ a person to work for the sexually oriented business who is not licensed as a sexually oriented business employee by the town pursuant to this chapter;
3. For any person to obtain employment with a sexually oriented business without having secured a sexually oriented business work permit pursuant to this chapter; or
4. Sexually oriented business licenses will be limited to one for each six thousand (6,000) residents of the town. Any available license will be issued on a first come, first serve basis.

- D. Business License Application Disclosure:

1. If a person who wishes to operate a sexually oriented business is an individual, he shall sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, the application shall include the full legal name, address and state of incorporation of the business. Each officer, director, general partner, or other person who owns a controlling interest in the business, or who will participate directly in decisions relating to management and control of the business, shall sign the license application as an applicant. Each applicant must be qualified under this chapter and each applicant shall be considered a licensee if a license is granted.
2. Upon filing a completed application for a sexually oriented business

license or sexually oriented business work permit, the business license official shall issue a temporary license to the applicant, which temporary license shall expire upon the final decision of the town to deny or grant the license.

3. An application shall not be considered complete unless it contains the following information:
  - a. The full legal name and any other names or aliases used by the applicant;
  - b. The applicant's date and place of birth;
  - c. Present business address and telephone number;
  - d. Identification issued by a federal or state governmental agency with the individual's colored photograph, signature and physical description;
  - e. Fingerprints on a form provided by a public safety department;
  - f. The identity of each individual authorized by the corporation partnership or noncorporate entity to receive service of process. If the application is for a sexually oriented business license, the application shall be accompanied by a sketch or diagram showing the interior configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches (6").
4. Each applicant must provide a statement of whether the applicant has been convicted of, or has pled guilty or nolo contendere to, a "specified criminal activity", as defined in this chapter, and if so, the specified criminal activity involved; the date, place, and jurisdiction of each.
5. 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 to operate a sexually oriented business on 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 on which the business is or will be located.

#### E. License and Work Permit Fees:

1. Each applicant for a sexually oriented business license shall be required to pay a regulatory license fee as set forth in the consolidated fee



schedule as adopted from time to time by the town council.

2. This fee shall be in addition to the other licenses and fees required to do business in the town.

F. Business License Term: A license shall be issued for a period not to exceed twelve (12) months. All sexually oriented business licenses shall expire on December 31 of each year regardless of when issued. The license fees required shall not be prorated for any portion of the year.

G. License Display: Any sexually oriented business located within the boundaries of the town must display the license granted pursuant to this chapter in a prominent public location within the business premises.

H. Issuance of Business License for Sexually Oriented Business:

1. Under no circumstances shall the total time for the town to issue a license or issue a written intent to deny an application for a license exceed thirty (30) days from the receipt of a completed application. The business license official shall issue a license to the applicant unless the official finds one or more of the following to be true by a preponderance of the evidence:

- a. The applicant is under eighteen (18) years of age, or any higher age, if the license sought required a higher age.
- b. The applicant is overdue in payment to the town of taxes, fees, fines or penalties assessed against the applicant or imposed on the applicant in relation to a sexually oriented business.
- c. The applicant has falsely answered a material question or request for information specifically authorized by this chapter.
- d. The license fees required by this chapter have not been paid.
- e. All applicable sales and use taxes have not been paid.
- f. Each applicant must provide a statement of whether the applicant has been convicted of, or has pled guilty or nolo contendere to, a "specified criminal activity", as defined in this chapter, and if so, the specified criminal activity involved, the date, place and jurisdiction of each. The fact that a conviction is being appealed shall have no effect on the disqualification pursuant to this section.

2. The license, if granted, shall state on its face the name of the person to whom it is granted, the number of the license issued to the licensee, the expiration date, and, if the license is for a sexually oriented business, the address of the sexually oriented business. The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

- I. Transfer of Ownership of Business License Prohibited: Sexually oriented business licenses granted under this chapter shall not be transferable.
- J. Change in Information: The licensee shall submit, in writing, any change in the information required to be submitted under this chapter for either a sexually oriented business license or sexually oriented business work permit to the business license official within fourteen (14) days after such change.

#### **4.16.040 ADDITIONAL BUILDING REGULATIONS**

- A. Regulations Pertaining to Exhibition of Sexually Explicit Films or Videos: A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, films, videocassettes, or other video reproductions characterized by an emphasis on the display of specified sexual activities or specified anatomical areas, shall comply with the following requirements. It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.
  - 1. Each application for a sexually oriented business license shall contain a diagram of the premises showing the location of all manager stations, viewing rooms, overhead lighting fixtures, video cameras and monitors installed for monitoring purposes and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain video reproduction equipment. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches (6"). The business license official may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
  - 2. The application shall be sworn to be true and correct by the applicant.
  - 3. No alteration in the configuration or location of a manager's station or viewing room may be made without the prior approval of the business license official.
  - 4. It shall be the duty of the operator, and of any employees present on the premises, to ensure 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 in the application filed pursuant to Paragraph A,1 of this section.

5. The interior premises shall be equipped 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 foot-candle, as measured at the floor level. It shall be the duty of the operator, and of any employees present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.
6. It shall be the duty of the operator, and of any employees present on the premises, to ensure that no sexual activity occurs in or on the licensed premises.
7. It shall be the duty of the operator, and of any employees present on the premises, to ensure that not more than one person is present in a viewing room at any time. No person shall enter a viewing room that is occupied by another person.
8. It shall be the duty of the operator, or of any employee who discovers two (2) or more patrons in a viewing room or discovers any person making or attempting to make an opening of any kind between viewing rooms, to immediately escort such persons from the premises.
9. It shall be the duty of the operator, or of any employee who discovers an opening of any kind between viewing rooms, to immediately secure such rooms and prevent entry into them by any patron until such time as the wall between the rooms has been repaired, to remove the opening. Removal and repairing of openings between viewing rooms shall be in a manner that is as structurally substantial as the original wall construction.
10. It shall be the duty of the operator, at least once each business day, to inspect the walls between viewing rooms for openings of any kind.
11. It shall be the duty of the operator to post conspicuous signs in well lighted entry areas of the business stating all of the following:
  - a. No loitering is permitted in viewing rooms;
  - b. The occupancy of viewing rooms is limited to one person;
  - c. Sexual activity on the premises is prohibited;
  - d. The making of openings between viewing rooms is prohibited;
  - e. Violators will be required to leave the premises; and
  - f. Violations of Paragraphs A,11,b, A,11,c, and/or A,11,d of this section are unlawful.
12. It shall be the duty of the operator to ensure that floor coverings in viewing rooms are nonporous, easily cleanable surfaces, with no rugs or carpeting.
13. It shall be the duty of the operator to ensure that all wall surfaces and

seating surfaces in viewing rooms are constructed of, or permanently covered by, nonporous, easily cleanable material.

14. It shall be the duty of the operator to ensure that the premises are clean and sanitary. Such duty shall be fulfilled if the operator complies with the following cleaning procedures:

- a. The operator shall maintain a regular cleaning schedule of at least two (2) cleanings per day, documented by appropriate logs.
- b. The operator shall provide an employee to check all areas for garbage, trash, body fluids and excrement and to remove and clean all areas with a disinfectant. All solid waste generated by the business shall be collected from the premises for disposal at a lawful solid waste disposal facility at least once each week. Prior to disposal, solid waste shall be stored in a manner that prevents access by animals or members of the public and which will not facilitate the creation of a health nuisance.
- c. Thorough cleaning of the entire interior of any room providing patron privacy shall be done using a disinfectant. Cleaning shall include floors, walls, doors, seating, monitors, video cameras, and windows and other surfaces.

15. 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 in which patrons are permitted, including the interior of each viewing room, but excluding restrooms, to which any patron is permitted access for any purpose. A manager's station shall not exceed forty (40) square feet of floor area. If the premises has two (2) or more manager stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager stations. The view required in this Paragraph must be by direct line of sight from the manager's station. It is the duty of the operator to ensure that a least one employee is on duty and situated in each manager's station at all times that any patron is on the premises. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this Paragraph remains unobstructed by the doors, curtains, walls, merchandise, display racks or other materials or enclosure at all times that any patron is present on the premises.

B. Stage Requirements: It shall be a violation of this chapter for an employee to knowingly or intentionally, in a sexually oriented business, appear in a state of semi-nudity, unless the employee is at least six feet (6') from patrons and customers and on a stage at least two feet (2') from the floor.

#### **4.16.050 EMPLOYEE REGULATIONS**

- A. Employee Work Permit Required: It is unlawful for any person to act as a sexually oriented business employee, without first obtaining a sexually oriented business work permit, as specified in this Section.
- B. Sexually Oriented Business Employee Work Permits: It is unlawful for any sexually oriented business to employ, or for any individual to be employed as, a sexually oriented business employee unless that employee first obtains a sexually oriented business employee work permit.
- C. Sexually Oriented Business Employee Work Permit Application; Disclosure:
1. Upon the filing of a completed application for a sexually oriented business employee work permit, the business license official shall issue a temporary license to the applicant, which temporary license shall expire upon the final decision of the town to deny or grant the work permit. An application shall be considered complete when it contains the following information:
    - a. The correct legal name of each applicant;
    - b. Present business address and telephone number;
    - c. Identification issued by a federal or state governmental agency with the individual's date of birth, colored photograph, signature and physical description;
    - d. The individual's fingerprints on a form provided by the public safety department; and
    - e. A statement for each applicant whether the applicant has been convicted of, or has pled guilty or nolo contendere to, a "specified criminal activity", as defined herein, and if so, the specified criminal activity involved, the date, place and jurisdiction of each. The fact that a conviction is being appealed shall have no effect on the disqualification pursuant to this section.
  2. A license or permit required by this chapter is in addition to any other licenses or permits required by the town, county or state to engage in the business or occupation. Persons engaged in the operation of an adult oriented business or in employment in an adult oriented business shall comply with all other applicable local, state and federal laws, ordinances and statutes, including zoning ordinances, as may be required.
  3. The information provided by an applicant in connection with an application for a license under this chapter shall be maintained by the town on a confidential basis, except that such information may be disclosed only to law enforcement agencies in connection with a law enforcement or public safety function, or as may be required by governing law or court order. The information provided by a sexually oriented business license applicant in connection with the application for

a license under this chapter shall be maintained by the business license official.

D. State Licensing Exemption: The provisions of this chapter shall not apply to any sex therapist or similar individual licensed by the state to provide bona fide sexual therapy or counseling, a licensed medical practitioner, licensed nurse, psychiatrist or psychologist while providing professional services for which they are licensed, nor shall it apply to any educator licensed by the state for activities in the classroom.

E. Sexually Oriented Business Employee Work Permit: Issuance and Term:

1. Within thirty (30) days of the initial filing date of the receipt of a completed application, the business license official shall either issue a license or issue a written notice of intent to deny a license to the applicant. The business license official shall approve the issuance of a license unless one or more of the following is found by a preponderance of evidence to be true:

- a. The applicant is less than eighteen (18) years of age;
- b. The applicant has failed to provide information required for issuance of a license or has falsely answered a question or request for information on the application form;
- c. The required license application fee has not been paid; or
- d. The applicant has been convicted of a "specified criminal activity", as defined herein, or has been shown to have committed two (2) or more violations of Paragraph I of this chapter within the previous year.

2. Sexually oriented business employee work permits may be obtained at any time throughout the year. All employee work permits shall expire on the last day of the twelfth month following issuance.

3. Sexually oriented business licenses and sexually oriented business employee work permits may be renewed only by making application and payment of a fee as provided for in this chapter. Application for renewal should be made at least ninety (90) days before the expiration date of said licenses and work permits, and when made less than ninety (90) days before the expiration date, the expiration of the license or work permit will not be affected.

F. Change in Employee Information: Any change in the information required to be submitted under this chapter for a sexually oriented business work permit will be given, in writing, to the business license official within fourteen (14) days after such change.

G. License Fees: Each applicant for a sexually oriented business employee work permit shall be required to pay yearly regulatory license fees pursuant to the



consolidated fee schedule as adopted by the town council.

H. License Display: A sexually oriented business employee shall keep the employee's work permit on his or her person or on the premises where the licensee is then working and shall, while working on the sexually oriented business premises, produce such work permit for inspection upon request by a law enforcement officer or other town official performing functions connected with the enforcement of this chapter.

I. Sexually Oriented Business Employee Conduct: It is unlawful for any sexually oriented business licensee or sexually oriented business employee to knowingly or intentionally:

1. Allow persons under the age of eighteen (18) years, or the age of twenty one (21) years if required by any applicable alcohol ordinance, on the business premises;
2. Allow, offer or agree to gambling on the business premises;
3. Allow, offer or agree to the illegal possession, use, sale or distribution of controlled substances on the licensed premises;
4. Permit, commit, offer or agree to commit prostitution, solicitation of prostitution, solicitation of a minor or commit activities harmful to the minor to occur on the licensed premises;
5. Permit, commit, offer or agree to permit any live specified sexual activity as defined by town ordinances or state statutes in the presence of any customer or patron;
6. Permit, offer or agree to, a patron or customer to masturbate within or upon the premises of a sexually oriented business;
7. Appear in a state of nudity before a patron on the premises of a sexually oriented business; or
8. Refuse to permit town officers or agents who are performing functions connected with the enforcement of this chapter to inspect the portions of the sexually oriented business premises where patrons are permitted, for the purpose of ensuring compliance with this chapter, at any time the sexually oriented business is occupied by patrons or open for business. A licensee's knowing or intentional refusal to permit such an inspection shall constitute a violation of this section. The provisions of this Paragraph do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

J. Activities of Patrons:

1. The provisions of this chapter shall be applicable to all persons and businesses described in this chapter, whether the described activities were established before or after the effective date hereof, and regardless

of whether such persons and businesses are currently licensed to do business in the town.

2. Upon adoption, the provisions of this chapter shall apply to the activities of all sexually oriented businesses and sexually oriented business employees described herein, whether such businesses or activities were established or commenced before, on, or after the effective date hereof. All existing sexually oriented businesses and sexually oriented business employees are hereby granted a de facto temporary license to continue operation or employment for a period of ninety (90) days following the effective date hereof. Within said ninety (90) days, all sexually oriented businesses and sexually oriented business employees must make application for a license pursuant to this chapter. Within said ninety (90) days, sexually oriented businesses must make any necessary changes to the interior configurations of the regulated business premises to conform to this chapter.

#### **4.16.060 GENERAL APPLICABILITY, ACTIONS FOR VIOLATIONS, DEFENSES**

##### **A. Applicability of Regulations to Existing Businesses:**

1. The provisions of this chapter shall be applicable to all persons and businesses described in this chapter, whether the described activities were established before or after the effective date hereof, and regardless of whether such persons and businesses are currently licensed to do business in the town.
2. Upon adoption, the provisions of this chapter shall apply to the activities of all sexually oriented businesses and sexually oriented business employees described herein, whether such businesses or activities were established or commenced before, on, or after the effective date hereof. All existing sexually oriented businesses and sexually oriented business employees are hereby granted a de facto temporary license to continue operation or employment for a period of ninety (90) days following the effective date hereof. Within said ninety (90) days, all sexually oriented businesses and sexually oriented business employees must make application for a license pursuant to this chapter. Within said ninety (90) days, sexually oriented businesses must make any necessary changes to the interior configurations of the regulated business premises to conform to this chapter.

- B. Injunctions: An entity or individual who, without a valid license, operates or causes to be operated a sexually oriented business or who employs or is employed as an employee of a sexually oriented business, or who operates such a business or functions as such an employee in violation of the provisions of this chapter, is subject to a suit for injunction in addition to the civil and criminal violations provided in this chapter, and any other remedy available at law or in equity.

C. Suspension: The town shall issue a written letter of intent to suspend a sexually oriented business license for a period not to exceed thirty (30) days if it is determined that the sexually oriented business licensee has knowingly violated this chapter or has knowingly allowed an employee to violate this chapter. The town shall issue a written letter of intent to suspend a sexually oriented business employee work permit if it is determined that the employee has knowingly violated this chapter.

D. Revocation:

1. The business license official shall issue a written intent to revoke a sexually oriented business license or a sexually oriented business employee work permit if a cause of suspension as provided in Paragraph F of this section occurs and the license has been suspended within the preceding twelve (12) months.
2. The business license official shall issue a written intent to revoke a sexually oriented business license or a sexually oriented business employee work permit if the official determines that a licensee or an employee, with the knowledge of the licensee:
  - a. Knowingly gave false or misleading information in the application or in any document or diagram related to the operation of the sexually oriented business;
  - b. Knowingly allowed possession, use or sale of controlled substances on the premises;
  - c. Knowingly allowed prostitution on the premises;
  - d. Knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;
  - e. A licensee has been convicted, pled guilty, or pled nolo contendere to a "specific criminal activity", as defined in this chapter;
  - f. A licensee or an employee has knowingly allowed any specified sexual activity to occur in or on the licensed premises; or
  - g. A licensee is delinquent in payment to the town of taxes or fees related to the sexually oriented business.
3. The fact that any conviction is being appealed shall have no effect on the revocation of the license.
4. For the purposes of this chapter, an act by a sexually oriented business employee that constitutes grounds for revocation of that employee's work permit shall be imputed to the sexually oriented business for purposes of denial, suspension or revocation proceedings only if the hearing officer determines by a preponderance of evidence that an officer, director or general partner, or an employee who managed, supervised or controlled

the operation of the business, knowingly allowed such act to occur on the sexually oriented business premises.

5. When, after the notice and hearing procedure described in this chapter, the business license official revokes a license, the revocation shall continue for one year and the licensee shall not be issued a sexually oriented business license for one year from the date the revocation becomes effective; provided, that, if the conditions of Paragraph E of this section are met, a provisional license will be granted pursuant to that section. If, subsequent to revocation, the enforcement officer finds that the basis for the revocation found in Paragraphs D,2,a, D,2,d, and D,2,g of this section has been corrected or abated, the applicant shall be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective. If the license was revoked under Paragraphs D,2b, D,2,c, D,2,e or D,2,f of this section, an applicant may not be granted another license until the appropriate number of years required under this chapter has elapsed.

E. Hearing, Revocation, License Denial, Suspension; Appeal:

1. If the business license official determines that facts exist for denial, suspension or revocation of a license under this chapter, the town shall notify the applicant or licensee (respondent) in writing of the town's intent to deny, suspend or revoke the license, including the grounds therefor, by personal delivery, or by certified mail.
  - a. The notification shall be directed to the most current business address or other mailing address on file with the business license official for the respondent. Within ten (10) working days of receipt of such notice, the respondent may provide to the business license official a written response that shall include a statement of reasons why the respondent believes the license should not be denied, suspended or revoked.
  - b. Within five (5) days of the receipt of respondent's written response, the business license official shall notify respondent in writing of the hearing date on respondent's denial, suspension or revocation proceeding. Within ten (10) working days of the receipt of respondent's written response, the hearing officer shall conduct a hearing, at which respondent shall have the opportunity to present all of respondent's arguments and to be represented by counsel, present evidence and witnesses on his or her behalf, and cross examine any of the town's witnesses. The hearing shall take no longer than two (2) days, unless extended to meet the requirements of due process and proper administration of justice. The hearing officer shall issue a written opinion within five (5) days after the hearing. If a court action challenging the town's decision is initiated, the town shall prepare and transmit to the

court a transcript of the hearing within ten (10) days after the issuance of the hearing officer's written opinion.

- c. If a written response from respondent is not received by the business license official within the time stated in Paragraph E, 1, a of this section or if, after a hearing, the hearing officer concludes that grounds as specified in this chapter exist for denial, suspension or revocation of the license, then such denial, suspension or revocation shall become final five (5) days after the hearing officer sends, by certified mail, written notice to the respondent that the license has been denied, suspended or revoked. Such notice shall include a statement advising the respondent of the right to appeal such decision to a court of competent jurisdiction. If the hearing officer finds that no grounds exist for denial, suspension or revocation of a license, then within five (5) days after the hearing, the hearing officer shall immediately withdraw the intent to deny, suspend or revoke the license and shall notify the respondent in writing by certified mail of such action. The hearing officer shall contemporaneously therewith issue the license to the applicant.

2. An applicant or licensee (aggrieved party) whose application for a license has been denied or whose license has been suspended or revoked shall have the right to appeal such action to a court of competent jurisdiction. Upon the filing of any court action to appeal, challenge, restrain or otherwise enjoin the town's enforcement of the denial, suspension or revocation, the town shall immediately issue the aggrieved party a provisional license. The provisional license shall allow the aggrieved party to continue operation of the sexually oriented business or to continue employment as a sexually oriented business employee and will expire upon the court's entry of a judgment on the aggrieved party's appeal or other action to restrain or otherwise enjoin the town's enforcement.

3. Sexually oriented businesses or sexually oriented business employees operating or working under temporary licenses or de facto temporary licenses shall be subject to the applicable provisions of this chapter.

F. Violation; Penalty: In addition to revocation or suspension of a license as provided in this chapter, the violation of any provision of this chapter shall be a class B misdemeanor. Each day of a violation shall be considered a separate offense. The prosecuting agency shall have the discretion to charge any offense under this chapter as an infraction.

#### **4.18 (RESERVED)**

#### **4.20 SPECIAL EVENT PERMITS**

[4.20.010 SPECIAL EVENT PERMIT REQUIRED](#)  
[4.20.020 APPLICATION FOR PERMIT](#)  
[4.20.030 APPLICATION FEE](#)  
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**4.20.010 SPECIAL EVENT PERMIT REQUIRED**

Any special event that creates a need for municipal coordination of parking, traffic flow, fire, police/security service and/or otherwise impacts the public health, safety and welfare or general peace and tranquility of the community beyond that which would be reasonably necessary and ordinarily anticipated relative to personal and individual use of public or private property, and in all cases where an admission fee is required, shall be required to apply for and be granted a special event permit for the specific event and its venue. Events, which occur in a series such as live performances, may apply for the entire series of special events under one special event permit.

**4.20.020 APPLICATION FOR PERMIT**

Applications for special events shall be made in writing to the Town Clerk on forms available from the recorder's office. Applications must be completed and submitted to the Town recorder not less than sixty (60) days prior to the scheduled event. The application shall be signed by the person or group of people who is or are the organizers and with whom the responsibility for conduct of the event lays. The applicant must be a natural person or persons and not a corporation, corporate sponsor or business, or any other entity that is not a natural person. The application shall include:

- A. Name and description of the event;
- B. Name of the applicant;
- C. Social security number of the applicant;
- D. Geographical location of the event;
- E. Proposed time and duration of the event;
- F. Anticipated attendance at the event;
- G. Anticipated traffic and parking impacts;
- H. Anticipated necessity for public personnel, equipment and other public services at the event;
- I. Proposed admission fee;
- J. A photocopy of a temporary sales tax license from the state tax commission



shall be attached to the application for the applicant and each entity offering goods for sale at the special event.

#### **4.20.030 APPLICATION FEE**

Applications for a special event permit shall be assessed a fee of one hundred dollars (\$100.00). Applications shall be considered incomplete unless and until the application fee is paid in full.

#### **4.20.040 FEE WAIVER**

The Town manager may waive all or a portion of the special event permit application fee upon a finding of eligibility pursuant to the following criteria:

- A. Nonprofit status of the applicant;
- B. No fee charged for the event;
- C. Demonstration of hardship by the applicant.

#### **4.20.050 PROCESS AND STANDARDS FOR PERMIT APPROVAL**

- A. The Town Clerk shall submit the completed special event permit application to the public safety director and the public works director for department approval. The public safety director shall review and approve the special event permit to determine if the applicant adequately addresses crowd control, adequate parking, traffic control and all other public safety requirements. The public works director shall review and approve the special event permit to determine if the applicant adequately addresses sanitation and other public service needs.
- B. The applicant shall meet the following standards:
  - 1. The safety, health, sanitation equipment and services or facilities are available to ensure that the event will be conducted without creating unreasonably negative impacts to the area and with due regard for safety and the environment.
  - 2. Adequate off-site parking will minimize substantial adverse impacts on general parking and traffic circulation in the vicinity of the event.
  - 3. Any other services or facilities necessary are available to ensure compliance with Town noise, sign and other applicable ordinances.
  - 4. The event shall not create the imminent possibility of violent disorderly conduct likely to endanger public safety or cause significant property damage.
  - 5. The applicant demonstrates an ability and willingness to conduct the event pursuant to the terms and conditions of this chapter.
- C. After review and approval of the application by the public safety director and the

public works director, the Town Clerk shall submit the application to the Mayor for approval. The Mayor shall review the application for compliance with this chapter and shall request any additional information and/or review by staff before approving and signing the application.

- D. The Mayor shall review and approve or deny the application within thirty (30) days of the receipt by the Town Clerk of a complete special event permit application, including all required submittals and fees.

#### **4.20.060 INSURANCE REQUIREMENTS**

Applicants shall provide proof of liability insurance in the amount required by the Town, and shall further name the Town as additional insured. The Town shall determine the amount of insurance required based upon the size and type of special event. All applicants shall further indemnify the Town from liability occurring at the event.

#### **4.20.070 CASH OR SECURITY DEPOSIT**

The Mayor is authorized to require an applicant to post a cash deposit or other security accepted by the Town attorney for all estimated contingent costs prior to the issuance of the special event permit, as a guarantee against fees, damages, cleanup or loss of public property.

#### **4.20.080 ENFORCEMENT OF CHAPTER**

- A. It is unlawful for the authorized special event representative to fail to take reasonable steps to promptly cure any notice of violation of this chapter. If the public safety director determines that a failure to cure a violation of this chapter creates a clear and present danger of immediate significant harm to life, public safety or property which cannot be reasonably mitigated, the applicant shall be promptly notified that the special event permit is revoked and that the special event must immediately cease and desist.
- B. Any person who willfully violates any provision of this chapter shall be guilty of a class B misdemeanor. Persons conducting special events without having first obtained a special event permit are subject to arrest and the event is subject to closure.

#### **4.20.090 APPEALS**

The applicant or any person aggrieved by a final decision, determination or requirement of the Mayor regarding a special event permit may appeal to the Town council. An appeal must be submitted in writing to the Town recorder within thirty (30) days of the Town manager's final decision on the special event permit application.

#### **4.20.100 SEVERABILITY OF CHAPTER**

If any provision or clause of this chapter or application thereof to any person or entity or circumstance is held to be unconstitutional or otherwise invalid by any court of

competent jurisdiction, such invalidity shall not affect other sections, provisions, clauses or applications hereof which can be implemented without the invalid provision, clause or application hereof, and to this end the provisions and clauses of this chapter are declared to be severable.

## **5 HEALTH AND SANITATION**

### **5.02 AGRICULTURAL OPERATIONS**

#### **5.04 NUISANCES**

#### **5.06 HAZARDOUS MATERIALS EMERGENCIES**

### **5.02 AGRICULTURAL OPERATIONS**

#### **5.02.010 PURPOSE**

#### **5.02.020 NUISANCE LIABILITY**

#### **5.02.030 DISPOSAL, DUMPING OR DISCHARGING ONTO AGRICULTURAL LANDS**

#### **5.02.010 PURPOSE**

It shall be the policy of the town to assist in the conservation of natural resources and scenic beauty, and to encourage the development and improvement of agricultural lands within its boundaries, for the production of food and other agricultural products. The town recognizes the important balance that must be maintained between interests in agricultural land and other competing land uses. It shall be the purpose of this chapter to provide, to the extent possible, for the reasonable protection of agricultural uses, specifically those aspects of an agricultural use, that tend to offend the senses, to the extent, the agricultural use is reasonably maintained according to sound agricultural practices, and conforms to federal, state and local ordinances and regulations.

#### **5.02.020 NUISANCE LIABILITY**

- A. Agricultural operations that are consistent with sound agricultural practices are presumed to be reasonable and do not constitute a nuisance under this title, or a private nuisance, unless the agricultural operation has a substantial adverse effect on the public health and safety.
- B. Agricultural operations undertaken in conformity with federal, state and town laws and regulations, including the town's zoning ordinances, are presumed to be operating within sound agricultural practices.
- C. As used in this chapter, "agricultural operation" means any facility for the production for commercial purposes of crops, livestock, poultry, livestock products or poultry products.

#### **5.02.030 DISPOSAL, DUMPING OR DISCHARGING ONTO AGRICULTURAL LANDS**

- A. For the purpose of this section, "agricultural lands" shall mean those lands upon which a bona fide agricultural operation exists, or areas of vacant ground consisting of five (5) or more contiguous acres of land.
- B. It shall be unlawful for any person to dump, discharge or dispose of any materials, including, but not limited to, garbage, refuse, trash, rubbish, hazardous waste, dead animals, sludge, liquid or semi-liquid waste, grasses, stubble, brush, tumble weeds, clippings and cuttings, vegetative waste, litter,

filth, or refuse of any nature, kind or description, and to leave the same upon agricultural land.

- C. Any person who is found guilty of violating this section, shall be guilty of a class B misdemeanor, and subject to the penalty therefor. Each day such violation is committed or permitted to continue, shall constitute a separate violation.
- D. The town attorney may initiate legal action, civil or criminal, to abate any condition that exists in violation of this section.
- E. In addition to other penalties imposed by a court of competent jurisdiction, any person found guilty of violating this section shall be liable for all expenses incurred by the town in removing or abating the nuisance and/or source of filth.

## **5.04 NUISANCES**

### **5.04.010 FINDINGS AND PURPOSE**

### **5.04.020 DEFINITIONS - NUISANCES**

### **5.04.030 JURISDICTION**

### **5.04.040 RESPONSIBILITIES OF ENFORCEMENT OFFICER**

### **5.04.050 SCOPE**

### **5.04.060 CONDITIONS REQUIRING NOTICE PRIOR TO ABATEMENT**

### **5.04.070 UNSIGHTLY OR DELETERIOUS STRUCTURES OR OBJECTS**

### **5.04.075 NOISE**

### **5.04.080 GRAFFITI**

### **5.04.090 VEHICLE RESTORATION PERMIT**

### **5.04.100 NUISANCE CONDITIONS**

### **5.04.110 STANDARDS FOR WEED CONTROL**

### **5.04.120 NOTICE**

### **5.04.130 ABATEMENT BY ENFORCEMENT OFFICER**

### **5.04.140 AGRICULTURAL USES**

### **5.04.150 ALTERNATE METHODS OF COLLECTING PAYMENT**

### **5.04.160 COLLECTION BY LAWSUIT**

### **5.04.170 COLLECTION THROUGH TAXES**

### **5.04.180 RIGHT TO APPEAL**

### **5.04.190 CRIMINAL PROSECUTION**

## **5.04.010 FINDINGS AND PURPOSE**

- A. The Town of Hideout council finds that conditions on real property in the town may constitute a nuisance in that these conditions:
  - 1. Provide a breeding ground for insects and vermin;
  - 2. Provide habitations for insects and vermin;
  - 3. Create a fire hazard;
  - 4. May attract children to unsafe areas; and
  - 5. Detract from the attractiveness of neighborhoods in the town.

B. Such conditions include:

1. Storing of junk, garbage, trash, refuse, and solid waste on real property;
2. Allowing weeds and other vegetation to become overgrown or otherwise uncared for; and
3. Storing and maintaining abandoned or unsightly vehicles on real property.

C. It is the purpose of this chapter to:

1. Prevent fire hazards;
2. Prevent insect, rodent, and other vermin infestations;
3. Prevent induction of pollens into the air;
4. Prevent further spread of vegetation that threatens the public health, safety and welfare;
5. Abate the existence of conditions or objects, structures, or solid waste that threaten the public health, safety or welfare, or that create a public nuisance;
6. Prevent the continued existence of unsightly or deleterious objects and structures upon property resulting from lack of maintenance, repair, or cleaning; and
7. Enhance the appearance of property and reduce communication between criminal elements by elimination of graffiti on structures within the town.

D. This chapter accomplishes its purposes by:

1. Identifying conditions on real property which are considered nuisances;
2. Providing a procedure for abating these nuisances; and
3. Providing penalties for the violation of this chapter.

#### **5.04.020 DEFINITIONS - NUISANCES**

As used in this chapter, the following words shall have the following meanings unless clearly indicated otherwise by the context:

ABANDONED OR UNSIGHTLY VEHICLE:

- A. Any vehicle which is inoperable by virtue of being wrecked, dismantled, partially dismantled or some similar condition.
- B. A vehicle which is kept in an enclosed structure out of sight of the general public shall not be considered abandoned for purposes of this chapter. For the purpose



of this chapter, enclosed structure shall be a structure with four (4) walls and a roof and shall not include any type of fenced area.

- C. A vehicle which is being repaired or restored pursuant to a restoration permit issued under this code shall not be considered abandoned for purposes of this chapter. An abandoned or unsightly vehicle shall not include a vehicle that is properly located in an approved area of a business engaged in the sale, repair or restoration of vehicles, provided such approval is granted as part of a conditional use permit with site plan approval of the planning commission and town council. A vehicle used in a lawful agricultural use shall not be considered abandoned or unsightly under this chapter. Where the status of the vehicle is in question, the enforcement officer shall make the determination.

**ABATE:** To put an end to a condition which is considered to be a nuisance under the terms of this chapter.

**ENFORCEMENT OFFICER:** The Mayor, the Mayor's designee, or enforcement officer or sheriff's deputy appointed to enforce the terms of this chapter.

**ERADICATION:** The destruction of weeds by chemicals, cutting, disking, root removal, rototilling, or any other method approved by the enforcement officer.

**GRAFFITI:** The unauthorized spraying of paint or marking of ink, chalk, dye, or other similar substances on public or private property or structures. For the purposes of Utah Code § 10-11-1, graffiti is deemed to be deleterious and unsightly.

**OWNER:** Any person who, alone or jointly or severally with others:

- A. Has legal title to any real property, premises, dwelling or dwelling unit, with or without accompanying possession; or
- B. Has charge, care or control of any property, dwelling or dwelling unit, as legal or equitable owner, agent of the owner, lessee, as the executor, executrix, administrator, administratrix or guardian of the estate of the owner, or as trustee of any trust which owns the property.

**PERSON:** An individual, public or private corporation and its officers, partnership, limited liability company, association, firm, trustee, executor or executrix of an estate, administrator or administratrix of an estate, the state of Utah or its departments, institution, bureau, agency, municipal corporation, county, town, political subdivision, or any other entity recognized by law.

**PROPERTY:** Any form of real property, together with all improvements to the real property, such as:

- A. Habitable structures,
- B. Other structures,

- C. All other items which are appurtenant to the property,
- D. Visible or tangible objects on the property, such as hedges, other vegetation, and automobiles, and
- E. Park strip contiguous to a parcel of property.

**SOLID WASTE:**

- A. Garbage, refuse, trash, rubbish, junk, hazardous waste, dead animals, sludge, liquid or semi-liquid waste;
- B. Spent, useless, worthless, or discarded materials;
- C. Material stored or accumulated for the purpose of discarding the materials;
- D. Materials which have served their original purpose and have become worthless or useless; or
- E. Waste materials resulting from industrial, manufacturing, mining, commercial, agricultural, residential, institutional, recreational, or community activities.
- F. The term "solid waste" does not include:
  - 1. Solid or dissolved materials in domestic sewage or in irrigation return flows, or discharges for which a permit is required under the Utah water quality act, Utah Code § 19-5-101 et seq., or
  - 2. Materials regulated under the federal water pollution control act, 33 United States Code § 1251 et seq.

- G. Animal waste.

**STRUCTURE:** Anything constructed or erected on property which is located above or below ground, specifically including, but not limited to, fences, wells, poles, buildings, homes, dwellings, and sheds.

**UNSIGHTLY:** Dilapidated, ill-kept, or in disrepair to the extent that it is offensive to the visual sense to a reasonable person, in accordance with the findings and purposes of this chapter.

**WEEDS:**

- A. Vegetation which poses a fire hazard;
- B. Vegetation that is noxious, a nuisance or dangerous as reasonably determined by the enforcement officer;
- C. Grasses, stubble, brush, tumbleweeds, clippings, and cuttings that endanger the public health and safety by creating:
  - 1. A fire hazard,

2. A breeding ground for insects, rodents or other vermin, or
  3. A habitation for insects, rodents or other vermin;
- D. Poison ivy; or
- E. Plants specified as noxious weeds in the Utah noxious weed act, Utah Code § 4-17-1 et seq., and any regulations promulgated under the Utah Noxious Weed Act.
- F. Plants which are growing on a hillside with a slope of twenty five percent (25%) and which are necessary to stabilize the hillside or to prevent erosion of the hillside shall not be considered weeds.

#### **5.04.030 JURISDICTION**

All enforcement of this chapter, including the issuing of notices and citations and abatement as described in this chapter shall be subject to the direction and control of the enforcement officer. The enforcement officer may call upon other town departments and employees in accomplishing the purposes of this chapter.

#### **5.04.040 RESPONSIBILITIES OF ENFORCEMENT OFFICER**

The enforcement officer shall make inspections of property located within the town and may issue notices and citations under this chapter. The enforcement officer may also abate nuisances as described in this chapter.

A. Inspections:

1. The enforcement officer may make inspections on the property with the consent of the owner of property.
2. If the owner refuses to consent to an inspection, the enforcement officer may observe conditions on the property from a public place or from neighboring property with the consent of the owner of the neighboring property. The enforcement officer may issue a notice or a citation under this chapter based upon his observations from public property or from neighboring property.
3. If the owner refuses to consent to an inspection, the enforcement officer may obtain an administrative search warrant from an appropriate court to complete the inspection.

- B. Records: The enforcement officer shall keep records of all of his enforcement activities and all facts which the enforcement officer shall find which relate to whether a particular property is in compliance with the terms of this chapter. During any period that the town provides its own enforcement, a property owner shall submit a request for records or reports to the enforcement officer, who shall provide the owner with a copy of the reports as required by law.

#### **5.04.050 SCOPE**

It shall be unlawful for any person to fail to comply with any rule or regulation in this chapter, unless the failure is expressly waived by these rules and regulations.

#### **5.04.060 CONDITIONS REQUIRING NOTICE PRIOR TO ABATEMENT**

It shall be unlawful for any owner of property within the town to maintain the following conditions on the owner's property. Before commencing abatement actions for these conditions or issuing a criminal citation pursuant to HMC 5.04.080, "Graffiti", the enforcement officer shall provide notice pursuant to HMC 5.04.120, "Notice".

- A. Weeds on the property (including adjacent park strips, alleys, and street edges) which do not comply with the standards described in HMC 5.04.110, "Standards for Weed Control".
- B. Cuttings from weeds left on the property.
- C. Solid waste left on the property.
- D. Vacant structures on the property which have not been secured.
- E. Unsightly or deleterious objects or structures on the property.
- F. Any graffiti on any structure located upon the property which is visible from the street or other public or private property.
- G. Any abandoned or unsightly vehicles on the property. Abandoned or unsightly vehicles located on public property or in the public right of way shall not be subject to any notice requirement, but may be removed immediately by the town.

#### **5.04.070 UNSIGHTLY OR DELETERIOUS STRUCTURES OR OBJECTS**

- A. Unsightly or deleterious objects or structures on property which may be repaired so that they are no longer unsightly or deleterious shall be repaired or removed from the property. If the owner chooses instead to remove the objects or structures from the property, they shall be lawfully disposed of.
- B. Unsightly or deleterious objects or structures on property which cannot be repaired so that they are no longer unsightly or deleterious shall be removed from the property and lawfully disposed of.

#### **5.04.075 NOISE**

##### **A. Dynamic Brake Systems:**

1. Purpose. It is the purpose of this paragraph to mitigate noise pollution within the Town of Hideout by prohibiting the use of dynamic brake devices or systems within Town limits.
2. Definitions.

DYNAMIC BRAKING DEVICE OR SYSTEM: (commonly referred to as a Jacob's brake, Jake brake, engine brake or compression brake), means a device or system used primarily on trucks or buses for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes.

3. Use Prohibited. It is unlawful to operate any motor vehicle with a dynamic braking device or system engaged, except for the aversion of immediate or imminent danger, within Town limits.
4. Emergency Vehicles Exempt. Fire trucks and other emergency vehicles are exempt from the prohibitions of this chapter.

B. Construction Noise and Hours of Operation:

1. Hours of Construction Work: It shall be unlawful for any person to perform or cause to be performed, any construction work on any construction site under his control (or at which he is employed) outside of the hours of 7:00 am to 7:00 pm Monday through Friday; or outside of the hours of 8:00 am to 7:00 pm on any Saturday, Sunday or federal holiday.

Construction equipment and/or construction trailers may only be moved within the Town during those same hours.

2. Definitions:

CONSTRUCTION WORK: Shall be defined as any building activity for which a permit shall be required under Town Code. A construction site is all area within the legal property boundary on which construction work is taking place.

3. Exception: The Mayor, Town Council or Town Engineer may authorize extended hours for construction operations or procedures which, by their nature, require continuous operation, or modify or waive the hours of work on projects located in generally isolated areas where the extended hours do not impact on adjoining property occupants. Such extension authorizations must be provided in writing.
4. Construction Noise: Some loud noise is inherent in construction work. During permitted construction hours on any Saturday, Sunday or federal holiday, noise resulting from construction work must not measure more than 60 decibels 25 feet outside the property boundary of the construction site.

#### **5.04.080 GRAFFITI**

Any graffiti on any structure located upon property which is visible from the street or other public or private property shall be removed or obliterated by the property owner.

#### **5.04.090 VEHICLE RESTORATION PERMIT**

The town may issue vehicle restoration permits under this section for the purpose of allowing the owner of a vehicle which would otherwise be considered abandoned or unsightly, to repair or restore the vehicle.

- A. A person wishing to obtain a vehicle restoration permit shall apply for a vehicle restoration permit on a form furnished by the town. The person shall pay a nonrefundable application fee at the time the person files the application as provided in the town's consolidated fee schedule.
- B. The town's staff and the enforcement officer shall review the permit and determine whether the permit meets the standards of this section. The staff and the enforcement officer shall make a written recommendation to the town council regarding whether the permit should be approved or denied. The staff and the enforcement officer may recommend that the permit be approved, that it be approved with conditions, or that it be denied. If the staff and the enforcement officer recommend that it be approved with conditions, they shall include specific recommendations regarding the conditions which should be imposed. After making the written recommendation, the staff and the enforcement officer shall refer the permit to the town council for final action.
- C. In reviewing the permit, the town staff and the enforcement officer shall consider:
  - 1. The amount of work which needs to be done on the vehicle;
  - 2. Whether the applicant has the tools and expertise necessary to perform the repairs; and
  - 3. Whether the work can appropriately be performed in the area where the property is located. If the property is a rental property, the property owner must also agree to the terms of, and sign the permit.
- D. The town council shall review the permit at its next regularly scheduled meeting after it receives the recommendation from the town staff and the enforcement officer. The applicant shall be notified of the time, date, and place of the meeting at which the permit will be reviewed.
- E. In reviewing the permit, the town council shall not be bound by the recommendations of the staff and the enforcement officer. The council may approve the application, deny the application, or approve the application with conditions. If the council approves the permit with conditions, it need not impose the same conditions recommended by the staff and the enforcement officer.
- F. Vehicle restoration permits are good for six (6) months. The holder of a vehicle restoration permit may extend the permit for additional terms of six (6) months each by making an application to the town. Only two (2) permits per household, per year may be obtained. Additional extensions may be granted as required to complete the restoration, by making application to the town.
  - 1. The enforcement officer shall grant the renewal of the permit if the



applicant demonstrates that work is progressing on the vehicle.

2. A vehicle which has not been repaired or restored by the expiration of the permit or any extension shall be removed from the property, stored in a covered area or be operable with current registration and inspection.
3. Permit shall extend only to the vehicle listed in the permit.
4. The permit must be placed in a clear and visible location on the vehicle being restored.

G. Vehicles being repaired or restored under a vehicle restoration permit shall be:

1. Covered with an appropriate car cover when no work is being performed on the vehicle.
2. Parked on an approved hard surface.
3. Placed such that no parts from the vehicle may be stored in the yard except where they originated, in or on the vehicle itself.
4. Repaired or stored but in no case shall sanding or body painting be allowed at a residence.

H. The permit fee described in this section shall be set by resolution of the town council.

#### **5.04.100 NUISANCE CONDITIONS**

The following conditions on real property shall constitute a nuisance under this chapter and the enforcement officer may abate these conditions or issue a criminal citation to the owner under HMC 5.04.190, "Criminal Prosecution", with or without providing notice as provided in HMC 5.04.120, "Notice":

- A. Vegetation on private property which, due to its proximity to any public property or right of way interferes with the public safety or lawful use of the public property or right of way, or interferes with the town's clear view as defined in this code.
- B. Weeds on property (including abutting park strips, alleys, or street edges) which have grown to a height exceeding six inches (6") or which have grown on or over a sidewalk.
- C. An accumulation of weeds, solid waste, structures, or other objects on the property which is detrimental to health.
- D. An accumulation of weeds, solid waste, structures, or other objects on the property which has become a fire hazard.
- E. An accumulation of weeds, solid waste, structures, or other objects on the property which has become a source of contamination or pollution of water, air, soil or property.

- F. An accumulation of weeds, solid waste, structures, or other objects on the property which has become a breeding place or habitation for insects, rodents, or other vermin.
- G. Weeds determined to be especially injurious to public health, crops, animals, land, or other property.

#### **5.04.110 STANDARDS FOR WEED CONTROL**

Weeds shall be maintained at a height of not more than six inches (6") at all times and cuttings must be promptly cleared and removed from the property.

- A. Weeds must be eradicated by chemicals, cutting or other acceptable means so that they do not exceed six inches (6") in height.
- B. Weeds that are rototilled, disked, or removed by the root must be buried under the soil, removed from the property, or composted.
- C. If the enforcement officer determines that the large size of the property makes the eradication of all weeds impractical, the enforcement officer may limit the required eradication of weeds to create a firebreak of not less than twenty five feet (25') in width around any structures and around the complete perimeter of the property.
- D. Property which is not in close proximity to buildings or does not create a serious nuisance or fire hazard may be exempted by the enforcement officer from the weed control requirements described in this section. The enforcement officer shall issue any such exemption in writing and shall review all exemptions under this subsection annually.

#### **5.04.120 NOTICE**

If the enforcement officer has inspected any property and determined that the property is in violation of the standards described in HMC 5.04.060 "Conditions Requiring Notice Prior To Abatement", or has reasonable grounds to believe that the property is in violation of the standards described in HMC 5.04.060 "Conditions Requiring Notice Prior To Abatement", he shall give notice of the violation to the owner of the property. If the enforcement officer has inspected any property and determined that the property is in violation of the standards described in HMC 5.04.100 "Nuisance Conditions", or has reasonable grounds to believe that the property is in violation of the standards described in HMC 5.04.100 "Nuisance Conditions", he may, but shall not be required to, give notice of the violation under this section. For violations of the standards described in HMC 5.04.100 "Nuisance Conditions", the enforcement officer may proceed directly to issue a citation under HMC 5.04.190 "Criminal Prosecution", or to the abatement procedures described in HMC 5.04.130 "Abatement by Enforcement Officer".

- A. A notice under this section shall:

- 1. Describe the property by address. If the property has no address, the

notice shall describe the property with sufficient specificity to identify the property.

2. Describe all violations which the enforcement officer found or for which he has reasonable grounds to believe that the violation exists on the property.
3. Describe the remedial actions which the owner should take to avoid a citation under HMC 5.04.190 "Criminal Prosecution" or an abatement under HMC 5.04.130 "Abatement by Enforcement Officer".
4. Give the owner a reasonable time (which shall be expressed as a number of days from the date of the notice) to address the violations. In the alternative, the notice may state that remedial action should be commenced within a reasonable time (which shall be expressed as a number of days from the date of the notice) and continue without interruption until the work is completed. In the case of graffiti, the owner shall be given no more than ten (10) days from the date of the notice to remove or obliterate the graffiti.

B. The enforcement officer shall serve the notice upon the owner of the property. Service shall be complete if the notice is served in one of the following ways:

1. Served on the owner in person; or
2. Sent by mail, postage prepaid, to the last known address of the owner. In determining the last known address of the owner, the enforcement officer may rely on the ownership information available from the Wasatch County recorder. If the notice is mailed under this Paragraph B,2, the owner shall have three (3) additional days to comply with the notice.
3. The enforcement officer shall not be required to provide an owner more than one notice for the eradication of weeds in any calendar year.

#### **5.04.130 ABATEMENT BY ENFORCEMENT OFFICER**

A. If a condition exists on property in violation of this chapter, the enforcement officer may, in addition to taking legal action:

1. Undertake or cause the eradication and removal of weeds;
2. Undertake or cause the removing of solid waste;
3. Undertake or cause the securing of any vacant structure;
4. Maintain or repair any unsightly or deleterious objects or structures which may be made not unsightly or deleterious by repair;
5. Remove and lawfully dispose of any unsightly or deleterious objects or structures;
6. Cover, clean, remove or obliterate any graffiti; or

7. Undertake or cause the removal of any abandoned or unsightly vehicle.

- B. Before undertaking abatement under this section for a violation of HMC 5.04.060 "Conditions Requiring Notice Prior to Abatement", the enforcement officer shall provide notice as provided in HMC 5.04.120 "Notice". The enforcement officer may not commence abatement under this section until the time described in the notice for the owner to take action on the violations has expired.
- C. In abating any unsightly or deleterious objects or structures under this section, the enforcement officer shall be under no obligation to make repairs if the enforcement officer determines that the abatement may be completed more quickly or more cost effectively by removing and disposing of the structure or object.
- D. Upon completion of abatement under this section, the enforcement officer shall:
  - 1. Prepare an itemized statement of all costs, including administrative expenses of the abatement; and
  - 2. Serve a copy of the itemized statement on the owner, together with a demand that the owner pay the amount shown on the itemized statement to the town within twenty (20) days of the date of service.
- E. Service of the itemized statement shall be made in the same way as service of a notice under HMC 5.04.120 "Notice".

#### **5.04.140 AGRICULTURAL USES**

A lawful agricultural use, located in a zone allowing for such use, may be exempt from the requirements of this chapter where the use does not create a health or safety hazard as determined by the ordinance enforcement officer.

#### **5.04.150 ALTERNATE METHODS OF COLLECTING PAYMENT**

If the enforcement officer abates a condition on real property under HMC 5.04.130 "Abatement by Enforcement Officer", and the owner fails to pay the costs of the abatement, the town may either:

- A. Cause suit to be brought in an appropriate court of law to recover the costs of the abatement; or
- B. Refer the matter to the county treasurer to include the costs of the abatement in the property taxes pursuant to Utah Code § 10-11-4.

#### **5.04.160 COLLECTION BY LAWSUIT**

If the owner fails to pay the expenses of an abatement under HMC 5.04.120 "Notice", within twenty (20) days of the demand under HMC 5.04.130 "Abatement By Enforcement Officer", the town may file suit in an appropriate court and recover

judgment for the costs of the abatement, together with all cost of court, reasonable attorney fees, other costs of collection and interest. The town may execute on the judgment as provided by law.

#### **5.04.170 COLLECTION THROUGH TAXES**

If the owner fails to pay the expenses of an abatement under HMC 5.04.120 "Notice", the town may refer the matter to the county treasurer for inclusion on the tax notice to the property owner. If the town chooses to pursue collection through the tax notice, the enforcement officer shall prepare an itemized statement of all expenses incurred in the abatement action and deliver four (4) copies to the county treasurer. The code enforcement officer shall deliver three (3) copies of the statement to the county treasurer within ten (10) days after the expiration of the twenty (20) day notice provided for in HMC 5.04.130, for collection by the county treasurer pursuant to state law.

#### **5.04.180 RIGHT TO APPEAL**

Within ten (10) calendar days of receiving a notice under HMC 5.04.120 "Notice", the owner or any other person aggrieved by the notice may request a hearing before the board of adjustment in writing.

- A. At any hearing under this section, the issue shall be whether the enforcement officer was justified in issuing the notice. The board of adjustment shall sustain the issuance of the notice if it finds, by a preponderance of the evidence, that there was substantial evidence to support the enforcement officer's belief that a nuisance which would be regulated under this chapter existed on the property.
- B. The board of adjustment shall hold a hearing on the appeal within thirty (30) days after the request is received. At least ten (10) days before the hearing, the board of adjustment shall send notice to the person filing the appeal of the date, time, and place of the hearing.
- C. At the hearing, the enforcement officer shall first present the reasons for issuing the notice.
  - 1. The enforcement officer may testify himself regarding the reasons for the issuance of the notice. As part of his testimony, the enforcement officer may present photographs, maps and any other evidence regarding the condition of the property, the existence of nuisances regulated by this chapter on the property and any other issues relevant to his decision to issue a notice.
  - 2. The enforcement officer may call additional witnesses regarding the condition of the property and the existence of nuisances regulated by this chapter on the property.
  - 3. In an appropriate case, the enforcement officer may be assisted by the town's attorney in the presentation of his arguments in support of the notice.

- D. After the enforcement officer has completed his presentation regarding the reason for issuing the notice, the person filing the appeal may present his arguments as to why he feels the notice was not justified.
1. The person filing the appeal shall have the right to testify, to present photographs, maps or other documents, and to call witnesses on his own behalf to support his contention that the notice is improper.
  2. The person filing the appeal may call additional witnesses to support his contentions in the hearing.
  3. The person filing the appeal shall have the right to be represented by an attorney of the person's choice. Under no circumstances, however, will the town have an obligation to provide counsel for a person filing an appeal under this section.
- E. Following the presentation of the person filing the appeal, the enforcement officer shall have an opportunity to present arguments and evidence to rebut anything presented by the person filing the appeal.
- F. During the hearing on the appeal, the board of adjustment may visit the property. By filing an appeal under this section, the owner consents to the board of adjustment's entry onto the property for the purpose of inspecting the property. The hearing may be temporarily adjourned to facilitate a visit to the property, but no such adjournment may be for longer than ten (10) days without the consent of the person filing the appeal.
- G. The Utah rules of evidence shall not apply to any hearing under this section.
1. The board of adjustment is specifically authorized to accept evidence which would be hearsay under the rules of evidence.
  2. The board of adjustment may reject any evidence which it finds is not relevant to the issues outlined in Paragraph A of this section.
  3. The board of adjustment may reject any evidence if it determines that the evidence's probative value is substantially outweighed by its inflammatory or prejudicial effect.
- H. The board of adjustment may make its decision on the appeal at the meeting or it may take the matter under advisement. If the board of adjustment makes a decision at the meeting, the decision (including the vote) shall be recorded in the meeting minutes. If the board of adjustment takes the matter under advisement, it shall issue a written decision on the matter within ten (10) days following the close of the hearing. The written decision shall become part of the record on the appeal. A copy of the written decision shall be sent to the person filing the appeal and to his attorney, if any.
- I. The board of adjustment may sustain, modify, or reverse the decision of the enforcement officer and may make amendments to the notice which it finds to be proper.



- J. An appeal from a decision of the board of adjustment may be made within thirty (30) days to the district court.

#### **5.04.190 CRIMINAL PROSECUTION**

A violation of the provisions of this chapter shall be a class B misdemeanor.

- A. No criminal action for a violation of HMC 5.04.060 "Conditions Requiring Notice Prior to Abatement", of this chapter, may be brought until the enforcement officer has delivered a notice to the owner of the property under HMC 5.04.120 "Notice". A criminal action for a violation of HMC 5.04.100 "Nuisance Conditions", may be brought without first providing the owner with a notice. For violations of HMC 5.04.100 "Nuisance Conditions", the enforcement officer may provide a notice pursuant to HMC 5.04.120 "Notice", but a criminal prosecution may proceed regardless of whether a notice was provided or not.
- B. Each day a violation is committed or permitted to continue shall constitute a separate violation.
- C. The town attorney may initiate legal action, civil or criminal, requested by the enforcement officer to abate any condition which exists in violation of these rules and regulations.
- D. In addition to any other penalties the court may impose for a violation of this chapter, the town shall be entitled to recover the costs of any abatement of conditions on the property.

#### **5.06 HAZARDOUS MATERIALS EMERGENCIES**

##### **5.06.010 DEFINITIONS - HAZARDOUS MATERIAL EMERGENCIES**

##### **5.06.020 POWER TO RESPOND**

##### **5.06.030 RECOVERY AUTHORIZATION AND PROCEDURE**

#### **5.06.010 DEFINITIONS - HAZARDOUS MATERIAL EMERGENCIES**

As used in this chapter:

**EXPENSES:** Actual labor costs of government and volunteer personnel, including workers' compensation benefits, fringe benefits, administrative overhead, costs of equipment, costs of equipment operations, cost of material and the cost of any contract labor and material.

**HAZARDOUS MATERIALS EMERGENCY:** A sudden and unexpected release of any substance that because of its quality, concentration or physical, chemical or infectious characteristics presents a direct and immediate threat to public safety or the environment and requires immediate action to mitigate the threat.

#### **5.06.020 POWER TO RESPOND**

The town is hereby empowered to respond to and mitigate any hazardous materials emergency that occurs within the confines of the town or which otherwise threatens the confines of the town, unless the town is otherwise prohibited by law.

#### **5.06.030 RECOVERY AUTHORIZATION AND PROCEDURE**

- A. Authority; Collection: The town is hereby empowered to recover expenses from any person whose conduct was at a minimum grossly negligent and resulted in a fire to which the town and/or assisting agencies responded. The town is hereby empowered to recover expenses from any person who is determined by the town to be a responsible party in any hazardous materials incident to which the town and/or assisting agencies responded. The recoverable expenses in this section shall be limited to those directly associated with the subject fire/hazardous materials emergency/incident. These expenses shall be collected as follows:
1. The town shall determine responsibility for the emergency and notify the responsible party in person or by mail of the town's determination of responsibility and the expenses to be recovered.
  2. The notice shall specify that the determined responsible party may appeal the town's determination, in writing, to the mayor, who may designate a hearing officer to hear the appeal.
  3. Any appeal must be filed, in writing, with the mayor not more than fifteen (15) days from the date the notice was received by the determined responsible party.
  4. In the event the determined responsible party appeals the determination, the hearing officer shall hold a public hearing to consider any issues raised by the appeal. Both the appealing party and the town shall be entitled to present evidence in support of their respective positions to the hearing officer.
  5. Following the hearing, the hearing officer shall make a recommendation to the mayor, who shall issue a final decision assessing responsibility and expenses.
- B. Payment Does Not Admit Liability: The payment of expenses determined owing under this chapter does not constitute an admission of liability or negligence in any legal action for damages.
- C. Responsible Party Defined: For the purposes of this section, "responsible party for hazardous materials incidents", shall mean:
1. Any person, corporation, partnership or other individual or other entity who caused such an incident, directly or indirectly, solely or jointly.
  2. The individual or entity responsible for transporting the spilled hazardous materials.

3. The owner or possessor of the hazardous materials involved in the incident.
4. The property owner of the site of a hazardous materials incident.

D. Action to Recover Expenses:

1. Subsequent to a final decision of the mayor, pursuant to this section, and upon certification of expenses by the fire chief to the mayor, the mayor may authorize the town attorney to recover the expenses directly associated with responding to a fire/hazardous materials emergency from those persons determined by the mayor to have directly or indirectly caused the emergency expenses.
2. In the event the person determined to be responsible for the payment of intentional or grossly negligently caused fire or any hazardous materials incident expenses fails to make payment to the town and/or assisting agencies within thirty (30) days after a determination of any appeal to the mayor, or thirty (30) days from the deadline for appeal in the event no appeal is filed, the town and/or assisting agency may initiate legal action to recover from the determined responsible person the expenses determined to be owing, including the reasonable attorney fees and costs of such recovery.

## **6 PUBLIC SAFETY**

### **6.02 GENERAL**

#### **6.04 OFFENSES**

#### **6.06 MINORS**

#### **6.08 FIREWORKS**

#### **6.10 ANIMAL CONTROL**

### **6.02 GENERAL**

#### **6.02.010 INTERNATIONAL BUILDING CODE ADOPTED**

#### **6.02.020 JURISDICTION OF OFFENSES**

#### **6.02.030 CONTINUING VIOLATION**

#### **6.02.010 INTERNATIONAL BUILDING CODE ADOPTED**

All provisions of the International Building Code are hereby adopted in their entirety, including all subsequent amendments, modifications or alterations which may be enacted after the effective date hereof. At such time as said amendment, modification or alteration becomes effective, said amendment, modification or alteration shall be deemed to automatically supersede the prior provision of the International Building Code for the purposes of this section and said amendment, modification or alteration shall be incorporated herein.

#### **6.02.020 JURISDICTION OF OFFENSES**

- A. A person is subject to prosecution in this town for an offense which he commits while either within or outside the town by his own conduct or that of another for which he is legally accountable if:
1. The offense is committed either wholly or partly within this town;
  2. The conduct outside this town constitutes an attempt within this town;
  3. The conduct outside this town constitutes a conspiracy to commit an offense within this town and an act in furtherance of the conspiracy occurs in this town; or
  4. The conduct within this town constitutes an attempt, solicitation or conspiracy to commit in another jurisdiction an offense under this code and such other jurisdiction.
- B. An offense is committed partly within this town if either the conduct which is an element of the offense, or the result which is such an element, occurs within this town.
- C. An offense which is based on an omission to perform a duty imposed by this code is committed within this town regardless of the location of the offender at the time of the omission.

### **6.02.030 CONTINUING VIOLATION**

In all instances where the violation of these ordinances or any ordinance hereinafter enacted is a continuing violation, a separate offense shall be deemed committed on each day during or on which the violation occurs or continues to occur.

### **6.04 OFFENSES**

#### **6.04.010 UTAH CRIMINAL CODE ADOPTED**

#### **6.04.020 DISCHARGING FIREARMS WITHIN TOWN LIMITS**

#### **6.04.010 UTAH CRIMINAL CODE ADOPTED**

All criminal provisions of the Utah Code are hereby adopted in their entirety, including all subsequent amendments, modifications or alterations which may be enacted after the effective date hereof. At such time as said amendment, modification or alteration becomes effective, said amendment, modification or alteration shall be deemed to automatically supersede the prior provision of the Utah Code for the purposes of this section and said amendment, modification or alteration shall be incorporated herein.

#### **6.04.020 DISCHARGING FIREARMS WITHIN TOWN LIMITS**

- A. It shall be unlawful for any person to discharge or use within Town limits any firearm or trap of any description, including, but not limited to, shotguns, rifles, CO2 guns, bow & arrows, crossbows, slingshots and any other weapons or traps that create reasonable and foreseeable likelihood that the health, safety and welfare of humans, domestic animals and property will be jeopardized, except this section shall not apply:
  - 1. In self-defense where legally allowed to do so;
  - 2. By any peace officer in the discharge of his duty; and
  - 3. At a regularly organized gun club shooting range, where the range and facilities have been approved by the mayor or the mayor's designated agent.
- B. It is unlawful for any person to engage in the act of hunting or to carry an uncased firearm in the open under conditions which may reasonably be construed as hunting in the area within the limits of the Town of Hideout.
- C. As used in this Section, "hunting is the search for or pursuit of any wild game animal, bird, or mammal, with the purpose of capturing or killing or attempting to capture or kill the animal, regardless of whether such kill or capture is actually effected. "Hunting shall not include the pursuit of such game animals through the use of snares or animal traps or when the game is to be taken by falconry, except that nothing under this Section shall be construed so as to prevent the Division of Wildlife Resources from controlling, maintaining, or otherwise managing wildlife within the Town of Hideout.
- D. Penalty for violation of Section:

1. Each person convicted of a violation of this section shall be guilty of a Class B misdemeanor upon first conviction, and upon a second or subsequent conviction shall be guilty of a gross misdemeanor.
  2. Each individual animal or bird unlawfully hunted, taken or possessed in violation of this section shall constitute a separate offense.
  3. Criminal: The Town Council may impose a minimum criminal penalty for the violation of this section by a fine not to exceed the maximum class B misdemeanor fine under Utah Code § 76-3-301.
  4. Civil: The Town Council may prescribe a minimum civil penalty for the violation of this section by a fine not to exceed the maximum Class B misdemeanor fine under Utah Code § 76-3-301.
- E. Term of Imprisonment for Misdemeanors: A person who has been convicted of an offense under this section may be sentenced to imprisonment for a term not exceeding six (6) months.
- F. Fines of Persons: A person convicted of an offense under this section may, in addition to any term of imprisonment imposed, be sentenced to pay a fine not to exceed one thousand dollars (\$1,000.00).

## **6.06 MINORS**

### **6.06.010 CURFEW**

### **6.06.020 DAYTIME LOITERING OF JUVENILES ON SCHOOL DAYS**

#### **6.06.010 CURFEW**

It shall be unlawful for any person under the age of sixteen (16) years to be or remain in or upon any of the streets, alleys or public places or vacant lots within the town at night between the hours of eleven o'clock (11:00) P.M. and four o'clock (4:00) A.M. the following day, unless such person is accompanied by parent, guardian or other person having legal custody of such minor person or whose employment makes it necessary to be upon the streets during the nighttime after the specified hour and it shall be unlawful for any person under the age of eighteen (18) years to be or remain in or upon any of the streets, alleys or public places or vacant lots within the limits of the town at night between the hours of twelve o'clock (12:00) midnight and four o'clock (4:00) A.M. the following day, unless such person is accompanied by a parent, guardian or other person having the legal custody of such minor person, or whose employment makes it necessary to be upon the streets during the nighttime after said specified hour.

#### **6.06.020 DAYTIME LOITERING OF JUVENILES ON SCHOOL DAYS**

A. Definitions: For the purposes of this section:

ADULT: Any person not a "juvenile", as defined in this Paragraph that is eighteen (18) years of age or older or who is sixteen (16) years of age or older and is not subject to the state's compulsory education law.



EMERGENCY: Includes, but is not limited to, fire, natural disaster, automobile accident, or requirement for immediate medical care for another person.

JUVENILE: Any person who is subject to the state's compulsory education law or who is eighteen (18) years of age or older and enrolled in public education.

LOITER: Subject to the defenses contained in Paragraph C of this section and for purposes of this section only, to "loiter" means to be absent from school when school is in session without permission from a parent or school official.

PARENT: A person who is the natural or adoptive parent of a person. "Parent" includes a court appointed guardian or other person eighteen (18) years of age or older authorized by the parent, by a court order, or by a court appointed guardian to have the care and custody of the person.

**B. Offenses:**

1. It is unlawful for any juvenile who is subject to compulsory education to loiter during the hours that school is in session for that juvenile.
2. It is unlawful for a juvenile not enrolled in the public schools of the county or an adult to encourage or assist a student not to attend or return to school unless the absence is excused by a school official or such absence is excused under one of the defenses found in this chapter.

**C. Defenses: It is a defense to prosecution under this section:**

1. When the juvenile is accompanied by a parent;
2. When the juvenile is on an emergency errand directed by a parent;
3. When the juvenile is going to, or coming from, their place of school approved employment;
4. When the juvenile is going to, or coming from, a medical appointment;
5. When the juvenile has permission to leave the school campus for lunch or a school sponsored activity, or has in their possession a valid, school issued, off campus permit;
6. When the juvenile is going to, or coming from, another education program activity such as DATC, early college or an internship;
7. When the juvenile is attending, or without any detour or stop, going to or returning from, an official school, religious, government sponsored activity supervised by adults and sponsored by the town or county, or a civic organization, the school district, religious, or other government organization.

**D. Enforcement Procedure:**

1. Upon any violation of Paragraph B of this section, a peace officer may issue a written warning to the juvenile and may transport the juvenile home or to the school from which the juvenile is absent. The parent shall be advised in writing by law enforcement officials or their designee that the juvenile was warned for a violation of this section. Such written notice shall notify the parents of their responsibility and liability as the juvenile's parents.
2. If a juvenile has been previously warned as set forth in this section, a peace officer will issue a citation for an infraction.
3. When a juvenile has previously been issued a warning and two (2) citations for an infraction as set forth in Paragraph B,1 of this section upon any subsequent violation, a peace officer will issue a citation for a class C misdemeanor to the juvenile to appear in court.

E. Penalty:

1. Penalties under Paragraph B,1 Of This Section:

- a. A juvenile will be given a written warning on the first violation of Paragraph B,1 of this section.
- b. A juvenile guilty of a second violation of Paragraph B,1 of this section may either pay a fine of fifty dollars (\$50.00) or attend youth court in the county. This violation is considered an infraction.
- c. A juvenile guilty of a third violation of Paragraph B,1 of this section is guilty of an infraction. The fine is one hundred dollars (\$100.00).
- d. A juvenile guilty of subsequent violations of Paragraph B,1 of this section will be fined two hundred fifty dollars (\$250.00) and charged with a class C misdemeanor.
- e. The enforcement procedures and penalties return to the first step upon each new school year.

2. Penalties under Paragraph B,2 of This Section:

- a. Upon any violation of Paragraph B,2 of this section, the person will be given a written warning. On subsequent violations of this section, a peace officer will issue a citation.
- b. A person guilty of a violation of Paragraph B,2 of this section will be fined one hundred dollars (\$100.00). Subsequent violations will be charged as a class C misdemeanor with a fine of two hundred fifty dollars (\$250.00).

## **6.08 FIREWORKS**

### **6.08.010 STATE PROVISIONS ADOPTED BY REFERENCE**

### **6.08.020 ENFORCEMENT**

### **6.08.030 SALES**

### **6.08.040 PUBLIC DISPLAY OR SPECIAL EFFECTS; PERMIT REQUIRED**

### **6.08.050 PROHIBITED ACTS AND ACTIVITIES**

### **6.08.060 AUTHORITY OF TOWN TO PROHIBIT DISCHARGE**

### **6.08.070 CONFLICTING PROVISIONS**

## **6.08.010 STATE PROVISIONS ADOPTED BY REFERENCE**

This chapter includes, but is not limited to, sections of the Fire Prevention and Fireworks Act found in Utah Code Title 53-7 Part 2, and sections of the County and Municipal Fireworks Act found in Utah Code Title 11-3, which sections are, by this reference, adopted as town ordinances. Each section of the Fire Prevention and Fireworks Act adopted by this reference shall have a new section number as determined by this present chapter. The following subsections are adopting those provisions by reference.

- A. Definition of Terms: Adopting Utah Code § 53-7-202.
- B. Restrictions on Sale or Use of Fireworks: Adopting Utah Code § 53-7-222.
- C. Times for Sale and Discharge of Fireworks: Adopting Utah Code § 53-7-225.
- D. Exemptions: Adopting Utah Code §§ 11-3-10 and 53-7-221.
- E. Penalties: Adopting Utah Code §§ 11-3-11 and 53-7-226.
- F. State Fire Prevention Board Rules: Rules, specifications, standards or requirements promulgated by the Utah fire prevention board as permitted or required by the various sections of the fire prevention and fireworks act (Utah Code § 53-7-201 et seq.), are included and adopted as part of this chapter.

## **6.08.020 ENFORCEMENT**

The fire chief, the chief's designee, peace officers and special function officers authorized by the town within those capacities, are hereby authorized to enforce this chapter, and the applicable provisions of the Fire Prevention and Fireworks Act and the County and Municipal Fireworks Act within Utah Code Annotated.

## **6.08.030 SALES**

### **A. Permit Required; Application:**

1. No person shall offer for sale or sell, at retail, any fireworks without a permit countersigned by the fire chief. A separate permit shall be required for each separate sales location, and for each of the following time periods: June 20 through July 25, inclusive; December 20 through January 2, inclusive; and fifteen (15) days prior to and through the Chinese new year inclusive. The fee for each permit shall be as set forth

in the consolidated fee schedule. Each permit shall remain in effect for the specified time period unless the permittee violates a provision of this chapter, in which event the permit may be revoked. Applications for a permit to sell fireworks shall be in writing on the "application for sales of fireworks" form and shall:

- a. Include the name and address of the person, firm or corporation applying for the permit;
  - b. Describe the specific location where fireworks will be sold;
  - c. Include evidence of commercial general liability insurance in an amount not less than one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) aggregate; and
  - d. Include any other information reasonably required by the fire department.
2. All of the above required information, including fees, shall be submitted no less than fourteen (14) days prior to the specified time period. However, if the permit application is for a location for which a conditional use permit has not been issued or is no longer valid, both permit applications shall be submitted no less than five (5) weeks prior to the desired time period for the sale of fireworks. The applicable and required fees shall accompany the permit application and be submitted at the time of application.

B. Sales Locations: Retail sales of fireworks shall be permitted within a permanent structure in connection with an applicable and properly issued business license which is in effect pursuant to provisions of HMC 4.02, or, from a temporary stand, or trailer or tent. Retail sales of fireworks shall be allowed only at locations within the commercial, manufacturing and industrial zoning districts. Sales both in permanent structures and in temporary stands, or trailers or tents, shall be subject to the following requirements:

1. No sales of fireworks shall be permitted from stands, trailers or tents located within one hundred feet (100') of any other building, nor within one hundred feet (100') of any gasoline pump or dispensing device, or other combustibles. No sales of fireworks shall be permitted from permanent structures located within fifty feet (50') of any gasoline pump or dispensing device, or other combustibles.
2. Fireworks stands, trailers or tents need not comply with the provisions of the international building code, however, all stands, trailers or tents shall be erected in a manner that will reasonably assure the safety of attendants and patrons.
3. Each stand, trailer or tent shall not have in excess of four hundred fifty (450) square feet of floor space, and each stand, trailer or tent shall have

not less than two (2) exits, each of which must be at least thirty six inches (36") in width.

4. A sign prohibiting the discharge of any fireworks within one hundred feet (100') of the fireworks stand, trailer or tent shall be prominently displayed.
5. All employees on duty at all times shall be at least eighteen (18) years of age or older. Fireworks shall be sold only as packaged units with displays to be arranged so as to prevent the touching or handling of nonpackaged fireworks.
6. Displays of fireworks in permanent structures shall be within constant visual observation.
7. Fireworks stands, trailers or tents shall be removed within seven (7) days after retail sales cease.
8. Prior to the issuance of a permit, each applicant shall file with the town a cash deposit in an amount set forth in the consolidated fee schedule for each retail sales location to assure compliance with the provisions of this section, including, but not limited to, the removal of the stand, trailer or tent and the cleaning of the site. In the event the permittee does not comply with the provisions of this chapter or remove the stand, trailer or tent, or clean the site thereof, the town may remove the stand, trailer or tent and clean the site or cause the same to be done by other persons and the reasonable cost thereof shall be a charge against the permittee and shall be subtracted from the bond described above.
9. No person shall be permitted to sleep in the fireworks stand or trailer overnight.

#### **6.08.040 PUBLIC DISPLAY OR SPECIAL EFFECTS; PERMIT REQUIRED**

A. Permit Application: No person shall discharge any display or special effects fireworks without first obtaining a permit countersigned by the fire chief. A separate permit will be required for each public display or special effects event. The fee for a single permit is as set forth in the consolidated fee schedule. Application for this permit shall be in writing on the application form "public display or special effects fireworks" and shall:

1. Include the name, address and telephone number of the person, firm, entity or corporation applying for the permit;
2. Describe the specific location of the discharge, display, fallout and spectator locations;
3. Include evidence of commercial general liability insurance in an amount not less than one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00), aggregate;
4. Describe a plan for monitoring weather conditions, crowd control and

contingency plans for adverse or changing conditions;

5. Include any additional information reasonably required by the town.

B. Time Limit For Submission; Exemptions: The above information shall be submitted to the fire chief at least fourteen (14) days prior to the planned discharge of display or special effects fireworks. Governmental subdivisions and governmental entities are exempt from the permit fee requirements of this section, however, the application must be timely submitted and the proper permit obtained prior to the planned discharge of display or special effects fireworks.

#### **6.08.050 PROHIBITED ACTS AND ACTIVITIES**

A. It shall be unlawful to discharge fireworks:

1. Within one hundred feet (100') of any place where fireworks are sold or offered for sale;
2. Within three hundred feet (300') of any church, hospital, rest home, retirement center, school building or similar institution;
3. In such a manner that the fireworks project over or onto the property of another person without the consent of the person owning or controlling such property; or
4. In any public park.

B. It shall be unlawful to ignite, discharge or throw any fireworks from or into any motor vehicle, or at or near any person.

C. It shall be unlawful to make, sell, or offer to sell or to discharge any type of homemade fireworks.

D. It shall be unlawful to sell or to offer to sell fireworks:

1. Without a permit;
2. In violation of any requirement of this chapter or any regulations adopted by the Utah fire prevention board;
3. At a location not specified in the permit application;
4. Without the insurance coverage required in the permit application; or
5. In violation of HMC 6.08.030 Paragraph B.

E. Except as provided in HMC 6.08.010, it shall be unlawful for any person, firm or corporation to at any time own, possess, control, sell or offer to sell any fireworks other than as set forth in Utah Code § 53-7-222.

#### **6.08.060 AUTHORITY OF TOWN TO PROHIBIT DISCHARGE**

The town council, during times of adverse fire conditions, may review information regarding meteorological conditions, moisture content of plants and soil, and other information related thereto, and may at its discretion prohibit the use of all fireworks in the protection of the health, safety and welfare of the public. Such a prohibition shall be for a defined period of time and may be limited to identified areas of the town, or may be applicable throughout the town.

#### **6.08.070 CONFLICTING PROVISIONS**

In the event there should at any time be a conflict between the provisions of this chapter, and provisions of Utah Code Annotated or the rules and regulations adopted pursuant thereto, the more strict shall control.

#### **6.10 ANIMAL CONTROL**

##### **6.10.010 ADMINISTRATION**

##### **6.10.020 DEFINITIONS - ANIMAL CONTROL**

##### **6.10.030 LICENSE AND REGISTRATION OF DOGS**

##### **6.10.040 DOGS AT LARGE**

##### **6.10.050 DANGEROUS AND/OR VICIOUS ANIMALS**

##### **6.10.060 NUISANCE ANIMALS**

##### **6.10.070 RABIES CONTROL AND ANIMAL BITES**

##### **6.10.080 NONCONFORMING OWNERS**

##### **6.10.090 IMPOUNDMENT**

##### **6.10.100 ENFORCEMENT**

##### **6.10.110 CITATION FOR MISDEMEANOR**

##### **6.10.120 PENALTY**

#### **6.10.010 ADMINISTRATION**

The town council or authorized agent shall resolve dog related disputes within the corporate limits of the town.

#### **6.10.020 DEFINITIONS - ANIMAL CONTROL**

The following words and phrases used in this chapter shall have the following meanings unless a different meaning clearly appears from the context:

ADDITIONAL PET: Any dog in addition to the amount allowed per household.

ANIMAL SHELTER: Any facility owned and operated by a government entity or any animal welfare organization, which is incorporated within the state of Utah, for the purpose of preventing cruelty to animals, and used for the care and custody of seized, stray, homeless, quarantined, abandoned or unwanted dogs, cats or other domestic animals.

AT LARGE: A dog shall be considered to be “at large” when it is off the owner’s property and not under immediate control by means of a durable restraint device capable of keeping the dog restrained.



**BITE:** Any actual puncture, tear or abrasion of the skin inflicted by the teeth of an animal.

**DANGEROUS ANIMAL:** Any animal that, according to the records of the town or county police agency:

- A. Has inflicted serious injury on a human being, with or without provocation, on public or private property
- B. Has killed or injured a domestic animal, with or without provocation, while off the owners' property;
- C. Has previously been found to be "potentially dangerous", the owner having received notice of such, and it is witnessed and documented that the animal aggressively bites, attacks or endangers the safety of humans or domestic animals;
- D. The animal is found to be in violation of any restrictions placed upon the animal pertaining to a potentially dangerous animal, as designated in this chapter.

**DOG:** Any canine over six (6) months of age. Any canine under six (6) months of age is a puppy.

**DOMESTIC ANIMAL:** Animals accustomed to living in or about the habitation of man, including, but not limited to, cats, dogs, rabbits, fowl, horses, swine, goats, sheep, mules, donkeys, llamas and cattle.

**NONCOMFORMING:** Anyone in conflict with this chapter as to the number of dogs, upon its enactment.

**OFFICER:** The entity, person or persons contracted or appointed by the mayor and town council to give citations and impound dogs, as needed.

**OWNER:** Any person or persons, association, firm or corporation owning, keeping or harboring a dog.

**POTENTIALLY DANGEROUS ANIMAL:** Any animal that, with or without provocation, chases or approaches a person upon the streets, sidewalks or any public grounds, in a threatening or menacing fashion, or apparent attitude of attack, or any animal with a known propensity, tendency or disposition to attack, with or without provocation. In addition a "potentially dangerous animal" is any animal that, because of witnessed and documented action, is believed capable of causing injury, or otherwise posing a threat to the safety of humans or domestic animals.

**QUARANTINE:** The isolation of an animal in a substantial enclosure, so the animal is not subject to contact with other animals or unauthorized persons.

**RESTRAINT DEVICE:** Any chain, leash, cord, rope or other device commonly used to restrain an animal.

VICIOUS ANIMAL: Any animal which:

- A. Has inflicted serious injury on a human being, with or without provocation, on public or private property;
- B. Has killed or injured a domestic animal, with or without provocation, on public or private property;
- C. Has previously been found to be a “dangerous animal”. The owner having received notice of such and the animal again bites, attacks or endangers the safety of humans or domestic animals; or it is witnessed and documented that the animal is in violation of restrictions placed upon the animal pertaining to a potentially dangerous or dangerous animal, pursuant to HMC 6.10.050.

WORRY: To harass by tearing, biting or shaking with the teeth, with or without provocation.

#### **6.10.030 LICENSE AND REGISTRATION OF DOGS**

A. License and Registration:

- 1. License Required: It is unlawful for any person to own, keep, harbor, board or maintain a dog within the town limits, without registering and obtaining a license for such dog, available from the town recorder or other person designated by the mayor and town council.
- 2. When to Apply: The license may be applied for any time after January 1, and up to February 28 of any year.
- 3. Time Limit to Register: All dogs brought into the town shall require registering and licensing within thirty (30) days after they enter the town, or within thirty (30) days after reaching the age of six (6) months.
- 4. Late Fee: Persons who fail to obtain a license, as required within the time period specified in this section, will be subject to an additional licensing “late fee”.
- 5. Information Required: The owner shall state at the time of application for license, the owner’s name and address, and the dog’s name, sex, breed and color.
- 6. Proof of Spay or Neuter; Exception:
  - a. No dog shall be licensed as spayed or neutered without proof that the surgery has been performed.
  - b. An exception is allowed if a written statement is received from a licensed veterinarian stating that the animal in question cannot, for a stated reason, have the surgery performed, or that the animal is of such an age that the surgery would not alter the outcome.

7. Rabies Inoculation; Exception:

- a. Proof that the dog has a current rabies inoculation shall be present at the time the license is applied for. Proof must be in writing and must include the name and signature of the licensed veterinarian who administered the vaccine. Exception: If a written statement is received from the licensed veterinarian stating that the animal in question cannot, for stated reasons, have a rabies inoculation.
- b. Rabies vaccinations become invalid after two (2) years from the date of vaccination, unless otherwise shown on the rabies certificate. Vaccinations expiring January through June of the license year will be required to be brought current prior to licensing. Exception: If a written statement is received from a licensed veterinarian stating that the vaccination will be valid through the current calendar year.

B. Fees for Dog Licensing:

1. Payment Required: The town shall issue no dog license until the required fee, as set forth in the town fee schedule, is paid.
2. Term of License; Expiration: The license fee shall cover the calendar year in which it was issued; expiring on December 31 of the year of issuance, regardless of the date when issued.

C. Tag and Collar:

1. Requirements: Upon payment of the license fee, the owner shall be issued a license certificate and a numbered metal tag for each dog so licensed. The tag shall change each year and shall have stamped thereon the year for which it was issued. Every dog owner, except those operating a boarding kennel or other such establishment, shall provide each dog with a collar to which the license tag must be affixed, and shall see that the collar and tag are constantly worn.
2. Duplicate license: In case a dog tag is lost or destroyed, the town recorder, upon presentation of the license for the current year, will issue a duplicate.
3. Nontransferable; Refunds: Dog tags shall not be transferable from one dog to another, and no refunds shall be made on any dog license fee because of the death of the dog or the owner leaving the town, before expiration of the license period.
4. Unlawful to Deprive: It shall be unlawful to deprive a registered dog of its collar and/or tag.
5. Nuisance Declared: Any dog without a collar with the registration tag attached or which had not been registered, is hereby declared a public

nuisance and shall be immediately impounded.

D. Number of Dogs per Residence:

1. Specified: No person or persons at any one residence within the jurisdiction of this chapter, shall at any one time own, keep or harbor, board, license or maintain more than two (2) dogs, six (6) months or older.
2. Permits Required: Any person maintaining, keeping, harboring or boarding four (4) or more dogs, six (6) months or older, within the town limits shall be required to have an additional dog permit. Payment of the annual additional dog permit fee shall entitle such owner to license up to six (6) dogs annually. All applications for said permits shall be submitted in writing upon printed forms provided by the town officer. Upon approval, the town recorder shall issue a permit upon payment of the required fee, as set forth in the town fee schedule, which is subject to amendment by the town council by resolution. The regular license fee shall also be charged for each dog. Owners shall be subject to all provisions of this chapter.

**6.10.040 DOGS AT LARGE**

It shall be unlawful for any dog to be allowed, either negligently or with specific intent, to run "at large", as defined in HMC 6.10.020. Any dog so found is hereby declared to be a nuisance and a menace to the public health and safety, and shall be taken up and impounded as provided herein. Whenever possible, the owner shall be notified. The owner or keeper may be cited.

**6.10.050 DANGEROUS AND/OR VICIOUS ANIMALS**

- A. Possession of Potentially Dangerous Animal: Any person who owns or maintains a potentially dangerous animal shall use all reasonable means at his/her disposal to restrict a potentially dangerous animal from injuring any person or other animal. The town may from time to time impose specific restrictions regarding the housing of potentially dangerous animals.
- B. Failure to Properly Confine Potentially Dangerous Animal; Penalty: Any owner of any potentially dangerous animal who willfully allows it to go at large or who fails to hold the same in the manner specified for such an animal, by the town is guilty of a class B misdemeanor, subject to penalty as provided in HMC 1.02.040.
- C. Possession of Dangerous Animal:
  1. Any dangerous animal while on the owner's property must be securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure for a dangerous animal shall have secure sides and top and shall also provide protection from

the elements for the animal. The pen or structure shall be such that the animal cannot burrow or dig under the sides of the enclosure.

2. Dangerous animals, when outside the enclosure, must be under the immediate control of a responsible adult by means of an adequate "restraint device", as defined in HMC 6.10.020, and muzzled. The muzzle shall be made in such a manner that it will not cause injury to the animal or interfere with its vision or respiration, but shall prevent it from biting any person or animal.
3. The officer may take into immediate possession any dangerous animal if the officer determines:
  - a. That the animal is not maintained in proper enclosure; or
  - b. That the animal is outside of the owner's dwelling or outside of a proper enclosure and not under physical restraint; or
  - c. If there are any further violations of any legal restrictions previously placed on such animal provided in this section.

D. Declaration and Disposal of Vicious Animals: If the officer determines, as a result of a witnessed incident, that an animal is potentially a danger or dangerous and finds that the animal is in violation of such restrictions as the town has deemed necessary for the safety of persons and/or animals in the community, the animal may be declared a vicious animal. The officer may immediately take possession of the vicious animal and place said animal in a proper quarantine facility and thereafter destroy the animal in an expeditious and humane manner if the owner or custodian, after having received notice of such, fails to make a request in writing to the quarantine facility to delay said action.

1. Holding Period; Request for Hearing: It is determined that a proper holding period for any vicious animal shall be three (3) working days. In the event the owner or custodian of the vicious animal fails to request, in writing, a formal hearing within the three (3) day holding period the holding facility is authorized to destroy the vicious animal in a humane manner. The holding period shall be extended to meet state and local regulations for quarantine for animals needing rabies evaluation.
2. Hearing: Any owner or custodian who files a written request shall be afforded a hearing before the town council. It shall be the responsibility of the town council to determine whether the animal should be returned to the owner or custodian to be destroyed.
  - a. At any hearing under this Paragraph, the officer making the declaration of a vicious animal shall appear and testify, under oath, regarding the facts which led to the required findings. The officer shall be subject to cross examination by the owner, custodian or authorized representative.
  - b. The officer may also present any additional evidence or sworn

testimony supporting his/her decision. The owner or custodian of the animal may likewise present evidence or sworn testimony in support of his/her position. The hearing shall be informal, but shall be recorded.

- c. The animal shelter shall not order the destruction of the animal until a decision is rendered and the town council notifies the shelter, in writing, of a decision.

#### **6.10.060 NUISANCE ANIMALS**

A. Animals Declared Nuisance; Penalty: Any person having custody of a dog shall exercise proper care and control of his/her animal in order to prevent it from becoming a public nuisance. Any owner or possessor of an animal who keeps such animal contrary to the provisions of this section shall be guilty of a Class C misdemeanor and subject to penalty as provided in HMC 1.02.010. An animal shall be deemed to be a “public nuisance” if the animal

1. Causes damage to, damages or destroys property of anyone other than the animal’s owner.
2. Causes unreasonable odors.
3. Causes unsanitary conditions.
4. By loud, continued or frequent barking, howling or yelping, shall annoy, disturb or endanger the health and welfare of any person or neighborhood, attested to by more than one complaint.
5. Chases any person, vehicle, bicycle or other animal that is properly restrained.
6. Bites, attacks, chases or worries a person or domestic animal. The owner in violation of this provision shall be strictly liable for damages to any person injured or to the owner of any animal injured or destroyed thereby. Exception: A dog shall not be considered a public nuisance under this provision if it bites a person who is wrongfully assaulting the dog or the dog’s owner, or if it bites a person upon the premises owned or occupied by the dog’s owner after being provoked by that person.
7. Scatters garbage.
8. Urinates or defecates on property of another.
9. Is an animal which has been impounded for being at large, or its owner or possessor has been convicted for a dog being at large on three (3) separate occasions within a twelve (12) month period.
10. Is an animal previously declared potentially dangerous or dangerous and is found in violation of restrictions placed on that dog by the town.

11. If the dog trespasses on private property of a person other than the dog's owner.

**B. Abatement of Public Nuisance Animals:**

1. "Abatement" shall be defined to include either relocating or euthanizing the animal.
2. When it reasonably appears to the town that an animal is a "public nuisance", as defined in Paragraph A of this section, and that such nuisance should be abated, the officer shall first attempt to get written consent of the animal's owner to abate the animal.
3. If the animal owner's consent cannot be readily obtained, the town may file with the governing court a charge of maintenance of a public nuisance. The charge shall set forth the facts, according to the best information, indicating that the owner is maintaining a public nuisance, and the nuisance should be abated, Until such time as the owner may be summoned to appear before the court, the animal may be impounded, and held pending a decision by the court.
4. If the charge is denied, a hearing will be set pursuant to the normal procedure of the governing court. If the court finds that the charge of maintaining a public nuisance has been proven, the court shall issue an order setting out the method of abatement.
5. Abatement, by relocation, shall not be an option if the animal represents a continuing threat or serious harm, such as in the case of a vicious dog.
6. If relocation is ordered, the court may set whatever conditions are necessary to guarantee that the animal shall not constitute a nuisance in the future.
7. In the event the court determines that, in fact, the animal is a public nuisance, the owner shall pay the cost of all impoundment fees, maintenance fees, or any other fees may be incurred by the town as a result of such impoundment.

**6.10.070 RABIES CONTROL AND ANIMAL BITES**

- A. Vaccination Requirements: All dogs shall be vaccinated by a duly licensed veterinarian or at a rabies clinic. Every dog shall be revaccinated every two (2) years thereafter (see also HMC 6.10.030 Paragraph A,7,b). Any unvaccinated dog over six (6) months of age, adopted or brought into the jurisdiction, must likewise be vaccinated initially. Thereafter valid protection must be maintained.

**B. Impoundment of Animals without Valid Rabies Vaccination Tag:**

1. An owner may reclaim any vaccination animal impounded because of lack of a rabies vaccination tag by furnishing proof of a rabies vaccination, within seventy two (72) hours of release.



2. Any unvaccinated animal may be reclaimed prior to disposal by payment of impound fees and by obtaining or providing proof of a rabies vaccination, within seventy two (72) hours of release.
  3. Any animal not reclaimed within the prescribed period of time shall be disposed of pursuant to this chapter
- C. Rabid Animal Reports: Any person having knowledge of the whereabouts of an animal known to have been exposed to or suspected of having rabies, or of an animal or person bitten by such a suspected animal, shall notify town or county health department
- D. Quarantine and Disposition of Biting Animal:
1. An animal that has rabies or shows signs of having rabies and every animal bitten by another animal affected with rabies or that has been exposed to rabies shall be reported by the owner as set forth in Paragraph C of this section, and shall immediately be confined in a secure place by the owner. The owner shall turn over the animal in question to the town officer or designated agent upon demand.
  2. The owner of any animal that has been bitten by another animal known to be capable of harboring the rabies virus shall surrender the animal to an authorized official upon demand. Any person authorized to enforce this chapter may enter upon private property to seize the animal if the owner refuses to surrender the animal (see HMC 6.10.100 Paragraph A).
  3. Any animal subject to rabies that bites a person or animal or is suspected of having rabies may be seized and quarantined for observation for a period of not less than fourteen (14) days by the animal shelter. The owner of the animal shall bear the cost of confinement. The animal shelter shall be the normal place for such quarantine, but other arrangements, including confinement by the owner, may be made by the officer if the animal has current rabies vaccinations at the time the bite is inflicted or if there are other special circumstances justifying an exemption. A person who has custody of an animal under quarantine shall immediately notify the town if the animal shows any sign of sickness or abnormal behavior, or if the animal escapes confinement. It is unlawful for any person who has custody of a quarantined animal to fail or refuse to allow an officer or representative of the health department to make an inspection or examination during the period of quarantine.
  4. If the animal dies within fourteen (14) days from the date of the bite, the person having custody shall immediately notify the officer in order that they may have the head immediately removed and delivered to the state health department.
  5. If at the end of the fourteen (14) day period an investigating officer of the town or animal shelter examines the animal and finds no sign of rabies,

the animal may be released to the owner. In the case of a stray it shall be disposed of as provided in this chapter.

6. In the case of an unvaccinated animal known to have been bitten by a known rabid animal, such bitten or exposed animal shall be immediately destroyed.

E. Bites; Duty to Report:

1. Any person having knowledge of any individual or dog having been bitten by an animal subject to rabies shall report the incident immediately to the Wasatch County sheriff department.
2. The owner of the dog that bites a person and any person bitten by a dog shall report the bite the Wasatch County sheriff department within twenty four (24) hours of the bite.
3. A physician or other medical personnel who renders professional treatment to a person bitten by a dog shall report the fact that he/she has rendered professional treatment to the Wasatch County sheriff department within twenty four (24) hours of the first professional attendance. He shall report the name, sex and address of the person bitten, as well as the type and location of the bite. If known, he shall give the name and address of the owner of the dog that inflicted the bite, and any other facts that may assist the Wasatch County sheriff department.
4. Any person treating an animal bitten, injured or mauled by another animal shall report the incident to the Wasatch County sheriff department. The report shall contain the name and address of the owner of the wounded, injured or bitten animal, the name and address of the owner and description of the animal that caused the injury, and the location of the incident.
5. Any person not conforming to the requirements of this Paragraph shall be in violation of this chapter.

#### **6.10.080 NONCONFORMING OWNERS**

An owner who is “nonconforming”, will stay as such until such time that they come into compliance by reducing the number of dogs due to death, selling or giving away of their current dogs, after such time they will be held to the terms of this chapter.

#### **6.10.090 IMPOUNDMENT**

A. Shelter Provided: the town has contracted with Wasatch County animal shelter where impounded animals will be adequately housed and fed.

B. Authorized; Conditions:

1. All animals taken into custody shall be placed in an adequate shelter

which the town has contracted for this purpose.

2. The following animals may be taken into custody and impounded as deemed necessary
  - a. Any dog being kept or maintained contrary to the provisions of this chapter
  - b. Any dog running at large, with any reasonable means used to immobilize.
  - c. Any dog which is not licensed. A dog not wearing a tag shall be presumed to be unlicensed for the purpose of this section.
  - d. Any abandoned or neglected dog whose safety may be threatened should the animal not be readily placed into protective custody.
  - e. Dogs which are not vaccinated for rabies in accordance with the requirements of this chapter.
  - f. Any animal needing to be quarantined.
  - g. Any potentially dangerous or dangerous animal not properly confined as required by this chapter.

C. Redemption of Animals:

1. The owner of an impounded animal or this authorized representative may redeem such animal before disposition, provided he/she pays:
  - a. The impound fees;
  - b. The daily board charges;
  - c. Any veterinary costs incurred during the impoundment period;
  - d. Transportation fee, if any;
  - e. Any other expenses incurred to impound an animal in accordance with state or local laws.
2. Fees for impound and boarding shall be set from time to time by the agency contracted for impounding of animals by the town.

D. Terms of Impoundment, Destruction and Disposal Of Animals:

1. Animals shall be impounded for a minimum of three (3) working days before further disposition.
2. Reasonable effort shall be made to notify the owner of any animal wearing a license or other identification during that time. Notice shall be deemed given when sent to the last known address of the listed owner.

3. Any animal voluntarily relinquished to the animal control facility by the owner thereof for destruction or other disposition need not be kept for the minimum holding period before release or other disposition, as herein provided.
4. All animals, except those quarantined or confined by court order or those subject to Utah Code § 4-25-4, which are held longer than the minimum impoundment period and all animals voluntarily relinquished to the impound facility, may be destroyed. Any healthy dog may be sold at the discretion of the animal shelter.
5. Any licensed animal impounded and having or suspected of having serious physical injury or contagious disease requiring medical attention may, at the discretion of the animal shelter, be released to the care of a veterinarian with or without the consent of the owner.
6. When, in the judgment of the animal shelter, it is determined that an animal should be destroyed for humane reasons or to protect the public from imminent danger to person or property, such animal may be destroyed without regard to any time limitation otherwise established in this chapter and without a court order.

#### **6.10.100 ENFORCEMENT**

- A. Right of Entry: In the enforcement of this chapter, all officers designated by the town council and mayor are hereby authorized to enter onto the open premises of any person or entity to take possession of any animal in violation of this chapter.
- B. Interference with Officer Prohibited: It shall be unlawful for any person to interfere, molest, hinder or obstruct the officer or any of this authorized representatives in the discharge of their duties as herein prescribed.
- C. Investigation: The Wasatch County sheriff department or the officers may enter upon privately owned land to investigate reports of vicious animals, rabies and other contagious animal disease and to investigate violations of and enforce the provisions of this chapter.

#### **6.10.110 CITATION FOR MISDEMEANOR**

- A. The town council, designated officer or any public official charged with the enforcement of laws of this town, in lieu of taking a person into custody, may issue and deliver a citation requiring any person subject to arrest or prosecution on a misdemeanor charge to appear at the court of the magistrate before whom the person could be taken pursuant to law, if the person had been arrested.
- B. If a citation is issued, the town council or designated officer shall issue one copy to the person cited and shall within five (5) days file a duplicate copy with the court specified in the citation.

#### **6.10.120 PENALTY**

Unless otherwise specifically provided, a violation of any provision of this chapter shall be punished as a class B misdemeanor.

## **7 MOTOR VEHICLES AND TRAFFIC**

### **7.02 MOTOR VEHICLE CODE**

#### **7.04 TRAFFIC RULES AND REGULATIONS**

#### **7.06 DRIVING BY MINORS**

#### **7.08 FINANCIAL RESPONSIBILITY OF MOTOR VEHICLE OWNERS AND OPERATORS**

#### **7.10 OFF HIGHWAY VEHICLES**

#### **7.12 MOTOR VEHICLE INSURANCE LAWS**

#### **7.14 UNIFORM DRIVER'S LICENSE ACT**

#### **7.16 PARKING RESTRICTIONS**

### **7.02 MOTOR VEHICLE CODE**

#### **7.02.010 MOTOR VEHICLE ACT ADOPTED**

#### **7.02.010 MOTOR VEHICLE ACT ADOPTED**

The Motor Vehicle Act, as contained in Utah Code Title 41-1a, as amended, is hereby approved and adopted as the motor vehicle code of the town, including all subsequent amendments which may be enacted after the effective date hereof, said subsequent amendments shall carry the same effective date and operation as provided for in Utah Code. By this reference, the Motor Vehicle Act is made a part of this code as fully as if set out at length herein and shall be controlling within the town limits; provided, however, that any provision of the foregoing having a penalty which cannot be imposed for violation of a town ordinance is not adopted.

### **7.04 TRAFFIC RULES AND REGULATIONS**

#### **7.04.010 UTAH TRAFFIC RULES AND REGULATIONS ACT ADOPTED**

#### **7.04.010 UTAH TRAFFIC RULES AND REGULATIONS ACT ADOPTED**

The Utah Traffic Rules and Regulations, as contained in Utah Code Title 41-6a, as amended, is hereby approved and adopted as the traffic rules and regulations code of the town, including all subsequent amendments which may be enacted after the effective date hereof, said subsequent amendments shall carry the same effective date and operation as provided for in Utah Code. By this reference, the Utah Traffic Rules and Regulations are made a part of this code as fully as if set out at length herein and shall be controlling within the town limits; provided, however, that any provision of the foregoing having a penalty which cannot be imposed for violation of a town ordinance is not adopted.

### **7.06 DRIVING BY MINORS**

#### **7.06.010 UTAH DRIVING BY MINORS LAWS ADOPTED**

#### **7.06.010 UTAH DRIVING BY MINORS LAWS ADOPTED**

The Utah Driving by Minors laws, as contained in Utah Code Title 41-8, as amended, is hereby approved and adopted as the Driving By Minors Code Of The Town, including all subsequent amendments which may be enacted after the effective date hereof, said subsequent amendments shall carry the same effective date and operation as provided for in Utah Code. By this reference, the Utah Driving by Minors laws are made a part of this code as fully as if set out at length herein and shall be controlling within the town limits; provided, however, that any provision of the foregoing having a penalty which cannot be imposed for violation of a town ordinance is not adopted.

## **7.08 FINANCIAL RESPONSIBILITY OF MOTOR VEHICLE OWNERS AND OPERATORS**

### **7.08.010 FINANCIAL RESPONSIBILITY OF MOTOR VEHICLE OWNERS AND OPERATORS ACT ADOPTED**

#### **7.08.010 FINANCIAL RESPONSIBILITY OF MOTOR VEHICLE OWNERS AND OPERATORS ACT ADOPTED**

The Financial Responsibility of Motor Vehicle Owners and Operators Act, as contained in Utah Code Title 41-12a, as amended, is hereby approved and adopted as the Financial Responsibility of Motor Vehicle Owners and Operators code of the town, including all subsequent amendments which may be enacted after the effective date hereof, said subsequent amendments shall carry the same effective date and operation as provided for in Utah Code. By this reference, the Financial Responsibility of Motor Vehicle Owners and Operators Act is made a part of this code as fully as if set out at length herein and shall be controlling within the town limits; provided, however, that any provision of the foregoing having a penalty which cannot be imposed for violation of a town ordinance is not adopted.

## **7.10 OFF HIGHWAY VEHICLES**

### **7.10.010 UTAH OFF HIGHWAY VEHICLES ACT ADOPTED**

#### **7.10.010 UTAH OFF HIGHWAY VEHICLES ACT ADOPTED**

The Utah Off Highway Vehicles Act, as contained in Utah Code Title 41-22, as amended, is hereby approved and adopted as the Off Highway Vehicles code of the town, including all subsequent amendments which may be enacted after the effective date hereof, said subsequent amendments shall carry the same effective date and operation as provided for in Utah Code. By this reference, the Utah Off Highway Vehicles Act is made a part of this code as fully as if set out at length herein and shall be controlling within the town limits; provided, however, that any provision of the foregoing having a penalty which cannot be imposed for violation of a town ordinance is not adopted.

## **7.12 MOTOR VEHICLE INSURANCE LAWS**

### **7.12.010 UTAH MOTOR VEHICLE INSURANCE LAWS ADOPTED**

#### **7.12.010 UTAH MOTOR VEHICLE INSURANCE LAWS ADOPTED**



The Utah Motor Vehicle Insurance laws, as contained in Utah Code Title 31A-22 Part 3, as amended, is hereby approved and adopted as the Motor Vehicle Insurance code of the town, including all subsequent amendments which may be enacted after the effective date hereof, said subsequent amendments shall carry the same effective date and operation as provided for in Utah Code. By this reference, the Utah Motor Vehicle Insurance laws are made a part of this code as fully as if set out at length herein and shall be controlling within the town limits; provided, however, that any provision of the foregoing having a penalty which cannot be imposed for violation of a town ordinance is not adopted.

## **7.14 UNIFORM DRIVER'S LICENSE ACT**

### **7.14.010 UNIFORM DRIVER'S LICENSE ACT ADOPTED**

#### **7.14.010 UNIFORM DRIVER'S LICENSE ACT ADOPTED**

The Uniform Driver's License Act, as contained in Utah Code Title 53-3, as amended, is hereby approved and adopted as the Uniform Driver's License code of the town, including all subsequent amendments which may be enacted after the effective date hereof, said subsequent amendments shall carry the same effective date and operation as provided for in Utah Code. By this reference, the Uniform Driver's License Act is made a part of this code as fully as if set out at length herein and shall be controlling within the town limits; provided, however, that any provision of the foregoing having a penalty which cannot be imposed for violation of a town ordinance is not adopted.

## **7.16 PARKING RESTRICTIONS**

### **7.16.010 PROHIBITIONS**

#### **7.16.020 PARKING NOT TO OBSTRUCT TRAFFIC**

#### **7.16.030 OVERNIGHT WINTER PARKING**

#### **7.16.035 WINTER SEASON LIMITATIONS**

#### **7.16.040 PARKING FOR CERTAIN PURPOSES PROHIBITED**

#### **7.16.050 PARKING ON NARROW STREET PROHIBITED**

#### **7.16.060 PARKING NEAR HAZARDOUS PLACES**

#### **7.16.070 PARKING TO BE CLOSE TO CURB**

#### **7.16.080 STOPPING FOR LOADING; AUTHORITY TO DESIGNATE ZONES**

#### **7.16.090 PERMITS FOR CURB LOADING ZONES**

#### **7.16.100 LOADING OR UNLOADING AT ANGLE; PERMITS**

#### **7.16.110 STANDING IN PASSENGER CURB LOADING ZONE PROHIBITED**

#### **7.16.120 STANDING IN FREIGHT CURB LOADING ZONE**

#### **7.16.130 PUBLIC CARRIER STOPS AND STANDS**

#### **7.16.140 PARKING BUSES AND TAXICABS**

#### **7.16.150 RESTRICTED USE OF BUS, TAXICAB STANDS**

#### **7.16.160 PARKING OF OVERSIZED VEHICLES IN RESIDENTIAL AND AGRICULTURAL ZONES PROHIBITED; EXCEPTIONS**

#### **7.16.170 CERTAIN ACTS DECLARED A NUISANCE**

#### **7.16.180 PROHIBITED IN CERTAIN AREAS**

#### **7.16.190 STATE CODE ADOPTED**

#### **7.16.200 EXCEPTIONS**

## 7.16.210 ENFORCEMENT PROCEDURES

### **7.16.010 PROHIBITIONS**

A person shall not park any vehicle, whether attended unattended, in any private driveway or upon any public or private property, except a highway, without the express or implied consent of the owner or person in lawful possession of such driveway or property.

### **7.16.020 PARKING NOT TO OBSTRUCT TRAFFIC**

No person shall park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than ten feet (10') of the width of the roadway for free movement of vehicular traffic.

### **7.16.030 OVERNIGHT WINTER PARKING**

To facilitate the clearing of snow from city streets, no person shall park any vehicle on any city street where the pavement runs from curb to curb, and also within five feet (5') of any paved public street surface, where the full improvements are not completed, to ensure there is no obstruction to the plows that would cause health, safety and welfare concerns. This regulation shall be enforced between the hours of twelve o'clock (12:00) midnight and eight o'clock (8:00) A.M. from the period of October 1 through May 1 or any time while snow is actively falling, and for twenty four (24) hours after snowfall ceases. Vehicles parked on city streets, as defined above, are subject to immediate towing at the discretion of the Chief of Police or designee. Striped parking spaces within the public right of way, used for commercial, office, civic or similar type uses, shall be exempt from this restriction.

### **7.16.035 WINTER SEASON LIMITATIONS**

Notwithstanding the foregoing general parking regulations, there shall be additional regulations which apply during the winter season to facilitate snow removal, ice control, and to facilitate emergency access during the winter months. The winter seasonal regulations shall apply from October 31 to April 15.

The special winter regulations are as follows:

- A. It shall be unlawful to park or leave unattended any vehicle in a roundabout, cul-de-sac or dead end. Construction and delivery vehicles are included under this provision.
- B. It shall be unlawful to park construction vehicles within thirty (30) feet of an intersection or blind curve.
- C. It shall be unlawful to park any vehicle in a manner that obstructs snow removal or ice control by failing to leave adequate room for passage of plows and/or other removal equipment. Construction and delivery vehicles are included under this provision

- D. Employees of Hideout are hereby authorized to remove or have removed at their discretion any vehicle or obstruction found on a street in violation of this section. Any person who parks, leaves or deposits any such vehicle or other obstruction, shall be liable for all removal and impoundment costs (including Town administrative costs). The Town shall not be responsible for injury and/or damage claims related to snow removal services.

#### **7.16.040 PARKING FOR CERTAIN PURPOSES PROHIBITED**

No person shall park a vehicle upon any roadway for the principal purpose of:

- A. Displaying such vehicle for sale;
- B. Washing, greasing or repairing such vehicle, except repairs necessitated by an emergency.

#### **7.16.050 PARKING ON NARROW STREET PROHIBITED**

- A. The Chief of Police is authorized to erect signs indicating no parking upon any street when the width of the roadway does not exceed twenty feet (20'), or upon one side of a street as indicated by such signs when the width of the roadway does not exceed thirty feet (30').
- B. When official signs prohibiting parking are erected upon narrow streets as authorized herein, no person shall park a vehicle upon any such street in violation of any such sign.

#### **7.16.060 PARKING NEAR HAZARDOUS PLACES**

- A. The Chief of Police is authorized to determine and designate by proper signs places in which the stopping, standing or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.
- B. When official signs are erected at hazardous or congested places as authorized in this section, no person shall stop, stand or park a vehicle in any such designated place.

#### **7.16.070 PARKING TO BE CLOSE TO CURB**

Except as otherwise provided in this chapter, every vehicle stopped or parked upon a roadway where there are adjacent curbs shall be so stopped or parked with the right hand wheels of such vehicle parallel to and within eighteen inches (18") of the right hand curb.

#### **7.16.080 STOPPING FOR LOADING; AUTHORITY TO DESIGNATE ZONES**

The Chief of Police is authorized to determine the location of passenger and freight curb loading zones and shall place and maintain appropriate signs indicating the same and stating the hours during which the provisions of this section are applicable.

#### **7.16.090 PERMITS FOR CURB LOADING ZONES**

The Chief of Police shall not hereafter designate or sign any curb loading zone upon special request of any person unless such person makes application for a permit of such a zone and for two (2) signs to indicate the ends of each such zone. The Chief of Police, upon granting a permit and issuing such signs, shall collect from the applicant and deposit in the town treasury a service fee of one hundred fifty dollars (\$150.00) to cover the cost of the signs, or fraction thereof, and may by general regulations impose conditions upon the use of such signs and for reimbursement of the town for the value thereof in the event of their loss or damage and their return in the event of misuse or upon expiration of permit. Every such permit shall expire at the end of one year.

#### **7.16.100 LOADING OR UNLOADING AT ANGLE; PERMITS**

The Chief of Police is authorized to issue special permits to permit the backing of a vehicle to the curb for the purpose of loading or unloading merchandise or materials subject to the terms and conditions of such permit. Such permits may be issued either to the owner or lessee of real property or to the owner of the vehicle and shall grant to such person the privilege as therein stated and authorized in this chapter.

#### **7.16.110 STANDING IN PASSENGER CURB LOADING ZONE PROHIBITED**

No person shall stop, stand or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger curb loading zone during hours when the regulations applicable to such curb loading zone are effective, and then only for a period not to exceed three (3) minutes.

#### **7.16.120 STANDING IN FREIGHT CURB LOADING ZONE**

No person shall stop, stand or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials in any place marked as a freight curb loading zone during hours when the provisions applicable to such zones are in effect. In no case shall the stop for loading and unloading of materials exceed thirty (30) minutes.

#### **7.16.130 PUBLIC CARRIER STOPS AND STANDS**

The Chief of Police is authorized to establish bus stops, bus stands, taxicab stands and stands for other passenger common carrier motor vehicles on such public streets in such places and in such number as he shall determine to be of the greatest benefit and convenience to the public, and every such bus stop, bus stand, taxicab stand or other stand shall be designated by appropriate signs.

#### **7.16.140 PARKING BUSES AND TAXICABS**

- A. The operator of a bus, other than a school or public transit bus, shall not stand or park such vehicle upon any street at any place other than a bus stand so designated as provided herein.
- B. The operator of a bus, other than a school or public transit bus, shall not stop such vehicle upon any street at any place for the purpose of loading or unloading passengers or their baggage other than at a bus stop, bus stand or passenger loading zone so designated as provided in this chapter, except in case of an emergency.
- C. The operator of a bus, other than a school or public transit bus, shall enter a bus stop, bus stand or passenger loading zone on a public street in such a manner that the bus when stopped to load or unload passengers or baggage shall be in a position with the right front wheel of such vehicle not further than eighteen inches (18") from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic.
- D. The operator of a taxicab shall not stand or park such vehicle upon any street at any place other than in a taxicab stand so designated as provided herein. This provision shall not prevent the operator of a taxicab from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers.

#### **7.16.150 RESTRICTED USE OF BUS, TAXICAB STANDS**

No person shall stop, stand or park a vehicle other than a bus in a bus stop or other than a taxicab in a taxicab stand when any such stop or stand has been officially designated and appropriately signed, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone.

#### **7.16.160 PARKING OF OVERSIZED VEHICLES IN RESIDENTIAL AND AGRICULTURAL ZONES PROHIBITED; EXCEPTIONS**

- A. All vehicles as defined in this section with a rated capacity of one and one-half (1 1/2) tons or more, or licensed for more than eighteen thousand (18,000) pounds gross, or trailers, shall not be permitted to park or stop on a public street in a residential or agricultural zone as identified on the official zoning map of the town, except where it is necessary to stop the vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device. In the opinion of the town council, the parking of such oversized vehicles upon city streets in residential and agricultural zones constitutes a hazard and threat to the safety, health and welfare of the inhabitants of the city. Vehicles for the purpose of this section are defined as automobiles, trucks,

trailers, mobile homes or any other conveyance on wheels used for the transport of persons or objects, which vehicles include campers and boats.

- B. This section shall in no way restrict the loading and unloading of passengers on or off public and/or private school buses. This section shall in no way restrict the parking or stopping of a vehicle with a rated capacity of one and one-half (1 1/2) tons or more, or licensed for more than eighteen thousand (18,000) pounds gross when the vehicle is being used to deliver household accessories or household furniture. This section shall in no way restrict the temporary parking or stopping of a government vehicle or of a vehicle owned and/or operated by a public utility for the purpose of conducting repairs or related work. This section shall not restrict the temporary parking of vehicles used to deliver building supplies and materials to property in either the residential or agricultural zones nor shall it prohibit the temporary parking of vehicles used by individuals performing work upon property in residential or agricultural zones.

#### **7.16.170 CERTAIN ACTS DECLARED A NUISANCE**

The parking or leaving of any vehicle upon a public street in the same place continuously for forty eight (48) hours, or in excess thereof, is prohibited and is declared to be a nuisance and detrimental to the safe and proper regulation of traffic.

#### **7.16.180 PROHIBITED IN CERTAIN AREAS**

No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:

- A. On a sidewalk;
- B. In front of a public or private driveway ;
- C. Within an intersection;
- D. Within fifteen feet (15') of a fire hydrant;
- E. On a crosswalk;
- F. Within twenty feet (20') of a crosswalk at an intersection;
- G. Within thirty feet (30') upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of a roadway;
- H. Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;
- I. On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
- J. At any place where signs or markings placed by order of the Town Council prohibit stopping;

- K. In any parking stall marked by painted lines unless the vehicle is entirely within such parking space or painted lines upon the surface of the street or parking area;
- L. On that portion of an unlaned roadway which is within fifteen feet (15') from the center of such roadway on a street not having adjacent curbs;
- M. Parked in a direction opposite to the direction of traffic flow on a street;
- N. Along both sides of Longview Drive, any stub road extensions from Long View Drive and along any portion of fence line on public property, beginning at SR 248 and ending one mile east of the exit of the Ross Creek Trailhead parking area.
- O. Along both sides of Deer Mountain Blvd from SR 248 to 100 feet north of the entrance to the Todd Hollow Village Apartments (12774 Deer Mountain Blvd.) between the hours of midnight and 7:00 AM.

### **7.16.190 STATE CODE ADOPTED**

The provisions of State law addressing the stopping, standing, and parking of motor vehicles, Utah Code Title 41-6a, Part 14, as amended, and as hereafter amended, is adopted herein and made a part of this Code. Any conflicts are to be resolved in favor of the Town's Code.

### **7.16.200 EXCEPTIONS**

This section shall not apply to: Any publicly owned vehicle of any city, county, public district, state or federal agency.

### **7.16.210 ENFORCEMENT PROCEDURES**

- A. The parking regulations set forth in this chapter shall be enforced by the Town's police officers and the Town's contracted parking enforcement officers.
- B. The Town Council may elect to contract all or part of the enforcement of the Town parking code with a private entity, to include the administration and issuance of administrative citations. If the Town Council elects to contract all or part of the enforcement of the Town parking code with a private entity, citations issued by parking enforcement officers or their agents will be processed in accordance with the rules set forth in the policies and procedures of the private parking enforcement entity.
- C. If any vehicle is found parked, standing, or stopped in violation of this title, or otherwise violates the provisions of this title, the officer, parking enforcement agent or designee finding the vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user and shall conspicuously affix to the vehicle a notice of parking infraction. A notice of parking infraction represents a determination that a parking infraction has been committed.
- D. In any parking violation case involving a violation of this code relating to the



stopping, standing, or parking of a vehicle, proof that the particular vehicle described in the notice of parking infraction was stopping, standing, or parking in violation of any provision of this title, together with proof of registered ownership of the vehicle at the time of the violation, shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person who parked or placed the vehicle at the point where, and for the time during which, the violation occurred, provided the procedure for issuing a parking violation set forth herein has been followed.

## **8 PUBLIC WAYS AND PROPERTY**

### **8.02 EXCAVATIONS**

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#### **8.02.240 CONFLICTING PROVISIONS**

#### **8.02.250 PENALTY**

### **8.02.010 DEFINITIONS - EXCAVATIONS**

In this chapter the following words shall have the following meanings:

APPLICANT: Any person who makes application for a permit.

APPURTENANCES: Miscellaneous concrete surfaces within the public way, such as parking bays and carriage walks.

**BUSINESS:** Any place in the Town in which there is conducted or carried on principally or exclusively any pursuit or occupation for the purpose of gaining a livelihood.

**TOWN:** Town of Hideout, a municipal corporation of the state of Utah.

**TOWN ENGINEER:** The Town engineer, or his/her authorized representative.

**EMERGENCY:** Any unforeseen circumstances or occurrence, the existence of which constitutes an immediate danger to persons or property, or which causes interruption of utility services.

**ENGINEERING REGULATIONS, SPECIFICATIONS AND DESIGN STANDARDS:** The latest version of the engineering regulations, or standard specifications and detail for municipal construction published by the Town engineer.

**EXCAVATION OR EXCAVATE:** Digging in, cutting into the surface of, or breaking the surface of a public way.

**EXCAVATION SITE RESTORATION:** Means and includes the restoring of the original ground or paved hard surface area to comply with engineering regulations, and includes, but is not limited to, repair, cleanup, backfilling, compaction and stabilization, paving and other excavation necessary to place the site in acceptable condition following the conclusion of the excavation, or the expiration or revocation of the permit.

**FAILURE:** An excavation site restoration which fails to meet Town engineer specifications, or which results in a deteriorated or substandard condition within the duration of the warranty period. Failure may be settlement of surfaces, deterioration of materials, or other surface irregularities. Measurement of failure shall be further defined in the engineering regulations.

**INFRASTRUCTURE PROVIDER:** A person providing to another, for the purpose of providing telecommunication services to customers, all or part of the necessary system which uses the right of way.

**OPERATOR:** Any person who provides service over a telecommunications system and directly or through one or more affiliates owns a controlling interest in such system, or who otherwise controls or is responsible for the operation of such a system.

**PERMITTEE:** Any person which has been issued a permit and thereby has agreed to fulfill the requirements of this chapter.

**PERSON:** Means and includes any natural person, partnership, firm, association, provider, corporation, company, organization, or entity of any kind.

**PIPE DRIVEWAY:** A driveway approach which uses a pipe or other means to bridge the gutter.

**PRIVATE DRAIN LINE:** A pipe installed solely for the transmission of water collected or generated on private property such as drainage, spring or storm water, or condensate

into the public drainage system.

**PRIVATE DRAIN LINE:** A pipe installed solely for the transmission of water collected or generated on private property such as drainage, spring or storm water, or condensate into the public drainage system.

**PROPERTY OWNER:** Person or persons who have legal title to property and/or equitable interest in the property, or the ranking official or agent of a company having legal title to property and/or equitable interest in the property.

**PROVIDER:** An operator, infrastructure provider, reseller, system lessee or public utility company.

**PUBLIC UTILITY COMPANY:** Any company subject to the jurisdiction of the Utah State Public Service Commission, or any mutual corporation providing gas, electricity, water, telephone, or other utility product or services for use by the general public.

**PUBLIC WAY:** Means and includes all public rights of way and easements, public footpaths, walkways and sidewalks, public streets, public roads, public highways, public alleys, and public drainage ways. It does not, however, include utility easements not within public ways of the Town.

**RESELLER:** Refers to any person that provides service over a system for which a separate charge is made, where that person does not own or lease the underlying system used for the transmission and does not install any system in the rights of way.

**RESIDENT:** The person or persons currently making their home at a particular dwelling.

**STORM DRAIN:** A dedicated pipe, conduit, waterway or ditch installed in a right of way or easement for the transmission of storm and drainage water. This term does not include private drain lines.

**SYSTEM LESSEE:** Refers to any person that leases a system or a specific portion of a system to provide services.

**TELECOMMUNICATIONS SYSTEM OR SYSTEM:** All conduits, manholes, poles, antennas, transceivers, amplifiers and all other electronic devices, equipment, wire and appurtenances owned, leased, or used by a provider located in the construction, ownership, operation, use or maintenance of a telecommunications system.

**TRAFFIC BARRICADE MANUAL:** The manual on proper barricading and traffic control practices, published by the Town engineer.

### **8.02.020 PERMIT REQUIRED; BASIS FOR ISSUANCE**

Any person desiring to excavate in any kind in a public way within the Town, shall make application for a permit. The decision by the Town to issue a permit shall include, among other factors determined by the Town, the following:

- A. The capacity of the public way to accommodate the facilities or structures proposed to be installed in the public way;
- B. The capacity of the public way to accommodate multiple wire in addition to cables, conduits, pipes or other facilities or structures of other users of the public way, such as electrical power, telephone, gas, sewer and water;
- C. The damage or disruption, if any, of public or private facilities, improvements, or landscaping previously existing in the public way;
- D. The public interest in minimizing the cost and disruption of construction from numerous excavations of the public way.

### **8.02.030 APPLICATION REQUIREMENTS**

- A. Filing; Contractors: Application for a permit shall be filed with the Town on a form or forms to be furnished by the Town. Property owners and/or tenants for whom excavation is being done shall be responsible for obtaining the permits; provided, however, contractors may obtain the permit in the contractor's name.
- B. Eligible Persons: No person shall be eligible to apply for or receive permits to excavate within the public ways of the Town, save and except the following:
  - 1. Contractors licensed by the state as general contractors;
  - 2. Providers;
  - 3. Property owners installing, replacing or maintaining less than five hundred (500) square feet or one hundred (100) linear feet of sidewalk, curb and gutter, or driveway approach, or other excavation approved by the Town engineer, upon a portion of the public way adjacent to their residence; or
  - 4. Persons offering a service which requires occupation of the public way, such as scaffolding or staging, staging of a crane, installation or maintenance of electric signs, glass, awnings, and painting or cleaning of buildings or sign boards or other structures.
- C. Denial Based on Past Performance: The Town engineer may deny the issuance of permits to contractors, utility companies, or other permit applicants who have shown by past performance that in the opinion of the Town engineer they will not consistently conform to the engineering regulations, specifications, design standards, or the requirements of this chapter.
- D. Plans And Sketches May Be Required: When necessary, in the judgment of the Town engineer, to fully determine the relationship of the excavation proposed to existing or proposed facilities within the public ways, or to determine whether the excavation proposed complies with the engineering regulations, construction specifications and design standards, the Town engineer may require the filing of engineering plans, specifications and sketches showing the proposed excavation

in sufficient detail to permit determination of such relationship or compliance, or both, and the application shall be deemed suspended until such plans and sketches are filed and approved.

- E. Excavation without Permit Unlawful: It shall be unlawful for any person to commence excavation upon any public way until the Town engineer has approved the application and until a permit has been issued for such excavation, except as specifically approved to the contrary in this chapter.
- F. Appeal: The disapproval or denial of an application by the Town engineer may be appealed by the applicant to the governing body by filing of a written notice of appeal within ten (10) days of the action of the Town engineer. The governing body shall hear such appeal, if written request therefor be timely filed as soon as practicable, and render his/her decision within two (2) weeks following notice of such appeal.
- G. Authority of Town Engineer: In approving or disapproving excavation within any public way, or permits therefor, in the inspection of such excavation; in reviewing plans, sketches or specifications; and generally in the exercise of the authority conferred upon him/her by this chapter, the Town engineer shall act in such manner as to preserve and protect the public way and the use thereof, but shall have no authority to govern the actions or inaction of permittees and applicants or other persons which have no relationship to the use, preservation or protection of the public way.
- H. Exemptions from Permit Requirements: A permit is not required from the Town engineer for hand digging excavations for installation or repair of sprinkler systems and landscaping within the non-paved areas of the public way. However, conformance to all Town specifications is required.

#### **8.02.040 EMERGENCY EXCAVATION**

- A. Authorized: Any person maintaining pipes, lines or facilities in the public way may proceed with excavation upon existing facilities without a permit when emergency circumstances demand that the excavation be done immediately; provided a permit could not reasonably and practicably have been obtained beforehand.
- B. Commencement During Business Hours: In the event that emergency excavation is commenced on or within any public way of the Town during regular business hours, the Town engineer shall be notified within one-half (1/2) hour from the time the excavation is commenced. The person commencing and conducting such excavation shall take all necessary safety precautions for the protection of the public and the direction and control of traffic, and shall ensure that excavation is accomplished according to Town engineering regulations, the manual on uniform traffic control devices and other applicable laws, regulations, or generally recognized practices in the industry.
- C. Commencement During Other Than Business Hours: Any person commencing emergency excavation in the public way during other than business hours

without a permit shall immediately thereafter apply for a permit or give notice during the first hour of the first regular business day on which Town offices are open for business after such excavation is commenced. A permit for such emergency excavation may be issued which shall be retroactive to the date when the excavation was begun, at the discretion of the Town engineer.

#### **8.02.050 FEES FOR PERMIT**

- A. Required: The Town shall charge and the permittee shall pay upon issuance of the permit, fees for costs associated with the excavation performed under the permit as outlined in the consolidated fee schedule. Such costs could include costs for reviewing the project and issuing the permit, inspections of the project, deterioration of the public way or diminution of the useful life of the public way, and other costs to the Town associated with the excavation to be done under the permit. All costs shall be assessed in a nondiscriminatory manner.
- B. Waiver: The Town engineer may waive permit fees or penalties or portion thereof provided for in this chapter, when he/she determines that such permit fee or penalty:
  - 1. Pertains to construction or rehabilitation of housing for persons whose income is below the median income level for the Town; or
  - 2. Pertains to an encroachment on the public way involving a beautification project which furthers specific goals and objectives set forth in the Town strategic plan, master plans, or other official documents, including decorative street lighting, building facade lighting, flower and planter boxes, and landscaping.
- C. Additional Charges: Additional charges to cover the reasonable cost and expenses of any required engineering review, inspection and excavation site restoration associated with each undertaking may be charged by the Town to each permittee, in addition to the permit fee.

#### **8.02.060 CONTENTS, DURATION AND EXTENSIONS OF PERMIT**

- A. Contents; Duration: Each permit application shall state the starting date and estimated completion date. Excavation shall be completed within five (5) days from the starting date or as determined by the Town engineer. Such determination shall be based upon factors reasonably related to the excavation to be performed under the permit. Such factors may include, in addition to other factors related to the excavation to be performed, the following:
  - 1. The scope of excavation to be performed under the permit;
  - 2. Maintaining the safe and effective flow of pedestrian and vehicular traffic on the public way affected by the excavation;
  - 3. Protecting the existing improvements to the public way impacted by the



excavation;

4. The season of the year during which the excavation is to be performed as well as the current weather and its impact on public safety and the use of the public way by the public;
5. Use of the public way for extraordinary events anticipated by the Town.

B. Notification of Commencement: The Town engineer shall be notified by the permittee of commencement of the excavation within twenty-four (24) hours prior to commencing excavation. The permit shall be valid for the time period specified in the permit.

C. Extensions:

1. If the excavation is not completed during such period, prior to the expiration of the permit, the permittee may apply to the Town engineer for an additional permit or an extension, which may be granted by the Town engineer for good cause shown.
2. The length of the extension requested by the permittee shall be subject to the approval of the Town engineer. No extension shall be made that allows excavation to be completed in the winter period without payment of winter fees. Winter fees shall be double the permit fee for any excavation made between October 15 and May 15.

#### **8.02.070 TRANSFER OR ASSIGNMENT OF PERMIT PROHIBITED**

Permits shall not be transferable or assignable, and excavation shall not be performed under a permit in any place other than that specified in the permit. Nothing herein contained shall prevent a permittee from subcontracting the excavation to be performed under a permit; provided, however, that the holder of the permit shall be and remain responsible for the performance of the excavation under the permit, and for all bonding, insurance and other requirements of this chapter and under said permit.

#### **8.02.080 COMPLIANCE REQUIRED; SITE PERMITTEE IDENTIFICATION; BARRICADES**

- A. Compliance: The excavation performed in the public way shall strictly conform to the requirements of this chapter and the engineering regulations, design standards, construction specifications and traffic control regulations of the Town, copies of which shall be available from the Town engineer, kept on file in the office of the Town recorder and be open to public inspection during office hours.
- B. Site Permittee Identification: Where a job site is left unattended, before completion of the excavation, signage with minimum two inch (2") high letters shall be attached to a barricade or otherwise posted at the site, indicating the permittee's name, or company name, telephone number, and after hours telephone number.

- C. Barricades: All excavations shall be conducted in a manner resulting in a minimum amount of interference or interruption of street or pedestrian traffic. Inconvenience to residents and businesses fronting on the public way shall be minimized. Suitable, adequate and sufficient barricades and/or other structures will be available and used where necessary to prevent accidents involving property or persons. Barricades must be in place until all of the permittee's equipment is removed from the site and the excavation has been backfilled and proper temporary gravel surface is in place, except where backfilling and resurfacing is to be done by the Town; in which case the barricades, together with any necessary lights, flares or torches, must remain in place until the backfill excavation is actually commenced by the Town. From sunset to sunrise, all barricades and excavations must be clearly outlined by adequate signal lights, torches, etc. The police department and fire department shall be notified at least twenty four (24) hours in advance of any planned excavation requiring street closure or traffic detour.

#### **8.02.090 GENERAL REQUIREMENTS**

Each applicant shall:

- A. Hauling off Excavated Materials; Refilling Trench: For single excavated areas less than fifty feet (50') in length and twenty feet (20') in width, all materials that are dug out of the trench or excavation shall be hauled off and disposed of. The trench or excavation shall be refilled with new crushed gravel and compacted to ninety five percent (95%) and made ready for the asphalt finish surface. The trench or excavation shall be patched by the contractor with a minimum of three inches (3") of asphalt.
- B. Protection Of Public: Before any excavation begins under this permit and at all times during the excavation, make proper provisions for protecting the public with necessary guards, barricades, lights, signals and with all other appurtenances necessary to safeguard the lives and property of the users of such roadway, sidewalk and other facilities. Visible flasher lights shall be used in hours of darkness.
- C. Liability; Insurance: Be responsible for any liability or personal injury resulting from neglect. The applicant shall indemnify the Town against all claims, demands, costs, damages, attorney fees or other expenses of any kind occasioned by such neglect. The applicant shall, upon request of the Town, produce evidence of insurance adequate to cover such claims.
- D. Restoration: Be responsible for restoring all public ways, including sidewalk surfaces, curb and gutter, driveways, ditches, and other landscaping, to their original condition, whether public or private, in a manner conforming to current Town specifications.
- E. Minimum Excavation Area: On any project, regardless of the age or condition of the pavement, keep excavations to a minimum and, wherever possible, locate

excavations so that one "common" patch can cover as many excavations as possible.

- F. Road Restoration; Trench Maintenance: Restore roads to a passable and safe condition within twelve (12) hours. All remaining repairs and restoration shall take place within seven (7) calendar days from the date of the first excavation. All debris generated as a result of said excavation will be removed immediately from the area upon completion of the excavation. If, within the standard seven (7) days, or other time period authorized by the Town engineer, the road cut or excavation has not been repaired as required, the Town may revoke the excavation bond and cause the repairs to be made. The costs of repair shall include administrative costs. The permittee shall be responsible for trench maintenance for one year after the date it was inspected and approved by the public works department. If repair of the road cut or trench is necessary within the initial one year period, the permittee shall make repairs to the satisfaction of the Town engineer or, in the alternative, the Town may revoke the excavation bond and cause the repairs to be made.
- G. Trench Length: Limit the trench length left at grade but unpaved to a maximum of one thousand feet (1,000'). No excavation shall be allowed to continue until the one thousand feet (1,000') of trench has been restored with proper asphalt surface.

#### **8.02.100 PATCHING REQUIREMENTS**

Patching requirements shall meet the following standards:

- A. Cuts Parallel to Street: For cuts parallel to the street, the patch required is the lane width by thirty feet (30') minimum or ten feet (10') beyond the cut at each end, whichever is larger.
- B. Cuts Perpendicular to Street: For cuts perpendicular to the street or diagonal, the patch required is the lane width by twelve feet (12') minimum or five feet (5') beyond the cut on each side, whichever is larger.

#### **8.02.110 OTHER HIGHWAY PERMITS**

- A. Holders of permits for excavation on highways owned or under the jurisdiction of other government entities, but located within the Town limits, shall not be required to obtain permits from the Town under the provisions of this chapter, unless the excavation extends beyond the back side of the curb, or beyond any other designated jurisdictional boundary. Any Town permit shall not be construed to permit or allow excavation on a County road or a State highway within the Town without an applicable County or State permit.
- B. The Town engineer, in his or her discretion, shall have the right and authority to regulate excavation under permits issued by other governmental entities with respect to hours and days of excavation, and measures required to be taken by the permittee of said governmental entity for the protection of traffic and safety of

persons and property. Notwithstanding the foregoing, nothing in this chapter shall be construed to impose any duty, implied or express, on the Town or its employees, officers, agents or assigns, relative to the protection of traffic and safety of persons or property, arising out of the issuance of any permit issued by government entities other than the Town, or arising out of any excavation performed on any public way owned or within the jurisdiction of the Town.

### **8.02.120 INSPECTION**

After completion, and the engineer or public works director is satisfied that the requirements have been met, a memo will be written to the community development department indicating that the excavation is satisfactory. Payment adjustments to the applicant will then be made accordingly.

### **8.02.130 RELOCATION OF STRUCTURES IN PUBLIC WAYS**

- A. Town May Request: The Town engineer may direct any person owning or maintaining facilities or structures in the public way to alter, modify or relocate such facilities or structures as the Town engineer may require. Sewers, pipes, drains, tunnels, conduits, pipe driveways, vaults, trash receptacles and overhead and underground gas, electric, telephone, telecommunication and communication facilities shall specifically be subject to such directives. The person owning or maintaining the facilities or structures shall, at their own cost and expense and upon reasonable written notice by the Town, promptly protect, or promptly alter or relocate such facilities or structures, or part thereof, as directed by the Town. In the event that such person refuses or neglects to conform to the directive of the Town, the Town shall have the right to break through, remove, alter or relocate such part of the facilities or structures without liability to such person. Such person shall pay to the Town all costs incurred by the Town in connection with such excavation performed by the Town, including also design, engineering, construction, materials, insurance, court costs and attorney fees.
- B. Basis for Directive by Town: Any directive by the Town engineer shall be based upon one of the following:
1. The facility or structure was installed, erected or is being maintained contrary to law, or determined by the Town engineer to be structurally unsound or defective;
  2. The facility or structure constitutes a "nuisance" as defined under statute or Town ordinance;
  3. The permit under which the facility or structure was installed has expired or has been revoked;
  4. The public way is about to be repaired or improved and such facilities or structures may pose a hindrance to construction; or
  5. The grades or lines of the public way are to be altered or changed.

- C. Failure to Comply; Penalty: Any person owning or maintaining facilities or structures in the public way who fails to alter, modify or relocate such facilities or structures upon notice to do so by the Town engineer shall be guilty of a class B misdemeanor, and subject to penalty as provided in HMC 1.08.010. All costs of alteration, modification or relocation shall be borne by the person owning or maintaining the facilities or structures involved.
- D. Directive under Police Power: Any directive of the Town engineer under this section shall be under and consistent with the Town's police power. Unless an emergency condition exists, the Town engineer shall make a good faith effort to consult with the person regarding any condition that may result in a removal or relocation of facilities in the public way to consider possible avoidance or minimization of removal or relocation requirements and provide the directive as far enough in advance of the required removal or relocation to allow the person a reasonable opportunity to plan and minimize cost associated with the required removal or relocation.
- E. Exception for Private Easements: This obligation does not apply to facilities or structures originally located on private property pursuant to a private easement, which property was later incorporated into the public way, if that prior private easement grants a superior vested right.
- F. Emergency Work by Town: The Town may, at any time, in case of fire, disaster or other emergency, as determined by the Town in its reasonable discretion, cut or move any parts of the system and appurtenances on, over or under the public way, in which event the Town shall not be liable therefor to a person. The Town shall notify a person in writing prior to, if practicable, but in any event as soon as possible and in no case later than the next business day following any action taken under this Paragraph.

#### **8.02.140 IMPACT OF EXCAVATION ON EXISTING IMPROVEMENTS**

- A. Temporary Sidewalks or Curb Ramps: If any sidewalk or curb ramp is blocked by excavation work, a temporary sidewalk or curb ramp shall be constructed or provided. Said temporary improvement shall be safe for travel and convenient for users, and consistent with Town standards for such.
- B. Temporary Gravel Surfaces: Where excavations are made in paved areas, the surface shall be replaced with a temporary gravel surface until such time as the permanent repairs are completed.
- C. Disturbance of Private or Public Property:
  - 1. At any time a permittee disturbs the yard, residence or the real or personal property of a private property owner or the Town, such permittee shall ensure that such property is returned, replaced and/or restored to a condition that is comparable to the condition that existed prior to the commencement of the excavation.

2. The costs associated with the disturbance and the return, replacement and/or restoration shall be borne by the permittee. Further, a permittee shall reimburse a property owner or the Town, for any actual damage caused by the permittee, its subcontractor, or its independent contractor, in connection with the disturbance of such property. However, nothing in this Paragraph shall require the permittee to pay a subscriber or private property owner when that subscriber or private property owner requests that the permittee remove, replace or relocate improvements associated with the service provided by the permittee to the property owner and when the permittee exercises due care in the performance of that service, or when the subscriber or private property owner provided false information to the permittee on which the permittee relied to its detriment.

D. Acts Specifically Included: Examples of types of acts specifically included in this section are the following:

1. Removal of sod, lawn, shrubbery, flowers, trees, driveways, or fence, to install, trench, repair, replace, remove or locate, equipment, cable or other appurtenances of the permittee;
2. Installation or removal of equipment or other appurtenances of the permittee's system within a private property owner's property or residence which requires drilling, excavating, plastering, or the like on the part of the permittee;
3. Temporarily relocating or moving a piece of personal property or a fixture of a private property owner (such as a motor vehicle, fence, air conditioning, heating unit, or the like) in order to perform some sort of construction, maintenance or repair by the permittee; or
4. Permanently removing a permittee's equipment or other appurtenances due to the revocation, termination or non-renewal of the franchise.

E. Drainage Channels Not Interrupted: Existing drainage channels, such as gutters or ditches, shall be kept free of dirt or other debris so that natural flow will not be interrupted. When it is necessary to block or otherwise interrupt flow of the drainage channel, a method of rerouting the flow must be submitted for approval by the Town engineer prior to the blockage of the channel.

F. Applicable to Subcontractors or Independent Contractors: The requirements imposed upon the permittee extend to any subcontractor or independent contractor that the permittee might employ to perform the tasks pursuant to the permit.

G. Permanent Structures Placed In Public Way Excepted: The requirements of this section shall not apply to the removal by a permittee, of a permanent structure placed by a property owner in a public way, unless such property owner has received prior written permission from the Town granting the property owner the



right to install a permanent structure on a public way, and such written permission has been recorded in the office of the County recorder.

#### **8.02.150 RESTORATION OF PUBLIC PROPERTY**

- A. Required: The permittee shall, at its own expense, restore the surface of any public way to its original condition and replace any removed or damaged pavement with the same type and depth of pavement as that which is adjoining, including the gravel base material. All restoration shall conform to the engineering regulations, design standards and specifications promulgated by the Town and shall be accomplished within the time limits set forth in the permit, unless additional time is granted in writing by the department.
- B. Request for Restoration by Town: At its option, the permittee doing the actual excavation work may request that the Town restore the surface to its original condition. The fee for such resurfacing shall be determined by the Town engineer in accordance with its reasonable costs for such excavation and shall be charged to the person, firm, or corporation making the excavation. Payment for said excavation shall be received by the Town prior to the release of the bond.

#### **8.02.160 INSURANCE REQUIREMENTS**

- A. Required; Limits: Before a permit is issued, the applicant shall furnish to the Town evidence that such applicant has a comprehensive general liability and property damage policy that includes contractual liability coverage endorsed with the following limits and provisions or with such alternative limits and provisions as may be approved by the Town:
  - 1. A minimum of one million dollars (\$1,000,000.00) combined single limit per occurrence for bodily injury, personal injury, and property damage and not less than one million dollars (\$1,000,000.00) in the aggregate. The general aggregate limit shall apply separately to the permit, or the general aggregate limit shall be two (2) times the required occurrence limit. The coverage shall be in the nature of broad form commercial general liability coverage. The Town attorney may increase or decrease minimum insurance limits, depending upon the potential liability of any project.
  - 2. All policies shall include the Town, its employees, officers, officials, agents, volunteers and assigns, as insureds. Any reference to the "Town" shall include the Town, its employees, officers, officials, agents, volunteers and assigns.
  - 3. The coverage shall be primary insurance as respects the Town, its employees, officers, officials, agents, volunteers, and assigns. Any insurance or self-insurance maintained by the Town, its employees, officers, officials, agents, volunteers, and assigns shall be in excess of the permittee's insurance and shall not contribute to or with it.



4. Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the Town, its employees, officers, officials, agents, volunteers, and assigns.
  5. Coverage shall state that the permittee's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
  6. Underwriters shall have no right of recovery or subrogation against the Town, it being the intent of the parties that the insurance policy so affected shall protect both parties and be primary coverage for any and all losses covered by the described insurance.
  7. The insurance companies issuing the policy or policies shall have no recourse against the Town for payment of any premiums due or for any assessments under any form of any policy.
  8. Each insurance policy shall be endorsed to state that the coverage shall not be suspended, voided, canceled or reduced in coverage or in limits, except after thirty (30) days prior written notice by certified mail, return receipt requested, sent to the Town.
  9. Each policy shall be endorsed to indemnify, save harmless and defend the Town and its officers and employees against any claim or loss, damage or expense sustained on account of damages to persons or property occurring by reason of permit excavation done by the permittee, his/her subcontractor or agent, whether or not the excavation has been completed and whether or not the right of way has been opened to public travel.
  10. Each policy shall be endorsed to indemnify, hold harmless and defend the Town, and its officers and employees against any claim or loss, damage or expense sustained by any person occurring by reason of doing any excavation pursuant to the permit, including, but not limited to, falling objects or failure to maintain proper barricades and/or lights as required from the time excavation begins until the excavation is completed and right of way is opened for public use.
- B. Rating: Insurance is to be placed with insurers with an AM Best rating of no less than an A carrier, with a rating of "7" or higher.
- C. Certificates and Endorsements: The permittee shall furnish the Town with certificates of insurance and original endorsements affecting coverage required by the permit. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The Town expressly reserves the right to require complete, certified copies of all required insurance policies at any time. Consequently, the permittee shall be prepared to provide such copies prior to the issuance of the permit.
- D. Unsatisfactory Policy: If any of the required policies are, or at any time become, unsatisfactory to the Town as to form or substance, or if a company issuing any

such policy is, or at any time becomes, unsatisfactory to the Town, the permittee shall promptly obtain a new policy, submit the same to the Town for approval, and thereafter submit verification of coverage as required by the Town. Upon failure to furnish, deliver and maintain such insurance as provided herein, the Town may declare the permit to be in default and pursue any and all remedies the Town may have at law or in equity, including those actions outlined in this chapter.

- E. Subcontractors Included: The permittee shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.
- F. Approval by Town Of Deductibles Or Self-Insured Retentions: Any deductibles or self-insured retentions shall be declared to and approved by the Town. At the option of the Town, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Town, its employees, officers, officials, agents, volunteers or assigns, or the permittee shall procure a bond, in a form acceptable to the Town, guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
- G. Property Owner Performing Excavation; Homeowner's Insurance: A property owner performing excavation adjacent to his/her residence may submit proof of a homeowner's insurance policy in lieu of the insurance requirements of this section.
- H. Exceptions to Submission of Insurance Certificates: A provider may be relieved of the obligation of submitting certificates of insurance under the following circumstances: If such company shall submit satisfactory evidence in advance that:
  - 1. It is insured in the amounts set forth in this chapter, or has complied with State requirements to become self-insured. Public utilities may submit annually evidence of insurance coverage in lieu of individual submissions for each permit; and
  - 2. Said coverage provides to the Town the same scope of coverage that would otherwise be provided by a separate policy as required by this chapter; or
  - 3. The excavation to be performed under the permit issued to the applicant is to be performed by the Town, in which case insurance requirement or other risk transfer issues shall be negotiated between the Town and the applicant by separate agreement.

#### **8.02.170 BOND REQUIREMENTS**

- A. Bond Required: Except as noted in this chapter, each applicant, before being issued a permit, shall provide the Town with an excavation bond to guarantee faithful performance of the excavation authorized by a permit granted pursuant

to this chapter. The amount of the bond required may be increased or decreased at the discretion of the Town engineer whenever it appears that the amount and cost of the excavation to be performed, and not satisfactorily completed, may vary from the amount of bond otherwise required under this chapter. The form of the bond and the entity issuing the bond shall be subject to the approval of the Town attorney.

B. Public Utilities: Public utilities franchised by the Town shall not be required to file any security if such requirement is expressly waived in the franchise documents.

C. Conditions of Bond: The bond required by this section shall be conditioned as follows:

1. The permittee shall fully comply with the requirements of the Town ordinances and regulations, specifications and standards promulgated by the Town relative to excavation in the public way, and respond to the Town in damages for failure to conform therewith;
2. After excavation is commenced, the permittee shall proceed with diligence and expedition and shall promptly complete such excavation and restore the public way to construction specifications, so as not to obstruct the public place or travel thereon more than is reasonably necessary;
3. The permittee shall guarantee the materials and workmanship for a period of two (2) years from completion of such excavation, with reasonable wear and tear excepted; and
4. Unless authorized by the Town engineer on the permit, all paving, resurfacing or replacement of street facilities on major or collector streets shall be done in conformance with the regulations contained herein within three (3) calendar days, and within seven (7) calendar days from the time the excavation commences on all other streets, except as provided for during excavation in winter or during weather conditions which do not allow paving according to engineering regulations. In winter, a temporary patch must be provided. In all excavations, restoration or pavement surfaces shall be made immediately after backfilling is completed or concrete is cured. If excavation is expected to exceed the above duration, the permittee shall submit a detailed construction schedule for approval. The schedule will address means and methods to minimize traffic disruption and complete the construction as soon as reasonably possible.

#### **8.02.180 HOLD HARMLESS AGREEMENT; LIMITATIONS ON TOWN LIABILITY**

A. The permittee agrees to save the Town, its officers, employees and agents harmless from any and all costs, damages and liabilities which may accrue or be claimed to accrue by reason of any excavation performed under the permit. The

issuance and acceptance of any permit under this chapter shall constitute such an agreement by the permittee to this section.

- B. This chapter shall neither be construed as imposing upon the Town, its officers, employees and agents, any liability or responsibility for damages to any person injured by or by reason of the performance of any excavation within the public way, or under a permit issued pursuant to this chapter; nor shall the Town, its officers, officials, employees, agents, volunteers or assigns thereof be deemed to have assumed any such liability or responsibility by reason of inspection authorized hereunder, the issuance of any permit, or the approval of any excavation.

#### **8.02.190 EXCAVATION WITHOUT PERMIT; PENALTY**

- A. Stop Order: A stop order may be issued by the Town engineer directed to any person or persons doing or causing any excavation to be done in the public way without a permit. The abutting property owner shall be responsible for causing excavation to be done.
- B. Penalty: Any person found to be doing excavation in the public way without having obtained a permit, as provided in this chapter, shall be required to pay a permit fee equal to two (2) times the normal permit fee. For replacement excavation, where a fee is not normally charged, the normal permit fee for new construction shall apply.

#### **8.02.200 FAILURE TO COMPLY; DEFAULT IN PERFORMANCE**

- A. Revocation, Suspension Or Stop Order; Conditions: Any permit may be revoked or suspended and a stop order issued by the Town engineer, after notice to the permittee for:
  - 1. Violation of any condition of the permit, the bond, or of any provision of this chapter;
  - 2. Violation of any provision of any other ordinance of the Town or law relating to the excavation; or
  - 3. Existence of any condition or the doing of any act which does constitute, may constitute, or cause a condition endangering life or property.
- B. Immediate Effect: A suspension or revocation by the Town engineer, and a stop order, shall take effect immediately upon entry thereof by the Town engineer and notice to the person performing the excavation in the public way. Notice to the person performing the excavation shall be accomplished when the Town engineer has posted a stop work order at the location of the excavation and written notice has been mailed, return receipt requested, to the address indicated by the permittee on the permit.
- C. Notice to Surety or Escrow Agent: Whenever the Town engineer finds that a

default has occurred in the performance of any term or condition of the permit, written notice thereof may be given to the principal and to the surety or escrow agent on the bond, if there is a surety or escrow bond. Such notice shall state the excavation to be done, the estimated cost thereof, and the period of time deemed by the Town engineer to be reasonably necessary for the completion of the excavation.

- D. Performance by Town: In the event that the surety or escrow agent (or principal), within a reasonable time following the giving of such notice (taking into consideration the exigencies of the situation, the nature of the excavation, the requirements of public safety and for the protection of persons and property), fails either to commence and cause the required excavation to be performed with due diligence, or to indemnify the Town for the cost of doing the excavation, as set forth in the notice, the Town may perform the excavation, at the discretion of the Town engineer, with Town forces or contract forces or both, and suit may be commenced by the Town attorney against the principal and bonding company or escrow and such other persons as may be liable, to recover the entire amount due to the Town, including attorney fees, on account thereof. In the event that cash has been deposited, the cost of performing the excavation may be charged against the amount deposited, and suit brought for the balance due, if any.

#### **8.02.210 FAILURE TO CONFORM TO DESIGN STANDARDS; PENALTY**

For failure to conform to the design standards and regulations, the Town engineer may:

- A. Suspend or revoke the permit;
- B. Issue a stop order;
- C. Order removal and replacement of faulty excavation;
- D. Require an extended warranty period; and/or
- E. Negotiate a cash settlement to be applied toward future maintenance costs.

#### **8.02.220 APPEAL OF SUSPENSION, REVOCATION OR STOP ORDER**

Any suspension, revocation or stop order by the Town engineer may be appealed by the permittee to governing body by filing a written notice of appeal within ten (10) days of the action of the Town engineer. The governing body shall hear such appeal, if written request therefor be timely filed, as soon as practicable, and render his/her decision within a reasonable time following filing of notice of appeal.

#### **8.02.230 TAMPERING WITH TRAFFIC BARRICADES**

It shall be unlawful for any person to maliciously or wantonly or without authorization and legal cause, extinguish, remove or diminish any light illuminating any barricade or excavation, or to tear down, remove or in any manner alter any rail, fence or barricade protecting any excavation or other construction site.

### **8.02.240 CONFLICTING PROVISIONS**

Should there be a conflict between the provisions of this chapter and the provisions of any other ordinance, agreement, franchise or other document governing the excavation of a public way, the more restrictive provisions of the aforesaid documents shall apply.

### **8.02.250 PENALTY**

Unless otherwise specified in this chapter, a violation of any provision of this chapter, or failure to comply with an order of suspension, revocation or stop work, shall be a class B misdemeanor, and subject to penalty as provided in HMC 1.08.010. Each day the violation exists shall be a separate offense. No criminal conviction shall excuse the person from otherwise complying with the provisions of this chapter.

## **8.04 OBSTRUCTIONS OF PUBLIC STREETS AND PROPERTY**

### **8.04.010 DEFINITIONS - OBSTRUCTIONS OF PUBLIC STREETS AND PROPERTY**

### **8.04.020 REGULATIONS AND REQUIREMENTS**

### **8.04.030 NOTICE TO REMOVE**

### **8.04.010 DEFINITIONS - OBSTRUCTIONS OF PUBLIC STREETS AND PROPERTY**

The following words and phrases used in this chapter shall have the following meaning unless a different meaning clearly appears from the context:

OBSTRUCTION: Any condition or use of premises or of building exteriors which are deleterious or injurious, noxious or unsightly, which includes, but is not limited to, keeping or depositing on, or scattering over any of the following:

- A. Lumber, junk, trash, or debris
- B. Abandoned, discarded or unused objects or equipment such as furniture, stoves, refrigerators, freezers, cans or containers
- C. Abandoned, discarded or unused vehicles, trucks or trailers.

STORAGE OF PERSONAL PROPERTY: Unsheltered storage of old, unused, stripped and junked machinery, implements, equipment or personal property of any kind which is no longer safely usable for the purpose for which it was manufactured, for a period of thirty (30) days or more (except in licensed junk yards) within this Town, is hereby declared to be an obstruction and dangerous to the public safety.

### **8.04.020 REGULATIONS AND REQUIREMENTS**

- A. It shall be unlawful for any person to put, place or leave upon any public street, parking lot or sidewalk, or any property owner to suffer or permit to remain upon or leave such obstruction on a public street, parking lot or public property for more than seventy two (72) hours, any automobile, lumber, wood, fencing or other building materials.

- B. It shall be unlawful for any person or property owner to put, place or leave upon any public street any automobile, lumber, wood, fencing, other building material or any obstruction, for the months of October through May.
- C. No person owning, leasing, occupying or having charge of any premises shall maintain or keep any obstruction thereon, nor shall any such person keep or maintain such premises in a manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located.

#### **8.04.030 NOTICE TO REMOVE**

Any obstruction, as set forth in this section, which shall have remained on the public street, parking lot, sidewalk or public property for more than twenty four (24) hours after notice of the violation of this section shall have been given to the owner of such obstruction by attaching a copy of such notice to the obstruction or delivered to the property owner, will be deemed abandoned and worthless, and the Town may at its option remove such obstruction at the expense of the owner thereof or at the expense of the Town without liability for such removal to any such owner.

#### **8.06 SUFFICIENT INFRASTRUCTURE FOR PROPOSED DEVELOPMENT**

##### **8.06.010 SUFFICIENT INFRASTRUCTURE FOR PROPOSED DEVELOPMENT**

##### **8.06.010 SUFFICIENT INFRASTRUCTURE FOR PROPOSED DEVELOPMENT**

No development, nor permit for development, shall be granted, approved or issued unless the necessary public facilities in the applicable area have been determined to exist and have adequate capacity to accommodate the proposed development at the adopted level of service standard, and are available or are to be available when the development occurs. The applicable area includes all facilities that directly or indirectly deliver the services to or are impacted by the proposed development. Such a determination is to be made by the Town engineer, using the accepted methods and measurements of the profession.

#### **8.08 STREET AND SIDEWALKS**

##### **8.08.010 CONSTRUCTION AND REPAIR**

##### **8.08.020 OBSTRUCTIONS**

##### **8.08.030 TRESPASS**

##### **8.08.010 CONSTRUCTION AND REPAIR**

- A. Standards For Individuals: It shall be unlawful for any person, either as owner, agent, servant, contractor or employee, to construct any sidewalk in the Town unless such sidewalk be constructed to lines and grades given and established by the Town engineer or an authorized representative of the Town, unless special permission to deviate from such lines and grades is first obtained from the Town council.
- B. Specifications: It shall be unlawful to construct any such sidewalk in violation of



the specifications given by the proper Town official.

- C. Permit Required: No person, either as owner, agent, servant, contractor or employee, shall construct any permanent sidewalk in the Town without first having obtained from the office of the Town clerk a permit to do so. The acceptance of such a permit shall be deemed as an agreement upon the part of such person to construct said sidewalk in accordance with the specifications furnished by the Town, as to the character and quality of the work, and if the sidewalk be constructed of cement, the character and quality of the cement, and constituent parts of the mixture, and the thickness of the walk.
- D. Supervision: All sidewalks shall be constructed under the inspection of the street supervisor or his duly authorized representative.
- E. Driveways:
  - 1. It shall be unlawful for any person to construct any driveway across sidewalk space, or cut or change the construction of sidewalk, curb or gutter without first making written application and obtaining from the Town clerk a permit to do so. The acceptance of such permit shall be deemed an agreement on the part of such person to construct said driveway in accordance with specifications furnished by the Town.
  - 2. No permit shall be granted by any authorized Town employee for any driveway exceeding forty feet (40') in width unless special permission is granted by action of the Town council.

#### **8.08.020 OBSTRUCTIONS**

- A. Prohibited; Exception: All persons are hereby forbidden to obstruct the sidewalks, crosswalks or streets of the Town, or to permit any gate or other obstruction to swing across any sidewalk of the Town or to the annoyance of another; provided, however, that special permission may be granted by the Town council to place obstructions on sidewalks or streets when necessary for improving the same or to provide protection when buildings are in the course of construction.
- B. Weed And Snow Removal: It shall be unlawful for any owner or occupant, or the agent of any owner or occupant of any property in the Town to fail to remove all weeds and noxious vegetation from such property, and in front thereof to the curb line of the street, and in the business district to fail to keep the sidewalks in front of such property free from snow, ice and other obstructions.
- C. Materials In Gutter: It shall be unlawful for any person removing snow from the sidewalk, as provided in Paragraph B of this section, or for any person by any means whatsoever, to deposit snow, dirt, leaves or any other material in the gutter so as to clog the same or prevent the free flow of water therein.
- D. Overflowing Of Water: No person shall allow water to overflow from any irrigation ditch or canal upon the streets or sidewalks of the Town.

E. Encroachments:

1. Enforcement: If any street is encroached upon by a fence or building, or otherwise, the street supervisor may orally or in writing require the encroachment to be removed.
2. Notice to Remove: Notice must be given to the occupant or owner of the land, or person causing or owning the encroachment, or left at his place of residence, or by mailing to his last known address, if he is known and resides in the Town. If not, such notice shall be posted on the encroachment specifying the breadth of the street, the place and extent of the encroachment and requiring him to remove the same within ten (10) days thereafter.
3. Refusal: If the encroachment is not removed or commenced to be removed and the removal not diligently prosecuted prior to the expiration of ten (10) days from the date of service or posting of notice, the person who causes, owns or controls the encroachment shall be in violation of this Paragraph and subject to prosecution therefor.

F. Sod, Earth Removal: No person shall dig, cut or remove any sod or earth from any street or other public place within the Town without a permit from the street supervisor or from any premises not his own without the consent of the owner.

### **8.08.030 TRESPASS**

- A. Criminal Trespass: The Town council may, by posted sign, prohibit access to and designate the use of any part of a street or sidewalk including bridges, park strip or other appurtenances, as dangerous, hazardous, or illegal. Use of the street, bridge, etc., contrary to the sign that is posted, shall constitute a violation of this section and shall be considered a criminal trespass.
- B. Penalty: Every person convicted of violating the regulations as prescribed herein shall be guilty of a class C misdemeanor and subject to penalty as provided in HMC 1.08.010.

### **8.09 SNOW REMOVAL**

[8.09.010 SNOW REMOVAL PRIORITIES FOR PUBLIC ROADWAYS](#)

[8.09.020 PRIVATE ROADWAYS: DUTY TO REMOVE SNOW](#)

[8.09.030 SNOW REMOVAL AND ICE CONTROL STANDARDS FOR PRIVATE ROADS](#)

[8.09.040 REMOVAL OF ALL OBSTRUCTIONS FROM ROADWAYS](#)

[8.09.050 SNOW STORAGE ON SITE](#)

[8.09.060 UNLAWFUL TO DEPOSIT SNOW IN PUBLIC WAY](#)

[8.09.070 TRAVELED PORTION DEFINED](#)

[8.09.080 PRIVATE SNOW ON PUBLIC STREETS](#)

[8.09.090 FAILURE TO REMOVE SNOW FROM PUBLIC STREETS](#)

[8.09.100 SIDEWALKS TO BE CLEARED](#)

[8.09.110 FIRE HYDRANTS TO BE UNCOVERED](#)

[8.09.120 HYDRANT LOCATIONS TO BE MARKED](#)  
[8.09.130 UNLAWFUL TO REMOVE MARKERS](#)  
[8.09.140 IMPROVEMENTS INSTALLED AT OWNER'S RISK](#)  
[8.09.150 DAMAGE TO IMPROVEMENTS](#)  
[8.09.160 FLAGGING IMPROVEMENTS](#)  
[8.09.170 PENALTIES](#)  
[8.09.180 RESERVED](#)  
[8.09.190 DAMAGES TO SNOW REMOVAL EQUIPMENT](#)  
[8.09.200 DAMAGE TO VEHICLES DURING SNOW REMOVAL](#)

#### **8.09.010 SNOW REMOVAL PRIORITIES FOR PUBLIC ROADWAYS**

Snow removal is provided for public roadways on a priority basis. Plowing priority is given first to arterial and collector streets, followed by secondary and residential streets and finally cul-de-sacs.

#### **8.09.020 PRIVATE ROADWAYS: DUTY TO REMOVE SNOW**

It shall be the duty of every homeowners association (HOA), property owner, corporation, partnership, or other entity having control over a private roadway system within the Town, and the owners of properties abutting such private roadways which are provided access from those streets, to provide regular snow removal and ice control service on those private roadways in accordance with the standards established in Section 8.09.030.

#### **8.09.030 SNOW REMOVAL AND ICE CONTROL STANDARDS FOR PRIVATE ROADS**

"Regular snow removal and ice control service" shall mean that snow shall be cleared from the roadway to a minimum width of eighteen feet (18') within a period of sixteen (16) hours from the end of each snow storm which deposits an accumulation of four inches (4") of snow or more. It shall be unlawful to permit an accumulation of more than four inches (4") of snow to remain on private roadways for more than sixteen (16) hours after the end of the storm. Ice must be removed to bare pavement or treated with sand, salt, or ice melt.

#### **8.09.040 REMOVAL OF ALL OBSTRUCTIONS FROM ROADWAYS**

It is the responsibility of all property owners to remove trash containers from public roadways during or prior to snow events so as to not interfere with the Town's snow removal efforts.

#### **8.09.050 SNOW STORAGE ON SITE**

It is the duty of all private property owners and homeowner associations to make arrangements for the onsite storage of snow, which has accumulated on such property or properties owned or under their control. All private property owners and homeowner associations, and their employees, agents, and contractors, shall confine the accumulated snow to the property owned or under their control or to another property

with that owner's express written consent. The Town is not responsible for removal of accumulated snow from private drives or other private property.

#### **8.09.060 UNLAWFUL TO DEPOSIT SNOW IN PUBLIC WAY**

It shall be unlawful for any private property owner or homeowners association to haul, push, blow, or otherwise deposit snow onto the traveled portion of any public roadway.

#### **8.09.070 TRAVELED PORTION DEFINED**

As used in this Chapter, the term "traveled portion of any public roadway" shall mean and refer to that portion of the public right-of-way that is paved and maintained for vehicular or pedestrian traffic. It shall not include the portions of the right-of-way outside of the paved area, and it shall not be a violation of this Chapter for any property owner or homeowner association to place accumulated snow within the non-traveled portion of the public right-of-way.

#### **8.09.080 PRIVATE SNOW ON PUBLIC STREETS**

It shall be the duty of every homeowner association, corporation, partnership, or other entity having the responsibility for snow removal on a public street pursuant to any applicable plat restriction, conditional use approval or other permit or agreement with the Town, and the duty of every owner of property abutting on and provided access from such public roadway to provide regular and adequate snow removal service on those public roadways according to the regular and adequate snow removal and ice control service standards detailed in Section 8.09.030.

#### **8.09.090 FAILURE TO REMOVE SNOW FROM PUBLIC STREETS**

In the event the private party or parties responsible for private snow removal on public roadways, as provided in Section 8.09.080, fail to remove snow to the required standards of Section 8.09.030, the Town may, at its discretion, perform the snow removal necessary to achieve the required standards and obtain reimbursement of its snow removal costs (including administrative fees) from the responsible party or parties.

#### **8.09.100 SIDEWALKS TO BE CLEARED**

It shall be the duty of every property owner and homeowners association (where snow removal is the responsibility of the homeowners association) to remove snow from City sidewalks at the perimeter of such owner's or association's property within a period of sixteen (16) hours from the end of each snow storm which deposits an accumulation of four inches (4") of snow or more. It shall be unlawful to permit an accumulation of more than four inches (4") of snow to remain on the sidewalk for more than sixteen (16) hours after the end of the storm. In addition, ice shall be removed to bare pavement or made as level as possible and treated with salt, ice melt, sand, or similar material.

#### **8.09.110 FIRE HYDRANTS TO BE UNCOVERED**

It shall be the duty of every property owner and homeowners association (where snow removal is responsibility of the homeowners association) to mark, uncover, and remove accumulated snow and from, over and around fire hydrants located on such property. The hydrants shall be uncovered for a distance of not less than three feet (3') on all sides so the hydrants are accessible for emergency use. Hydrants shall be uncovered within sixteen (16) hours after the end of the storm.

#### **8.09.120 HYDRANT LOCATIONS TO BE MARKED**

All fire hydrants on private street systems shall be marked with a minimum six (6) foot pole or other sign by the private property owner. The marker should extend well above the normally anticipated depth of accumulated snow so the location of the hydrant can be readily determined during periods when it is covered.

#### **8.09.130 UNLAWFUL TO REMOVE MARKERS**

It shall be unlawful to remove or destroy the hydrant markers on either public or private roadways.

#### **8.09.140 IMPROVEMENTS INSTALLED AT OWNER'S RISK**

The Town shall have no liability for damage to sprinklers, mailboxes, lights, communications equipment, trees, shrubs, or other improvements installed in the Town's right of way.

#### **8.09.150 DAMAGE TO IMPROVEMENTS**

The Town will not assume any liability for damage to improvements or landscaping in the public rights-of-way which results from snow removal and ice control activity.

#### **8.09.160 FLAGGING IMPROVEMENTS**

Owners of improvements within the right-of-way are requested to flag the location of improvements (during winter months). This request shall not be construed as a waiver or abandonment by the Town of the right-of-way or an acceptance by the Town of liability for damage to improvements within the right-of-way (whether or not marked). If flagged, flags must be removed once ongoing snow removal and ice control activities have completed for the season.

#### **8.09.170 PENALTIES**

Any person convicted of a violation of this chapter is subject to a \$200.00 fine plus any costs incurred by the Town.

#### **8.09.180 RESERVED**

#### **8.09.190 DAMAGES TO SNOW REMOVAL EQUIPMENT**

If the Town's Snow removal equipment is damaged during the snow removal process and the damage is caused by construction equipment or debris, the builder or developer responsible for such construction equipment or debris is liable for the damages. The Town can use any performance bond to cover the expenses related to fixing the equipment and any rental charges needed to maintain the snow removal and ice control standards listed in 8.09.030.

### **8.09.200 DAMAGE TO VEHICLES DURING SNOW REMOVAL**

The Town is not liable if a vehicle is parked on the roadway during snow removal. Since the vehicle is parked in violation with the ordinance above, the owner of the vehicle will bear all vehicle repair, rental etc. costs and in addition, if the town equipment is damaged in anyway the owner of the vehicle will reimburse the town for all repair costs and rental costs if needed to continue snow removal while the repairs are performed.

### **8.10 TELECOMMUNICATIONS USE OF RIGHT OF WAY**

#### **8.10.010 DECLARATION OF FINDINGS AND INTENT; SCOPE**

#### **8.10.020 DEFINITIONS - TELECOMMUNICATIONS USE OF RIGHT OF WAY**

#### **8.10.030 FRANCHISE REQUIRED**

#### **8.10.040 COMPENSATION AND OTHER PAYMENTS**

#### **8.10.050 FRANCHISE APPLICATIONS**

#### **8.10.060 CONSTRUCTION AND TECHNICAL REQUIREMENTS**

#### **8.10.070 FRANCHISE AND LICENSE NONTRANSFERABLE**

#### **8.10.080 OVERSIGHT AND REGULATION**

#### **8.10.090 RIGHTS OF TOWN**

#### **8.10.100 OBLIGATION TO NOTIFY; PUBLICIZING WORK**

#### **8.10.110 GENERAL ADMINISTRATIVE PROVISIONS**

#### **8.10.120 FEDERAL, STATE AND TOWN JURISDICTION**

### **8.10.010 DECLARATION OF FINDINGS AND INTENT; SCOPE**

#### **A. Declaration of Findings and Intent:**

##### **1. Specified: The Town finds that the rights of way within the Town:**

- a. Are critical to the travel and transport of persons and property in the business and social life of the Town;
- b. Are intended for public uses and must be managed and controlled consistent with that intent;
- c. Can be partially occupied by the facilities of utilities and other public service entities delivering utility and public services rendered for profit, to the enhancement of the health, welfare, and general economic well-being of the Town and its citizens; and
- d. Are a unique and physically limited resource requiring proper management to maximize the efficiency and to minimize the costs to the taxpayers of the foregoing uses and to minimize the inconvenience to and negative effects upon the public from such

facilities' construction, placement, relocation and maintenance in the rights of way.

2. Findings Regarding Compensation: The Town finds that the Town should receive fair and reasonable compensation for use of the rights of way.
3. Findings Regarding Local Concern: The Town finds that while telecommunications systems are in part an extension of interstate commerce, their operations also involve rights of way, municipal franchising, and vital business and community services, which are of local concern.
4. Findings Regarding Promotion of Telecommunications Services: The Town finds that it is in the best interests of its taxpayers and citizens to promote the rapid development of telecommunications services, on a nondiscrimination basis, responsive to community and public interest, and to assure availability for municipal, educational and community services.
5. Findings Regarding Franchise Standards: The Town finds that it is in the interests of the public to franchise and to establish standards for franchising providers in a manner that:
  - a. Fairly and reasonably compensates the Town on a competitively neutral and nondiscriminatory basis as provided herein;
  - b. Encourages competition by establishing terms and conditions under which providers may use the rights of way to serve the public;
  - c. Fully protects the public interests and the Town from any harm that may flow from such commercial use of rights of way;
  - d. Protects the police powers and rights of way management authority of the Town, in a manner consistent with federal and state law;
  - e. Otherwise protects the public interests in the development and use of the Town infrastructure;
  - f. Protects the public's investment in improvements in the rights of way; and
  - g. Ensures that no barriers to entry of telecommunications providers are created and that such franchising is accomplished in a manner that does not prohibit or have the effect of prohibiting telecommunication services, within the meaning of the Telecommunications Act of 1996 ("Act").
6. Power to Manage Rights of Way: The Town adopts this telecommunications chapter pursuant to its power to manage the rights of way, pursuant to common law, the Utah Constitution and statutory



authority, and receive fair and reasonable compensation for the use of rights of way by providers as expressly set forth by section 253 of the Act.

B. Scope: This chapter shall provide the basic local scheme for providers of telecommunications services and systems that require the use of the rights of way, including providers of both the system and service, those providers of the system only, and those providers who do not build the system but who only provide services. This chapter shall apply to all future providers and to all providers in the Town prior to the effective date hereof, whether operating with or without a franchise as set forth in HMC 8.10.030.

C. Excluded Activity:

1. Cable TV: This chapter shall not apply to cable television operators otherwise regulated by the Town cable television ordinances regulating TCI Cable and Insight Communications Company.
2. Wireless Services: This chapter shall not apply to personal wireless service facilities.
3. Provisions Applicable to Excluded Providers: Providers excused by other law that prohibits the Town from requiring a franchise shall not be required to obtain a franchise, but all of the requirements imposed by this chapter through the exercise of the Town police power and not preempted by other law shall be applicable.

#### **8.10.020 DEFINITIONS - TELECOMMUNICATIONS USE OF RIGHT OF WAY**

For purposes of this chapter, the following terms, phrases, words, and their derivatives shall have the meanings set forth in this section, unless the context clearly indicates that another meaning is intended. Words used in the present tense include the future tense, words in the single number include the plural number, words in the plural number include the singular. The words "shall" and "will" are mandatory, and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

APPLICATION: The process by which a provider submits a request and indicates a desire to be granted a franchise to utilize the rights of way of all, or a part, of the Town. An application includes all written documentation, verbal statements and representations, in whatever form or forum, made by a provider to the Town concerning: the construction of a telecommunications system over, under, on or through the rights of way; the telecommunications services proposed to be provided in the Town by a provider; and any other matter pertaining to a proposed system or service.

TOWN: Town of Hideout, Utah. COMPLETION DATE: The date that a provider begins providing services to customers in the Town.

CONSTRUCTION COSTS: All costs of constructing a system, including make ready costs, other than engineering fees, attorney or accountant fees, or other consulting fees.

**CONTROL OR CONTROLLING INTEREST:** Actual working control in whatever manner exercised, including, without limitation, working control through ownership, management, debt instruments or negative control, as the case may be, of the system or of a provider. A rebuttable presumption of the existence of control or a controlling interest shall arise from the beneficial ownership, directly or indirectly, by any person, or group of persons acting in concert, of more than twenty five percent (25%) of any provider (which person or group of persons is hereinafter referred to as "controlling person"). "Control" or "controlling interest", as used herein, may be held simultaneously by more than one person or group of persons.

**FCC:** The federal communications commission, or any successor thereto.

**FRANCHISE:** The rights and obligations extended by the Town to a provider to own, lease, construct, maintain, use or operate a system in the rights of way within the boundaries of the Town. Any such authorization, in whatever form granted, shall not mean or include: a) any other permit or authorization required for the privilege of transacting and carrying on a business within the Town required by the ordinances and laws of the Town; or b) any other permit, agreement or authorization required in connection with operations on rights of way or public property, including, without limitation, permits and agreements for placing devices on or in poles, conduits or other structures, whether owned by the Town or a private entity, or for excavating or performing other work in or along the rights of way.

**FRANCHISE AGREEMENT:** A contract entered into in accordance with the provisions of this chapter between the Town and a franchisee that sets forth, subject to this chapter, the terms and conditions under which a franchise will be exercised.

**GROSS REVENUE:** Includes all revenues of a provider that may be included as gross revenue within the meaning of Utah Code Title 11-26, as amended.

**INFRASTRUCTURE PROVIDER:** A person providing to another, for the purpose of providing telecommunication services to customers, all or part of the necessary system which uses the rights of way.

**OPEN VIDEO SERVICE:** Any video programming services provided to any person through the use of rights of way, by a provider that is certified by the FCC to operate an open video system pursuant to sections 651 et seq., of the Telecommunications Act (to be codified at 47 USC Title VI, Part V), regardless of the system used.

**OPEN VIDEO SYSTEM:** The system of cables, wires, lines, towers, wave guides, optic fiber, microwave, laser beams, and any associated converters, equipment, or facilities designed and constructed for the purpose of producing, receiving, amplifying or distributing open video services to or from subscribers or locations within the Town.

**OPERATOR:** Any person who provides service over a telecommunications system and directly or through one or more persons owns a controlling interest in such system, or who otherwise controls or is responsible for the operation of such a system.

**ORDINANCE OR TELECOMMUNICATIONS ORDINANCE:** This telecommunications chapter concerning the granting of franchises in and by the Town for the construction, ownership, operation, use or maintenance of a telecommunications system.

**PSC:** The Public Service Commission, or any successor thereto.

**PERSON:** Includes any individual, corporation, partnership, association, joint stock company, trust, or any other legal entity, but not the Town.

**PERSONAL WIRELESS SERVICES FACILITIES:** Has the same meaning as provided in section 704 of the Act (47 USC 332(c)(7)(c)), which includes what is commonly known as cellular and PCS services that do not install any system or portion of a system in the rights of way.

**PROVIDER:** An operator, infrastructure provider, reseller or system lessee.

**RESELLER:** Refers to any person that provides local exchange service over a system for which a separate charge is made, where that person does not own or lease the underlying system used for the transmission.

**RIGHTS OF WAY:** The surface of and the space above and below any public street, sidewalk, alley, or other public way of any type whatsoever, now or hereafter existing as such within the Town.

**SIGNAL:** Any transmission or reception of electronic, electrical, light or laser or radio frequency energy or optical information in either analog or digital format.

**SYSTEM LESSEE:** Refers to any person that leases a system or a specific portion of a system to provide services.

**TELECOMMUNICATIONS:** The transmission, between or among points specified by the user, of information of the user's choosing (e.g., data, video and voice), without change in the form or content of the information sent and received.

**TELECOMMUNICATIONS SERVICE OR SERVICES:** Any telecommunications services provided by a provider within the Town that the provider is authorized to provide under federal, state and local law, and any equipment and/or facilities required for and integrated with the services provided within the Town, except that these terms do not include "cable service" as defined in the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992 (47 USC 521 et seq.), and the Telecommunications Act of 1996. Telecommunications system or systems also includes an open video system.

**TELECOMMUNICATIONS SYSTEM OR SYSTEM:** All conduits, manholes, poles, antennas, transceivers, amplifiers and all other electronic devices, equipment, wire and appurtenances owned, leased, or used by a provider, located in the rights of way and utilized in the provision of services, including fully digital or analog, voice, data and video imaging and other enhanced telecommunications services. Telecommunications system or systems also includes an open video system.

WIRE: Fiber optic telecommunications cable, wire, coaxial cable, or other transmission medium that may be used in lieu thereof for similar purposes.

#### **8.10.030 FRANCHISE REQUIRED**

- A. Nonexclusive Franchise: The Town is empowered and authorized to issue nonexclusive franchises governing the installation, construction and maintenance of systems in the Town rights of way, in accordance with the provisions of this chapter. The franchise is granted through a franchise agreement entered into between the Town and provider.
- B. Every Provider Must Obtain: Except to the extent preempted by federal or state law, as ultimately interpreted by a court of competent jurisdiction, including any appeals, every provider must obtain a franchise prior to constructing a telecommunications system or providing telecommunications services using the rights of way, and every provider must obtain a franchise before constructing an open video system or providing open video services via an open video system. Any open video system or service shall be subject to the customer service and consumer protection provisions applicable to the cable TV companies to the extent the Town is not preempted or permitted as ultimately interpreted by a court of competent jurisdiction, including any appeals. The fact that particular telecommunications systems may be used for multiple purposes does not obviate the need to obtain a franchise for other purposes. By way of illustration and not limitation, a cable operator of a cable system must obtain a cable franchise, and, should it intend to provide telecommunications services over the same system, must also obtain a telecommunications franchise.
- C. Nature of Grant: A franchise shall not convey title, equitable or legal, in the rights of way. A franchise is only the right to occupy rights of way on a nonexclusive basis for the limited purposes and for the limited period stated in the franchise; the right may not be subdivided, assigned or subleased. A franchise does not excuse a provider from obtaining appropriate access or pole attachment agreements before collocating its system on the property of others, including Town property. This section shall not be construed to prohibit a provider from leasing conduit to another provider, so long as the lessee has obtained a franchise.
- D. Current Providers: Except to the extent exempted by federal or state law, any provider acting without a franchise on the effective date hereof shall request issuance of a franchise from the Town within ninety (90) days of the effective date hereof. If such request is made, the provider may continue providing service during the course of negotiations. If a timely request is not made, or if negotiations cease and a franchise is not granted, the provider shall comply with the provisions of HMC 8.10.090.
- E. Nature of Franchise: The franchise granted by the Town under the provisions of this chapter shall be a nonexclusive franchise providing the right and consent to install, repair, maintain, remove and replace its system on, over and under the rights of way in order to provide services.

- F. Regulatory Approval Needed: Before offering or providing any services pursuant to the franchise, a provider shall obtain any and all regulatory approvals, permits, authorizations or licenses for the offering or provision of such services from the appropriate federal, state and local authorities, if required, and shall submit to the Town upon the written request of the Town evidence of all such approvals, permits, authorizations or licenses.
- G. Term: No franchise issued pursuant to this chapter shall have a term of less than five (5) years or greater than fifteen (15) years. Each franchise shall be granted in a nondiscriminatory manner.

#### **8.10.040 COMPENSATION AND OTHER PAYMENTS**

- A. Compensation: As fair and reasonable compensation for any franchise granted pursuant to this chapter, a provider shall have the following obligations:
  - 1. Application Fee: In order to offset the cost to the Town to review an application for a franchise and in addition to all other fees, permits or charges, a provider shall pay to the Town, at the time of application, a nonrefundable application fee as set by ordinance of the Town council.
  - 2. Franchise Fees: The franchise fee, if any, shall be set forth in the franchise agreement. The obligation to pay a franchise fee shall commence on the completion date. The franchise fee is offset by any business license fee or business license tax enacted by the Town.
  - 3. Excavation Permits: The provider shall also pay fees required for an excavation permit as provided in HMC 8.08.
- B. Timing: Unless otherwise agreed to in the franchise agreement, all franchise fees shall be paid on a monthly basis within forty five (45) days of the close of each calendar month.
- C. Fee Statement and Certification: Unless a franchise agreement provides otherwise, each fee payment shall be accompanied by a statement showing the manner in which the fee was calculated and shall be certified as to its accuracy.
- D. Future Costs: A provider shall pay to the Town or to third parties, at the direction of the Town, an amount equal to the reasonable costs and reasonable expenses that the Town incurs for the services of third parties (including, but not limited to, attorneys and other consultants) in connection with any renewal or provider initiated renegotiation, or amendment of this chapter or a franchise; provided, however, that the parties shall agree upon a reasonable financial cap at the outset of negotiations. In the event the parties are unable to agree, either party may submit the issue to binding arbitration in accordance with the rules and procedures of the American Arbitration Association.
- E. Taxes And Assessments: To the extent taxes or other assessments are imposed by taxing authorities, other than the Town on the use of the Town property as a result of a provider's use or occupation of the rights of way, the provider shall be

responsible for payment of its pro rata share of such taxes, payable annually unless otherwise required by the taxing authority. Such payments shall be in addition to any other fees payable pursuant to this chapter.

- F. Interest on Late Payments: In the event that any payment is not actually received by the Town on or before the applicable date fixed in the franchise, interest thereon shall accrue from such date until received at the rate charged for delinquent state taxes.
- G. No Accord And Satisfaction: No acceptance by the Town of any fee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of such fee payment be construed as a release of any claim the Town may have for additional sums payable.
- H. Not In Lieu Of Other Taxes or Fees: The fee payment is not a payment in lieu of any tax, fee or other assessment except as specifically provided in this chapter, or as required by applicable law. By way of example, and not limitation, excavation permit fees and fees to obtain space on the Town owned poles are not waived and remain applicable.
- I. Continuing Obligation and Holdover: In the event a provider continues to operate all or any part of the system after the term of the franchise, such operator shall continue to comply with all applicable provisions of this chapter and the franchise, including, without limitation, all compensation and other payment provisions throughout the period of such continued operation; provided, that any such continued operation shall in no way be construed as a renewal or other extension of the franchise, nor as a limitation on the remedies, if any, available to the Town as a result of such continued operation after the term, including, but not limited to, damages and restitution.
- J. Costs of Publication: A provider shall assume any publication costs associated with its franchise that may be required by law.

#### **8.10.050 FRANCHISE APPLICATIONS**

- A. Required: To obtain a franchise to construct, own, maintain or provide services through any system within the Town, to obtain a renewal of a franchise granted pursuant to this chapter, or to obtain the Town approval of a transfer of a franchise, as provided in HMC 8.10.030, granted pursuant to this chapter, an application must be filed with Town on the form attached to the ordinance codified herein as exhibit A, which is hereby incorporated by reference. The application form may be changed by the governing body so long as such changes request information that is consistent with this chapter. Such application form, as amended, is incorporated by reference.
- B. Application Criteria: In making a determination as to an application filed pursuant to this chapter, the Town may, but shall not be limited to, request the following from the provider:
  - 1. A copy of the order from the PSC granting a certificate of convenience



and necessity.

2. Certification of the provider's financial ability to compensate the Town for provider's intrusion, maintenance and use of the rights of way during the franchise term proposed by the provider;
3. Provider's agreement to comply with the requirements of HMC 8.10.030.

C. Franchise Determination: The Town, in its discretion, shall determine the award of any franchise on the basis of these and other considerations relevant to the use of the rights of way, without competitive bidding.

#### **8.10.060 CONSTRUCTION AND TECHNICAL REQUIREMENTS**

- A. General Requirement: No provider shall receive a franchise unless it agrees to comply with each of the terms set forth in this section governing construction and technical requirements for its system, in addition to any other reasonable requirements or procedures specified by the Town or the franchise, including requirements regarding locating and sharing in the cost of locating portions of the system with other systems or with Town utilities. A provider shall obtain an excavation permit, pursuant to HMC 8.08, before commencing any work in the rights of way.
- B. Quality: All work involved in the construction, maintenance, repair, upgrade and removal of the system shall be performed in a safe, thorough and reliable manner using materials of good and durable quality. If, at any time, it is determined by the FCC or any other agency granted authority by Federal law or the FCC to make such determination, that any part of the system, including, without limitation, any means used to distribute signals over or within the system, is harmful to the public health, safety or welfare, or quality of service or reliability, then a provider shall, at its own cost and expense, promptly correct all such conditions.
- C. Licenses And Permits: A provider shall have the sole responsibility for diligently obtaining, at its own cost and expense, all permits, licenses or other forms of approval or authorization necessary to construct, maintain, upgrade or repair the system, including, but not limited to, any necessary approvals from persons and/or the Town to use private property, easements, poles and conduits. A provider shall obtain any required permit, license, approval or authorization, including, but not limited to, excavation permits, pole attachment agreements, etc., prior to the commencement of the activity for which the permit, license, approval or authorization is required.
- D. Relocation of System:
1. New Grades Or Lines: If the grades or lines of any rights of way are changed at any time in a manner affecting the system, then a provider shall comply with the requirements of the excavation ordinance.
  2. Town Authority to Move System in Case of Emergency: The Town may,



at any time, in case of fire, disaster or other emergency, as determined by the Town in its reasonable discretion, cut or move any parts of the system and appurtenances on, over or under the rights of way of the Town, in which event the Town shall not be liable therefor to a provider. The Town shall notify a provider in writing prior to, if practicable, but in any event as soon as possible and in no case later than the next business day following any action taken under this section. Notice shall be given as provided in HMC 8.10.110.

3. **Provider Required To Temporarily Move System For Third Party:** A provider shall, upon prior reasonable written notice by the Town or any person holding a permit to move any structure, and within the time that is reasonable under the circumstances, temporarily move any part of its system to permit the moving of said structure. A provider may impose a reasonable charge on any person other than the Town for any such movement of its systems.
  4. **Rights of Way Change; Obligation to Move System:** When the Town is changing a rights of way and makes a written request, a provider is required to move or remove its system from the rights of way, without cost to the Town, to the extent provided in the excavation ordinance. This obligation does not apply to systems originally located on private property pursuant to a private easement, which property was later incorporated into the rights of way, if that private easement grants a superior vested right. This obligation exists whether or not the provider has obtained an excavation permit.
- E. **Protect Structures:** In connection with the construction, maintenance, repair, upgrade or removal of the system, a provider shall, at its own cost and expense, protect any and all existing structures belonging to the Town and all designated landmarks, as well as all other structures within any designated landmark district. A provider shall obtain the prior written consent of the Town to alter any water main, power facility, sewerage or drainage system, or any other municipal structure on, over or under the rights of way of the Town required because of the presence of the system. Any such alteration shall be made by the Town or its designee on a reimbursable basis. A provider agrees that it shall be liable for the costs incurred by the Town to replace or repair and restore to its prior condition in a manner as may be reasonably specified by the Town, any municipal structure or any other rights of way of the Town involved in the construction, maintenance, repair, upgrade or removal of the system that may become disturbed or damaged as a result of any work thereon by or on behalf of a provider pursuant to the franchise.
- F. **No Obstruction:** In connection with the construction, maintenance, upgrade, repair or removal of the system, a provider shall not unreasonably obstruct the rights of way of fixed guide way systems, railways, passenger travel, or other traffic to, from or within the Town without the prior consent of the appropriate authorities.

- G. Safety Precautions: A provider shall, at its own cost and expense, undertake all necessary and appropriate efforts to prevent accidents at its work sites, including the placing and maintenance of proper guards, fences, barricades, security personnel and suitable and sufficient lighting, and such other requirements prescribed by OSHA and Utah OSHA. A provider shall comply with all applicable federal, state and local requirements including, but not limited to, the national electrical safety code.
- H. Repair: After written reasonable notice to the provider, unless, in the sole determination of the Town, an eminent danger exists, any rights of way within the Town which are disturbed or damaged during the construction, maintenance or reconstruction by a provider of its system may be repaired by the Town at the provider's expense, to a condition as good as that prevailing before such work was commenced. Upon doing so, the Town shall submit to such a provider an itemized statement of the cost for repairing and restoring the rights of ways intruded upon. The provider shall, within thirty (30) days after receipt of the statement, pay to the Town the entire amount thereof.
- I. System Maintenance: A provider shall:
1. Install and maintain all parts of its system in a non-dangerous condition throughout the entire period of its franchise.
  2. Install and maintain its system in accordance with standard prudent engineering practices and shall conform, when applicable, with the national electrical safety code and all applicable other federal, state and local laws or regulations.
  3. At all reasonable times, permit examination by any duly authorized representative of the Town of the system and its effect on the rights of way.
- J. Trimming Of Trees: A provider shall have the authority to trim trees, in accordance with all applicable utility restrictions, ordinance and easement restrictions, upon and hanging over rights of way so as to prevent the branches of such trees from coming in contact with its system.

#### **8.10.070 FRANCHISE AND LICENSE NONTRANSFERABLE**

A. Notification of Sale:

1. Notification and Election: When a provider is the subject of a sale, transfer, lease, assignment, sublease or disposed of, in whole or in part, either by forced or involuntary sale, or by ordinary sale, consolidation or otherwise, such that it or its successor entity is obligated to inform or seek the approval of the PSC, the provider or its successor entity shall promptly notify the Town of the nature of the transaction. The notification shall include either:
  - a. The successor entity's certification that the successor entity

unequivocally agrees to all of the terms of the original provider's franchise agreement; or

b. The successor entity's application in compliance with HMC 8.10.050.

2. Transfer of Franchise: Upon receipt of a notification and certification in accordance with Paragraph A,1,a of this section, the Town designee, as provided in HMC 8.10.090, shall send notice affirming the transfer of the franchise to the successor entity. If the Town has good cause to believe that the successor entity may not comply with this chapter or the franchise agreement, it may require an application for the transfer. The application shall comply with HMC 8.10.050.

3. If PSC Approval No Longer Required: If the PSC no longer exists, or if its regulations or State law no longer requires approval of transactions described in Paragraph A,1 of this section, and the Town has good cause to believe that the successor entity may not comply with this chapter or the franchise agreement, it may require an application. The application shall comply with HMC 8.10.050.

B. Events Of Sale: The following events shall be deemed to be a sale, assignment or other transfer of the franchise requiring compliance with Paragraph A of this section: a) the sale, assignment or other transfer of all or a majority of a provider's assets to another person; b) the sale, assignment or other transfer of capital stock or partnership, membership or other equity interests in a provider by one or more of its existing shareholders, partners, members or other equity owners so as to create a new controlling interest in a provider; c) the issuance of additional capital stock or partnership, membership or other equity interest by a provider so as to create a new controlling interest in such a provider; or d) the entry by a provider into an agreement with respect to the management or operation of such provider or its system.

#### **8.10.080 OVERSIGHT AND REGULATION**

A. Insurance, Indemnity And Security: Prior to the execution of a franchise, a provider will deposit with the Town an irrevocable, unconditional letter of credit or surety bond as required by the terms of the franchise, and shall obtain and provide proof of the insurance coverage required by the franchise. A provider shall also indemnify the Town as set forth in the franchise.

B. Oversight: The Town shall have the right to oversee, regulate and inspect periodically the construction, maintenance, and upgrade of the system, and any part thereof, in accordance with the provisions of the franchise and applicable law. A provider shall establish and maintain managerial and operational records, standards, procedures and controls to enable a provider to prove, in reasonable detail, to the satisfaction of the Town at all times throughout the term, that a

provider is in compliance with the franchise. A provider shall retain such records for not less than the applicable statute of limitations.

C. Maintain Records: A provider shall at all times maintain:

1. On file with the Town, a full and complete set of plans, records and "as built" hard copy maps and, to the extent the maps are placed in an electronic format, they shall be made in electronic format compatible with the Town's existing GIS system, of all existing and proposed installations and the types of equipment and systems installed or constructed in the rights of way, properly identified and described as to the types of equipment and facility by appropriate symbols and marks which shall include annotations of all rights of ways where work will be undertaken. As used herein, "as built" maps includes "file construction prints". Maps shall be drawn to scale. "As built" maps, including the compatible electronic format, as provided above, shall be submitted within thirty (30) days of completion of work or within thirty (30) days after completion of modification and repairs. "As built" maps are not required of the provider who is the incumbent local exchange carrier for the existing system to the extent they do not exist.
2. Throughout the term of the franchise, complete and accurate books of account and records of the business, ownership, and operations of a provider with respect to the system in a manner that allows the Town at all times to determine whether a provider is in compliance with the franchise. Should the Town reasonably determine that the records are not being maintained in such a manner, a provider shall alter the manner in which the books and/or records are maintained so that a provider comes into compliance with this section. All financial books and records which are maintained in accordance with the regulations of the FCC and any governmental entity that regulates utilities in the State, and generally accepted accounting principles shall be deemed to be acceptable under this section.

- D. Confidentiality: If the information required to be submitted is proprietary in nature or must be kept confidential by federal, state or local law, upon proper request by a provider, such information shall be classified as a protected record within the meaning of the Utah Government Records Access and Management Act ("GRAMA"), making it available only to those who must have access to perform their duties on behalf of the Town; provided, that a provider notifies the Town of, and clearly labels the information which a provider deems to be confidential, proprietary information. Such notification and labeling shall be the sole responsibility of the provider.
- E. Provider's Expense: All reports and records required under this chapter shall be furnished at the sole expense of a provider, except as otherwise provided in this chapter or a franchise.
- F. Right Of Inspection: For the purpose of verifying the correct amount of the franchise fee, the books and records of the provider pertaining thereto shall be

open to inspection or audit by duly authorized representatives of the Town at all reasonable times, upon giving reasonable notice of the intention to inspect or audit the books and records, provided that the Town shall not audit the books and records of the provider more often than annually. The provider agrees to reimburse the Town the reasonable costs of an audit if the audit discloses that the provider has paid ninety five percent (95%) or less of the compensation due the Town for the period of such audit. In the event the accounting rendered to the Town by the provider herein is found to be incorrect, then payment shall be made on the corrected amount within thirty (30) calendar days of written notice, it being agreed that the Town may accept any amount offered by the provider, but the acceptance thereof by the Town shall not be deemed a settlement of such item if the amount is in dispute or is later found to be incorrect.

#### **8.10.090 RIGHTS OF TOWN**

##### **A. Enforcement and Remedies:**

1. Enforcement; Town Designee: The Town is responsible for enforcing and administering this chapter, and the Town or its designee, as appointed by the governing body, is authorized to give any notice required by law or under any franchise agreement.
2. Enforcement Provision: Any franchise granted pursuant to this chapter shall contain appropriate provisions for enforcement, compensation and protection of the public, consistent with the other provisions of this chapter, including, but not limited to, defining events of default, procedures for accessing the bond/security fund, and rights of termination or revocation.

B. Force Majeure: In the event a provider's performance of any of the terms, conditions or obligations required by this chapter or a franchise is prevented by a cause or event not within a provider's control, such inability to perform shall be deemed excused and no penalties or sanctions shall be imposed as a result thereof. For the purpose of this section, "causes or events not within the control of a provider" shall include, without limitation, acts of God, strikes, sabotage, riots or civil disturbances, failure or loss of utilities, explosions, acts of public enemies, and natural disasters such as floods, earthquakes, landslides, and fires.

##### **C. Extended Operation and Continuity of Services:**

1. Continuation after Expiration: Upon either expiration or revocation of a franchise granted pursuant to this chapter, the Town shall have discretion to permit a provider to continue to operate its system or provide services for an extended period of time not to exceed six (6) months from the date of such expiration or revocation. A provider shall continue to operate its system under the terms and conditions of this ordinance and the franchise granted pursuant to this chapter.

2. Continuation by Incumbent Local Exchange Carrier: If the provider is the incumbent local exchange carrier, it shall be permitted to continue to operate its system and provide services without regard to revocation or expiration, but shall be obligated to negotiate a renewal in good faith.

D. Removal or Abandonment of Franchise Property:

1. Abandoned System: In the event that: a) the use of any portion of the system is discontinued for a continuous period of twelve (12) months, and thirty (30) days after no response to written notice from the Town to the last known address of provider; b) any system has been installed in the rights of way without complying with the requirements of this chapter or franchise; or c) the provisions of HMC 8.10.030 are applicable and no franchise is granted, a provider, except the provider who is an incumbent local exchange carrier, shall be deemed to have abandoned such system.
2. Removal Of Abandoned System: The Town, upon such terms as it may impose, may give a provider written permission to abandon, without removing, any system, or portion thereof, directly constructed, operated or maintained under a franchise. Unless such permission is granted or unless otherwise provided in this ordinance, a provider shall remove within a reasonable time the abandoned system and shall restore, using prudent construction standards, any affected rights of way to their former state at the time such system was installed, so as not to impair their usefulness. In removing its plant, structures and equipment, a provider shall refill, at its own expense, any excavation necessarily made by it and shall leave all rights of way in as good condition as that prevailing prior to such removal without materially interfering with any electrical or telephone cable or other utility wires, poles or attachments. The Town shall have the right to inspect and approve the condition of the rights of way cables, wires, attachments and poles prior to and after removal. The liability, indemnity and insurance provisions of this chapter and any security fund provided in a franchise shall continue in full force and effect during the period of removal and until full compliance by a provider with the terms and conditions of this section.
3. Transfer of Abandoned System to Town: Upon abandonment of any system in place, a provider, if required by the Town, shall submit to the Town a written instrument, satisfactory in form to the Town, transferring to the Town the ownership of the abandoned system.
4. Removal of Aboveground System: At the expiration of the term for which a franchise is granted, or upon its revocation or earlier expiration, as provided for by this chapter, in any such case without renewal, extension or transfer, the Town shall have the right to require a provider to remove, at its expense, all aboveground portions of a system from the rights of way within a reasonable period of time, which shall not be less than one hundred eighty (180) days. If the provider is the incumbent local



exchange carrier, it shall not be required to remove its system, but shall negotiate a renewal in good faith.

5. Leaving Underground System: Notwithstanding anything to the contrary set forth in this chapter, a provider may abandon any underground system in place so long as it does not materially interfere with the use of the rights of way or with the use thereof by any public utility, cable operator or other person.

#### **8.10.100 OBLIGATION TO NOTIFY; PUBLICIZING WORK**

Before entering onto any private property, a provider shall make a good faith attempt to contact the property owners in advance, and describe the work to be performed.

#### **8.10.110 GENERAL ADMINISTRATIVE PROVISIONS**

- A. Severability: If any provision of this chapter is held by any federal, state or local court of competent jurisdiction, to be invalid as conflicting with any federal or state statute, or is ordered by a court to be modified in any way in order to conform to the requirements of any such law and all appellate remedies with regard to the validity of the ordinance provisions in question are exhausted, such provision shall be considered a separate, distinct and independent part of this chapter, and such holding shall not affect the validity and enforceability of all other provisions hereof. In the event that such law is subsequently repealed, rescinded, amended or otherwise changed, so that the provision which had been held invalid or modified is no longer in conflict with such law the provision in question shall return to full force and effect and shall again be binding on the Town and the provider; provided, that the Town shall give the provider thirty (30) days, or a longer period of time as may be reasonably required for a provider to comply with such a rejuvenated provision, written notice of the change before requiring compliance with such provision.
- B. New Developments: It shall be the policy of the Town to liberally amend this chapter, upon application of a provider, when necessary to enable the provider to take advantage of any developments in the field of telecommunications which will afford the provider an opportunity to more effectively, efficiently, or economically serve itself or the public.
- C. Notices: All notices from a provider to the Town required under this chapter or pursuant to a franchise granted pursuant to this chapter shall be directed to the officer as designated by the governing body. A provider shall provide in any application for a franchise the identity, address and phone number to receive notices from the Town. A provider shall immediately notify the Town of any change in its name, address, or telephone number.
- D. Exercise of Police Power: To the full extent permitted by applicable law either now or in the future, the Town reserves the right to adopt or issue such rules, regulations, orders, or other directives that it finds necessary or appropriate in the lawful exercise of its police powers.



### **8.10.120 FEDERAL, STATE AND TOWN JURISDICTION**

- A. Construction: This chapter shall be construed in a manner consistent with all applicable federal and state statutes.
- B. Applicability: This chapter shall apply to all franchises granted or renewed after the effective date hereof. This chapter shall further apply, to the extent permitted by applicable federal or state law, to all existing franchises granted prior to the effective date hereof and to a provider providing services, without a franchise, prior to the effective date hereof.
- C. Other Applicable Ordinances: A provider's rights are subject to the police powers of the Town to adopt and enforce ordinances necessary to the health, safety and welfare of the public. A provider shall comply with all applicable general laws and ordinances enacted by the Town pursuant to its police powers. In particular, all providers shall comply with the Town zoning and other land use requirements.
- D. Town Failure to Enforce: A provider shall not be relieved of its obligation to comply with any of the provisions of this chapter or any franchise granted pursuant to this chapter by reason of any failure of the Town to enforce prompt compliance.
- E. Construed According to State Law: This chapter and any franchise granted pursuant to this chapter shall be construed and enforced in accordance with the substantive laws of the State.

### **8.12 FLOOD DAMAGE PREVENTION**

#### **8.12.010 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS**

#### **8.12.020 DEFINITIONS**

#### **8.12.030 GENERAL PROVISIONS**

#### **8.12.040 ADMINISTRATION**

#### **8.12.050 PROVISIONS FOR FLOOD HAZARD REDUCTION**

#### **8.12.010 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS**

- A. Statutory Authorization: The Legislature of the State of Utah has delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, Hideout, Utah, does ordain as follows:
- B. Findings of Fact:
  - 1. The flood hazard areas of Hideout are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

2. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

C. Statement of Purpose: It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
6. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
7. Insure that potential buyers are notified that property is in a flood area.

D. Methods of Reducing Flood Losses:

1. In order to accomplish its purposes, this chapter uses the following methods:
2. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
3. Require that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;
4. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
5. Control filling, grading, dredging and other development, which may increase flood damage;
6. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

## **8.12.020 DEFINITIONS**

Unless specifically defined below, words or phrases used in this chapter shall be interpreted to give them the meaning they have in common usage and to give this chapter its most reasonable application.

**ALLUVIAL FAN FLOODING:** Flooding occurring on the surface of an alluvial fan or similar landform, which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

**APEX:** A point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

**AREA OF SHALLOW FLOODING:** A designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**AREA OF SPECIAL FLOOD HAZARD:** The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, A1-99, VO, V1-30, VE or V.

**BASE FLOOD:** The flood having a one percent chance of being equaled or exceeded in any given year.

**BASEMENT:** Any area of the building having its floor sub-grade (below ground level) on all sides.

**CRITICAL FEATURE:** An integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

**DEVELOPMENT:** Any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

**ELEVATED BUILDING:** A non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building

elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls if the breakaway walls met the standards of Section 60.3(e)(5) of the National Flood Insurance Program regulations.

**EXISTING CONSTRUCTION:** For the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION:** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FLOOD OR FLOODING:** A general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. the overflow of inland or tidal waters.
- B. the unusual and rapid accumulation or runoff of surface waters from any source.

**FLOOD INSURANCE RATE MAP (FIRM):** An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY:** The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the Flood Boundary-Floodway Map

**FLOODPLAIN OR FLOOD-PRONE AREA:** Any land area susceptible to being inundated by water from any source (see definition of flooding).

**FLOODPLAIN MANAGEMENT:** The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

**FLOODPLAIN MANAGEMENT REGULATIONS:** Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other

applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**FLOOD PROTECTION SYSTEM:** Those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

**FLOOD PROOFING:** Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**FLOODWAY (REGULATORY FLOODWAY):** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**FUNCTIONALLY DEPENDENT USE:** A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**HIGHEST ADJACENT GRADE:** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**HISTORIC STRUCTURE:** Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- D. Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
  - 1. by an approved state program as determined by the Secretary of the

- Interior or;
2. directly by the Secretary of the Interior in states without approved programs.

**LEVEE:** A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

**LEVEE SYSTEM:** A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

**LOWEST FLOOR:** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

**MANUFACTURED HOME:** A structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

**MANUFACTURED HOME PARK OR SUBDIVISION:** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**MEAN SEA LEVEL:** For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**NEW CONSTRUCTION:** For the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**NEW MANUFACTURED HOME PARK OR SUBDIVISION:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

**RECREATIONAL VEHICLE:** A vehicle which is:

- A. built on a single chassis;
- B. 400 square feet or less when measured at the largest horizontal projections;
- C. designed to be self-propelled or permanently towable by a light duty truck; and
- D. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**START OF CONSTRUCTION:** (For other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**STRUCTURE:** A walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

**SUBSTANTIAL DAMAGE:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT:** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official and which are the minimum necessary conditions or
- B. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."



**VARIANCE:** A grant of relief to a person from the requirement of this chapter when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this chapter. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

**VIOLATION:** The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(6)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

**WATER SURFACE ELEVATION:** The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

### **8.12.030 GENERAL PROVISIONS**

- A. **Lands to Which the Chapter Applies:** The chapter shall apply to all areas of special flood hazard within the jurisdiction of Hideout.
- B. **Basis for Establishing the Areas of Special Flood Hazard:** The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Wasatch County," with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM and FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this chapter. Hideout automatically adopts all effective FEMA Flood Insurance Rate maps and all effective FEMA Flood Insurance Studies.
- C. **Establishment of Development Permit:** A Development Permit shall be required to ensure conformance with the provisions of this chapter.
- D. **Compliance:** No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this chapter and other applicable regulations.
- E. **Abrogation and Greater Restrictions:** This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- F. **Interpretation:** In the interpretation and application of this chapter, all provisions shall be:
  - 1. considered as minimum requirements;
  - 2. liberally construed in favor of the governing body; and
  - 3. deemed neither to limit nor repeal any other powers granted under State

statutes .

- G. Warning and Disclaimer or Liability: The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

#### **8.12.040 ADMINISTRATION**

- A. Designation of the Floodplain Administrator: The Mayor's designee is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.
- B. Duties & Responsibilities of the Floodplain Administrator: Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:
1. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.
  2. Review permit application to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
  3. Review, approve or deny all applications for development permits required by adoption of this ordinance.
  4. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
  5. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
  6. Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the Utah National Flood Insurance Coordinator, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
  7. Assure that the flood carrying capacity within the altered or relocated

portion of any watercourse is maintained.

8. When base flood elevation data has not been provided in accordance with HMC 8.12.030 Paragraph B, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of HMC 8.12.050.

C. Permit Procedures: Application for a Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

1. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
2. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
3. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of HMC 8.12.050 Paragraph B,2;
4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
5. Maintain a record of all such information in accordance with HMC 8.12.040 Paragraph B,1.

Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:

1. The danger to life and property due to flooding or erosion damage;
2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
3. The danger that materials may be swept onto other lands to the injury of others;
4. The compatibility of the proposed use with existing and anticipated development;
5. The safety of access to the property in times of flood for ordinary and emergency vehicles;
6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and

public utilities and facilities such as sewer, gas, electrical and water systems;

7. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
8. The necessity to the facility of a waterfront location, where applicable;
9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
10. The relationship of the proposed use to the comprehensive plan for that area.

#### D. Variance Procedures:

1. The appeal Board as established by the community shall hear and render judgment on requests for variances from the requirements of this ordinance.
2. The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
3. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
4. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
5. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this ordinance.
6. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Paragraph C,2 have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
7. Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance (HMC 8.12.010 Paragraph C).
8. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

9. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure 's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
10. Prerequisites for granting variances:
  - a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - b. Variances shall only be issued upon:
    - (1) showing a good and sufficient cause;
    - (2) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
    - (3) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  - c. Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
11. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
  - a. the criteria outlined in Paragraphs D,I-9 are met, and
  - b. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

#### **8.12.050 PROVISIONS FOR FLOOD HAZARD REDUCTION**

- A. General Standards: In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:
  1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

B. Specific Standards: In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) HMC 8.12.030 Paragraph B, (ii) HMC 8.12.040 Paragraph B,8, or (iii) Paragraph C,3, the following provisions are required:

1. Residential Construction - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this Paragraph as proposed in HMC 8.12.040 Paragraph C,1,a, is satisfied.
2. Nonresidential Construction - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this Paragraph. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.

3. Manufactured Homes - Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

C. Standards for Subdivision Proposals:

1. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with HMC 8.12.010 Paragraphs B, C, and D.
2. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit requirements of HMC 8.12.030 Paragraph C; HMC 8.12.040 Paragraph C; and the provisions of this section.
3. Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to HMC 8.12.030 Paragraph B or HMC 8.12.040 Paragraph B,8.
4. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
5. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.



## **9 PUBLIC UTILITIES**

### **9.02 WATER**

#### **9.04 CONTROL OF BACKFLOW AND CROSS-CONNECTION**

#### **9.04 SEWERS**

### **9.02 WATER**

#### **9.02.010 WATER DEPARTMENT AND SYSTEM**

#### **9.02.020 SUPERINTENDENT**

#### **9.02.030 DUTIES OF THE SUPERINTENDENT**

#### **9.02.040 APPLICATION FOR WATER CONNECTION**

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#### **9.02.060 APPLICATION FOR WATER SERVICE**

#### **9.02.070 NON-OWNER APPLICANTS - AGREEMENT OF OWNER**

#### **9.02.080 RATES AND CONNECTION FEES**

#### **9.02.090 SPECIAL RATES**

#### **9.02.100 BOARD OF EQUALIZATION, RATES, AND REBATES**

#### **9.02.110 USE WITHOUT PAYMENT PROHIBITED**

#### **9.02.120 DELINQUENCY - DISCONTINUANCE OF SERVICE**

#### **9.02.130 TURNING ON WATER AFTER BEING TURNED OFF PROHIBITED**

#### **9.02.140 SEPARATE CONNECTIONS**

#### **9.02.150 UNAUTHORIZED USERS**

#### **9.02.160 PERIOD FOR VISITORS**

#### **9.02.170 PIPES TO BE KEPT IN GOOD REPAIR**

#### **9.02.180 QUALITY OF SERVICE PIPE**

#### **9.02.190 FAULTY EQUIPMENT**

#### **9.02.200 DEPARTMENT TO HAVE FREE ACCESS**

#### **9.02.210 NONLIABILITY FOR DAMAGES**

#### **9.02.220 WATER NOT SUPPLIED FOR MOTORS, SYPHONS, ETC**

#### **9.02.230 SPRINKLERS**

#### **9.02.240 SCARCITY OF WATER**

#### **9.02.250 WASTE OF WATER**

#### **9.02.260 WATER METERS**

#### **9.02.270 PERMITS FOR INSTALLATION**

#### **9.02.280 APPLICATIONS FOR INSTALLATION PERMIT**

#### **9.02.010 WATER DEPARTMENT AND SYSTEM**

The Water Department of the Town is hereby created. It shall administer the operation and maintenance of the water system of the Town.

#### **9.02.020 SUPERINTENDENT**

There is hereby created the position of superintendent of the water department.

#### **9.02.030 DUTIES OF THE SUPERINTENDENT**

The superintendent of the water system shall manage and supervise the Town water system pursuant to the provisions of this Section and pursuant to resolutions, rules and regulations adopted by the Town council from time to time prescribing his powers and duties and directing the manner and frequency with which he shall make reports to the mayor relating to the water system. All of the functions and activities of the superintendent shall be carried on under the direction of the mayor.

#### **9.02.040 APPLICATION FOR WATER CONNECTION**

Any person, other than a subdivider or developer seeking multiple connections, who desires or is required to secure a new connection to the Town water system, shall file with the water department for each such connection a written and signed connection application in substantially the form shown in [Appendix A](#).

#### **9.02.050 APPLICATION FOR WATER CONNECTION BY SUBDIVIDER**

Whenever a subdivider or developer desires or is required to install water connections and extensions for a subdivision or development, the subdivider or developer shall enter into a written extension agreement which shall constitute an application for permission to make the extensions and connections and an agreement specifying the terms and conditions under which the water extensions and connections shall be made and the payments that shall be required.

#### **9.02.060 APPLICATION FOR WATER SERVICE**

Any person who desires or is required to secure water service when such service is available from the Town water system, shall file with the water department a written application and agreement for the service which shall be in substantially the form shown in [Appendix A](#).

#### **9.02.070 NON-OWNER APPLICANTS - AGREEMENT OF OWNER**

Applications for water service made by the tenant of an owner must in addition to the above requirements be guaranteed by an agreement signed by the owner of the premises or his duly authorized agent in substantially the form shown in [Appendix A](#).

#### **9.02.080 RATES AND CONNECTION FEES**

The rates, penalty fee for delinquency in payment, connection fee, impact fee, inspection fee and other charges incidental to connection and services from the Town water system shall be fixed from time to time by resolution enacted by the Town council. The Town council may from time to time promulgate rules for levying, billing, guaranteeing and collecting charges for water services and all other rules necessary for the management and control of the water system. Rates for services furnished shall be uniform with respect to each class or classes of service established or that may hereafter be established.

#### **9.02.090 SPECIAL RATES**

The Town Council may from time to time fix by agreement or resolution special rates and conditions for users using exceptionally large amounts of water service or making use of the water system under exceptional circumstances, upon such terms and conditions as they may deem proper.

#### **9.02.100 BOARD OF EQUALIZATION, RATES, AND REBATES**

The Town Council is hereby constituted a board of equalization of water rates to hear complaints and make corrections of any assessments deemed to be illegal, unequal, or unjust. They may, if they see fit, rebate all or any part of the water bill of any indigent person.

#### **9.02.110 USE WITHOUT PAYMENT PROHIBITED**

It shall be unlawful for any person by himself, family, servants, or agents to utilize the Town water or sewer system without paying therefor, as herein provided or, without authority, to open any fire hydrant, stopcock, valve, or other fixtures attached to the system of water supply unless it is done pursuant to proper application, agreement, or resolution. It shall be unlawful to injure, deface, or impair any part or appurtenance of the water or sewer system, or to cast anything into any reservoir or tank belonging to the water system.

#### **9.02.120 DELINQUENCY - DISCONTINUANCE OF SERVICE**

- A. The clerk or water supervisor shall furnish to each user, or mail to, or leave at his place of residence or usual place of business, a written or printed statement stating thereon the amount of water service charges assessed against him once each month or at such other regular interval as the Town council shall direct.
- B. The statement shall specify the amount of the bill for the water service and the place of payment and date due. If any person fails to pay the water charges within 30 days of the date due, the clerk or water supervisor shall give the customer notice in writing of intent to discontinue the service to the customer unless the customer pays the bill in full within five days from the date of notice.
- C. If the water service is thereafter discontinued for failure to make payment, then before the water service to the premises shall again be provided, all delinquent water charges must have been paid to the treasurer or arrangements made for their payment in a manner satisfactory to the Town. In the event water is turned off for nonpayment of water charges, then before the water service to the premises shall again be provided, the customer shall pay, in addition to all delinquent water charges, such extra charge for turning the water on and off as the Town council may have established by resolution. Until such a resolution has been adopted, there shall be added an extra charge of \$150 for turning on the water. Furthermore, in addition to such payments and penalties, a delinquent customer may be required to make and file a new application and deposit if the previous deposit has theretofore been applied to the payment of delinquent bills. The clerk is hereby authorized and empowered to enforce the payment of all delinquent water charges by an action at law in the name of the Town.

#### **9.02.130 TURNING ON WATER AFTER BEING TURNED OFF PROHIBITED**

It shall be unlawful for any person, after the water has been turned off from the premises for nonpayment of water charges or other violation of the ordinances, rules, regulations, or resolutions pertaining to the water supply, to turn on or allow the water to be turned on or used without authority from the superintendent or clerk.

#### **9.02.140 SEPARATE CONNECTIONS**

It shall be unlawful for two or more families or service users to be supplied from the same service pipe, connection or water meter unless special permission for such combination usage has been granted by the Town Council and the premises served are owned by the same owner. In all such cases, a failure on the part of any one of the users to comply with this section shall warrant a withholding of a supply of water through the service connections until compliance or payment has been made, and in any event, the property owner shall be primarily liable to the Town for all water services utilized on all such premises. Nothing herein shall be deemed to preclude the power of the Town to require separate pipes, connections, or meters at a subsequent time.

#### **9.02.150 UNAUTHORIZED USERS**

It shall be unlawful for any water service user to permit any person from other premises or any unauthorized person to use or obtain water services regularly from his premises or water facilities, either outside or inside his premises.

#### **9.02.160 PERIOD FOR VISITORS**

Individuals visiting the premises of an authorized user in a recreational vehicle not including a mobile home and continuing to live therein during the period of visitation may receive water service from the service pipes or facilities of the host during the visitation period which shall not exceed ? month(s). Continued use thereafter shall be deemed unauthorized and a violation of the provisions of this Section relating to separate connections and unauthorized use.

#### **9.02.170 PIPES TO BE KEPT IN GOOD REPAIR**

All users of water services shall keep their service pipes and connections and other apparatus in good repair and protected from frost at their own expense. No person except under the direction of the water superintendent shall be allowed to dig into the street for the purpose of laying, removing or repairing any service pipe.

#### **9.02.180 QUALITY OF SERVICE PIPE**

- A. All service and other pipe used in conjunction with the water services of the Town shall be of such material, quality, and specifications as the Town Council may from time to time by resolution provide, and shall be installed at such distances below ground as may be specified by regulations relating to the water department. All work, alterations, or extensions affecting water pipes shall be

subject to the acceptance of the water superintendent, and no connections with any water mains shall be made without first obtaining a permit therefor from the clerk.

- B. No consumer shall be permitted to conduct water pipes across lots or buildings to adjoining premises without permission from the water superintendent and subject to such requirements relating to controls as may be imposed by him.

#### **9.02.190 FAULTY EQUIPMENT**

It shall be unlawful for any water user to:

- A. Waste water.
- B. Allow it to be wasted by stops, taps, valves, leaky joints or pipes, or to allow tanks or watering troughs to leak or overflow.
- C. Wastefully run water from hydrants, faucets, or stops or through basins, water closets, urinals, sinks or other apparatus.
- D. Use the water for purposes other than for those which he has applied, or to use water in violation of the rules and regulations for controlling the water supply.

#### **9.02.200 DEPARTMENT TO HAVE FREE ACCESS**

The Water Superintendent and his agents shall at all ordinary hours have free access to any place supplied with water services from the Town system for the purpose of examining the apparatus and ascertaining the amount of water service being used and the manner of its use.

#### **9.02.210 NONLIABILITY FOR DAMAGES**

The Town shall not be liable for any damage to a water service user by reason of stoppage or interruption of his or her water supply service caused by fires, scarcity of water, accidents to the water system or its mains, or which occurs as the result of maintenance and extension operations, or from any other unavoidable cause. This section shall not be construed to extend the liability of the Town beyond that provided in the Governmental Immunity Act.

#### **9.02.220 WATER NOT SUPPLIED FOR MOTORS, SYPHONS, ETC**

No water shall be supplied from the pipes of the Town water system for the purpose of driving motor, syphon, turbine or other wheels, or any hydraulic engines, or elevators, or for driving or propelling machinery of any kind whatsoever, nor shall any license be granted or issued for any such purpose except by special permission of the Town Council.

#### **9.02.230 SPRINKLERS**

- A. It shall be unlawful for any person to use such number of outlets simultaneously or to use such sprinkler or combinations of sprinkler or outlets as will in the opinion of the Town Council materially affect the pressure or supply of water in the Town water system or any part thereof, and the Town Council may from time to time, by resolution, specify combinations or numbers of outlets which may have such effect.
- B. The Town Council shall, after determining that such improper use exists, notify the affected water user or the owner of the premises whereon such use occurs of such determination in writing, order such use discontinued and advise that such continued usage constitutes a violation of this Section.

#### **9.02.240 SCARCITY OF WATER**

In time of scarcity of water, whenever it shall in the judgment of the mayor and the Town Council be necessary, the mayor shall by proclamation limit the use of water to such extent as may be necessary. It shall be unlawful for any person, his family, servants, or agents, to violate any proclamation made by the mayor in pursuance of this Section.

#### **9.02.250 WASTE OF WATER**

- A. Users of water from the Town water system shall not permit water to continue to run wastefully and without due efforts to conserve water. If, in the judgment of the Water Superintendent or of any of the officers of the Town, a user of Town water engages in practices which result in the needless waste of water and continues so to do after reasonable notice to discontinue wastefulness has been given, the superintendent or any officer may refer the matter to the Town Council.
- B. The Town Council may thereupon consider terminating the right of the individual to use culinary water. If it elects to consider the matter of termination, it shall give notice to the water user of the intention to terminate his water connection at least five days prior to the meeting of the Town Council at which termination of water service is to be considered. The notice shall inform him of the time and place of the meeting and of the charges which lead to the consideration of the termination.
- C. A water user whose right to utilize Town water is being reviewed shall have opportunity to appear with or without counsel and present his reasons why his water service should not be discontinued.
- D. After due hearing, the Town Council may arrive at a determination. If the determination is to discontinue the wasteful water user's service connection, it shall notify him of the decision and of the period during which the service will remain discontinued.

#### **9.02.260 WATER METERS**

- A. Except as otherwise expressly permitted by this Section, all structures, dwelling

units, establishments and persons using water from the Town water system must have such number of water meters connected to their water system as are necessary in the judgment of the superintendent to adequately measure use and determine water charges to the respective users.

- B. Meters will be furnished by the Town upon application for a connection, and upon payment of such connection fees and other costs as may be established by the Town council from time to time by resolution.
- C. Meters shall be deemed to be and remain the property of the Town. Whenever a dispute between Superintendent and the property owner arises as to the appropriate number of meters to be installed on any premises, the matter shall be heard and determined by the Town Council after due notice in writing to the parties involved.
- D. The Superintendent shall cause meter readings to be taken regularly and shall advise the clerk thereof for the purpose of recording the necessary billings for water service.
- E. Meters may be checked, inspected or adjusted at the discretion of the Town, and they shall not be adjusted or tampered with by the customer. Meter boxes shall not be opened for the purpose of turning on or off the water except by an authorized representative of the Town unless special permission is given by the Town through its representatives to the customer to do so.
- F. If a customer submits a written request to the Superintendent to test his water meter, the Town may, if under the circumstances it deems it advisable and in its discretion, order a test of the meter measuring the water delivered to such customer. If such request is made within twelve months after the date of the last previous test, the customer may be required to pay the cost of such test. If the meter is found in such test to record from 97% to 103% of accuracy under methods of testing satisfactory to the Town Council, the meter shall be deemed to accurately measure the use of water.
- G. If the Town's meters fail to register at any time, the water delivered during the period of failure shall be estimated on the basis of previous consumption during a period which is not questioned. In the event a meter is found to be recording less than 97% or more than 103% of accuracy, the Town shall make such adjustments in the customer's previous bills as are just and fair under the circumstances.
- H. All damages or injury to the lines, meters or other materials of the Town on or near the customer's premises caused by any act or neglect of the customer shall in the discretion of the Town be repaired by and at the expense of the customer, and the customer shall pay all costs and expenses, including a reasonable attorney fee, which may arise or accrue to the Town through its efforts to repair the damage to the lines, meters or to other equipment of the department or collect such costs from the customer.

#### **9.02.270 PERMITS FOR INSTALLATION**



It shall be unlawful for any person to lay, repair, alter or connect any water line to the Town culinary water system without first having received a construction permit from the Office of the Clerk or from the Water Superintendent.

### **9.02.280 APPLICATIONS FOR INSTALLATION PERMIT**

- A. Applications for permits to make water connections or other alteration or for laying or repairing lines connected directly or indirectly to the Town water system must be made in writing by a licensed plumber, his authorized agent, or by the owner of the premises who shall describe the nature or the work to be done for which the application is made. The application shall be granted if the Superintendent determines that:
1. The connection, repair, alteration or installation will cause no damage to the street in which the water main is laid, or that it will not be prejudicial to the interests of persons whose property has been or may thereafter be connected to the water main.
  2. The connection conforms to the ordinances, regulations, specifications and standards of materials required by the Town. All connections, alterations or installations shall be to the line and grade designated by the Water Superintendent.
- B. Fees for permits or for inspection services shall be of such amounts as the Town Council shall from time to time determine by resolution.

### **9.04 CONTROL OF BACKFLOW AND CROSS-CONNECTION**

#### **9.04.010 Purpose**

#### **9.04.020 Definitions - Control Of Backflow And Cross-Connection**

#### **9.04.030 Responsibilities**

#### **9.04.040 Requirements**

#### **9.04.010 Purpose**

- A. To protect the public drinking water supply of the Town from the possibility of contamination or pollution by requiring compliance with the Utah State Rules for Public Drinking Water Systems and the applicable Plumbing Code, which requires a cross-connection control protection of all public drinking water systems in the State of Utah. Compliance with these minimum safety codes will be considered reasonable diligence for the prevention of contaminants or pollutants which could backflow into the public drinking water system; and,
- B. To promote the reasonable elimination or control of cross-connections in the plumbing fixtures and industrial piping system(s) of the consumer, as required by the state and plumbing regulations to assure water system safety; and,
- C. To provide for the administration of a continuing program of backflow prevention which will systematically examine risk and effectively prevent the contamination or pollution of the drinking water system.

#### **9.04.020 Definitions - Control Of Backflow And Cross-Connection**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**APPROVED BACKFLOW ASSEMBLY:** An assembly accepted by the Utah State Department of Environmental Quality, Division of Drinking Water as meeting an applicable specification or as suitable for the proposed use.

**AUXILIARY WATER SUPPLY:** Any water supply on or available to the premises other than the Town's public water supply will be considered as an auxiliary water supply. These auxiliary waters may include water from another purveyor's public potable water supply or any natural source(s) such as a well, spring, river, stream, etc., or "used waters" or "industrial fluids". These waters may be contaminated or polluted or they may be objectionable and constitute an unacceptable water source over which the Town does not have authority for sanitary control.

**BACKFLOW:** The reversal of the normal flow of water caused by either back-pressure or backsiphonage.

**BACK-PRESSURE:** The flow of water or other liquids, mixtures or substances from a region of high pressure to a region of lower pressure into the water distribution pipes of a potable water supply system from any source(s) other than the intended source.

**BACK-SIPHONAGE:** The flow of water or other liquids, mixtures or substances under vacuum conditions into the distribution pipes of a potable water supply system from any source(s) other than the intended source, caused by the reduction of pressure in the potable water system.

**BACKFLOW PREVENTION ASSEMBLY:** An assembly or means designed to prevent backflow. Specifications for backflow prevention assemblies are contained within the Uniform Plumbing Code, Chapter 10, Section 1003 and in the Cross Connection Control Program for Utah maintained by the Division of Drinking Water.

**CONTAMINATION:** A degradation of the quality of the potable water supply by sewage, industrial fluids or waste liquids, compounds or other materials that may create a health hazard.

**CROSS CONNECTION:** Any physical connection or arrangement of piping or fixtures which may allow non-potable water or industrial fluids or other material of questionable quality to come in contact with potable water inside a water distribution system. This would include temporary conditions, such as swing connections, removable sections four-way plug valves, spools, dummy sections of pipe, swivel or change-over devices or sliding multi-port tubes or other plumbing arrangements.

**CROSS CONNECTION - CONTROLLED:** A connection between a potable water system and a non-potable water system with an approved backflow prevention

assembly properly installed and maintained so that it will continuously afford the protection commensurate with the degree of hazard.

**CROSS CONNECTION - CONTAINMENT:** The installation of an approved backflow assembly the water service connection to any consumer's premises where it is physically and economically infeasible to find, permanently eliminate or control all actual or potential cross connections within the customer's water distribution system; or, it shall mean the installation of an approved backflow prevention assembly on the service line leading to and supplying a portion of a customer's water system where there are actual or potential cross connections which cannot be effectively eliminated or controlled at the point of the cross connection (isolation).

**TOWN:** The Town's Chief Engineer is invested with the authority and responsibility for the implementation of an effective cross connection control program and for the enforcement of the provisions of this chapter.

#### **9.04.030 Responsibilities**

##### **A. The Town:**

1. The Town shall be responsible for the protection of the drinking water distribution system from the foreseeable conditions leading to the possible contamination or pollution of the drinking water system due to the backflow of contaminants or pollutants into the drinking water supply.
2. Drinking water system surveys/inspections of the consumer's water distribution system shall be conducted or caused to be conducted by individuals deemed qualified by and representing the Town. Survey records shall indicate compliance with the State of Utah Regulations. The Town will maintain all such records.
3. The Town shall schedule and notify in writing all consumers of the need for periodic system survey to insure compliance with existing applicable minimum health and safety standards.
4. Selection of an approved backflow prevention assembly for containment control required at the service entrance shall be determined from the results of the system survey.

##### **B. Consumer:**

1. To comply with this chapter as a term and condition of water supply and consumer's acceptance of service is admittance of his/her awareness of his/her responsibilities as a water system user.
2. It shall be the responsibility of the consumer to purchase, install, and arrange testing and maintenance of any backflow prevention device/assembly required to comply with this chapter. Failure to comply with this chapter shall constitute grounds for discontinuation of service.

C. Building Official:

1. The building official's responsibility to enforce the applicable sections of the plumbing code begins at the point of service (downstream of consumer side of the meter) and continues throughout the length of the consumer's water system.
2. The building official will review all plans to ensure that unprotected cross connections are not an integral part of the consumer's water system. If a cross connection cannot be eliminated it must be protected by the installation of an air gap or an approved backflow prevention device/assembly, in accordance with the applicable Plumbing Code.

D. Certified Backflow Technician, Surveyor or Repair Person:

1. When employed by the consumer to survey, test, repair or maintain backflow prevention assemblies the Certified Backflow Technician, Surveyor or Repair Person will have the following responsibilities:
  - a. Insuring that acceptable testing equipment and procedures are used for testing, repairing or overhauling backflow prevention assemblies.
  - b. Make reports of such testing and/or repairs to the consumer on form approved for such use by the Town within the time frames as described by the Division of Drinking Water.
  - c. Include the list of materials or replacement parts being used on the reports.
  - d. Insure that replacement parts are equal in quality to parts originally supplied by the manufacture of the assembly being repaired.
  - e. Not changing the design, material or operational characteristics of the assembly during testing, repair or maintenance.
  - f. Performing all tests of the mechanical devices/assemblies and shall be responsible for the competence and accuracy of all tests and reports.
  - g. Insuring his/her license is current, the testing equipment being used is acceptable to the State of Utah and is in proper operating condition.
  - h. Being equipped with, and competent to use, all necessary tools, gauges and other equipment necessary to properly test and maintain backflow prevention assemblies.
  - i. Tagging each double check valve, pressure vacuum breaker, reduced pressure backflow assembly and high hazard air gap, showing the serial number, date tested and by whom. The certified technician's license number must also be on the tag.

2. Responsibility: Repair of backflow assemblies. In the case of a consumer requiring an assembly to be tested, any currently Certified Backflow Technician is authorized to make the test and report the results to the consumer and the Town. If any commercially tested assembly is in need of repair, the Construction Trade License Act, Title 58, Chapter 55-3-(21) requires a licensed plumber to make actual repairs on any assembly within a building.

#### **9.04.040 Requirements**

##### **A. Policy:**

1. No water service connection to any premises shall be installed or maintained by the Town unless the water supply is protected as required by State laws, regulations or codes, including these regulations. Service of water to a consumer found to be in violation of these Rules and Regulations shall be discontinued by the Town after due process of written notification of violation and an appropriate time suspension for voluntary compliance, if:
  - a. A backflow prevention assembly required by this chapter for the control of backflow and cross connections is not installed , tested and maintained, or
  - b. If it is found that a backflow prevention assembly has been removed or by-passed, or
  - c. If an unprotected cross connection exists on the premises, or
  - d. If the periodic system survey has not been conducted. Service will not be restored until such conditions or defects are corrected.
2. The consumer's system(s) shall be open for inspection at all reasonable times to authorized representatives of the Town to determine whether cross connections or other structural or sanitary hazards, including violation of this chapter exist and to audit the results of the required survey (R309-102-5 of the Utah Administrative Code).
3. Whenever the Town deems a service connection's water usage contributes a sufficient hazard to the water supply, an approved backflow prevention assembly shall be installed on the service line of the identified consumer's water system, at or near the property line or immediately inside the building being served; but, in all cases, before the first branch line leading off the service line.
4. The type of protective assembly required under Subsection 3 above, shall depend upon the degree of hazard which exist at the point of cross connection (whether direct or indirect) applicable to local and state requirements or resulting from the required survey.

5. All presently installed backflow prevention assemblies which do not meet the requirements of this chapter but were approved assemblies for the purposes described herein at the time of installation and which have been properly maintained, shall, except for the inspection and maintenance requirements Paragraph A,6 below, be excluded from the requirements of these rules so long as the Town is assured that they will satisfactorily protect the public water system. Whenever the existing is moved from the present location or, requires more than minimum maintenance or, when the Town finds that the operation of this assembly constitutes a hazard to health, the unit shall be replaced by an approved backflow prevention assembly meeting all local and state requirements.
  6. It shall be the responsibility of the consumer at any premises where backflow prevention assemblies are installed to have certified surveys/inspections and operational test made at least once per year at the consumer's expense. In those instances where the Town deems the hazard to be great, he may be required to have certified surveys/inspections and tests at a more frequent interval it shall be the duty of the Town to see that these tests are made according to the standards set forth by the State Department of Environmental Quality, Division of Drinking Water.
  7. All backflow prevention assemblies shall be tested within ten (10) working days of initial installation.
  8. No backflow prevention assemblies shall be installed so as to create a safety hazard. Example: Installed over an electrical panel, stem pipes, boilers or above ceiling level.
- B. Violations of this Policy: If violations of this chapter exist or if there has not been any corrective action taken by the consumer within ten (10) days of the written notification of the deficiencies noted within the survey or test results, then the Town shall deny or immediately discontinue service to the premises by providing a physical break in the service line until the consumer has corrected the condition(s) in conformance with all State and local regulations and statutes relating to plumbing, safe drinking water suppliers and this chapter.

## **9.04 SEWERS**

### **9.04.010 ADMINISTRATION**

### **9.04.020 REGULATION AND CONTROL OF SEWER**

#### **9.04.010 ADMINISTRATION**

- A. Sewer Department and System: The Sewer Department is hereby created. It shall comprise all of the property, equipment and personnel necessary to the maintenance and operation of the Town's sewage collection and disposal system. The Department shall administer the operation and maintenance of the Town sewer system.

- B. Superintendent of the Sewer Department: There is hereby created the position of Superintendent of the sewer department.
- C. Duties of the Superintendent: The Superintendent of the sewer department shall manage and supervise the Town's sewer system under the direction of the Town Council which from time to time shall by resolution or otherwise prescribe his powers and duties and direct the manner and frequency with which he shall make reports to the Mayor relating to the sewer system.
- D. Application for Sewer Service: Any person who desires or is required to secure sewer service when such service is available from the Town sewer systems shall apply therefore to the clerk and file an agreement with the Town which shall be in substantially the form shown in [Appendix B](#).
- E. Nonowner Applicants - Agreement by Owner: Applications for sewer services made by the tenant or an owner must in addition to the above requirement be guaranteed by an agreement signed by the owner of the premises or his duly authorized agent in substantially the form shown in [Appendix B](#).
- F. Rates and Connection Fee: The rates, penalty fee for delinquency in payment and connection and impact fees for sewer services from the Town sewer system shall be fixed from time to time by resolution or ordinance of the Town council. The Town council may from time to time enact rules for levying, billing, guaranteeing and collecting charges for sewer services and all other rules necessary for the management and control of the sewer system.
- G. Special Rates: The Town Council may from time to time fix by agreement or resolution special rates and conditions upon such terms as they may deem proper for users of the sewer service discharging wastes of unusual characteristics or making use thereof under exceptional circumstances.
- H. Use of Sewer System Mandatory: It shall be unlawful for the owner or any other person occupying or having charge of any premises within the Town which are located within 300 feet of a sewer main to dispose of sewage therefrom by any means other than by use of the Town sewer system. It shall be unlawful to construct or to continue the use of any other sewage disposal system such as a privy, vault, cesspool, or septic tank on the property except by written approval of the Town Council in cases of undue hardship.
- I. Board of Equalization, Rates and Rebates: The Town Council is hereby constituted a board of equalization of sewer rates to hear complaints and make corrections of any assessments or charges deemed to be illegal, unequal, or unjust.
- J. Delinquency - Discontinuance of Service:
1. The Sewer Department, or such other person as the Town Council may designate, shall furnish to each user or mail or leave at his place or residence or usual place of business, a written or printed statement stating the sewer service charges assessed against him once each month or at such other regular intervals as the Town Council shall direct.



The statement shall specify the amount of the bill, the place of payment, and the date due.

2. If any person fails to pay his sewer charges within 30 days of the date due, the Clerk or the Sewer Superintendent shall give the customer notice in writing of the intent to discontinue the service of water to the premises unless the customer pays the bill in full within five days from date of notice.
  3. If the water service is thereafter discontinued for failure to make payment of the sewer service charges, before the water service to the premises shall again be provided, all delinquent sewer charges must have been paid to the Town Treasurer or arrangements made for their payment that are satisfactory to the Town.
  4. In the event water is turned off for nonpayment of sewer charges, before the water service to the premises shall again be provided, the customer shall pay, in addition to all delinquent charges, such extra charge for turning the water on and off as the Town Council may have established by resolution or ordinance.
  5. If any person fails to pay his sewer charges within 30 days of the due date, the Clerk or the Sewer Supervisor is hereby authorized to take all action necessary to enforce collection, including but not limited to the commencement of legal proceedings in a court of proper jurisdiction seeking judgment for the amount of the delinquent fees and service charges and all costs of collection, including court costs and attorney's fees.
- K. Qualified Plumbing Necessary: It shall be unlawful for any person to connect any drain or sewer pipe with the Town sewer system unless the person is a duly licensed plumber or unless, in the absence of a duly licensed plumber, any proposed connection to, alteration of, or change of connection to the sewer system shall be first submitted to the Sewer Superintendent for review and approval. After such approval, the installation or work done shall be subject to inspection by the superintendent or his agent.
- L. Permits for Installations: It shall be unlawful for any person to directly or indirectly engage in the laying, repairing, altering or connecting of any drain or sewer pipe connected with or part of the Town sewer system without first having received a permit from the office of the Clerk or the Sewer Superintendent.
- M. When Permits Shall Not Be Issued: Permits to connect to the Town sewer system shall not be issued unless the plumbing in the house or building to be connected is in accordance with the provisions of the building and plumbing codes of the Town.
- N. Revocation of Permits: All construction permits for sewer connections or installations shall be issued to the plumber who is to do the work or to the owner of the property, subject to the supervision and inspection by the Superintendent or his agents. The Clerk or Superintendent may at any time revoke a permit

because of defective work or because of undue delay in completing the permitted work.

- O. Pipes to be Kept in Good Repair: All users of the sewer services shall keep their service pipes, connections, and other apparatus in good repair and protected from frost at their own expense. No person, except under the direction of the Sewer Superintendent, shall be allowed to dig into the street for the purpose of removing or repairing any sewer service pipe or main.
- P. Quality of Service Pipe: All service and other pipes used in conjunction with the sewer services of the Town shall be of such material, quality and specifications as the Town council may from time to time by resolution provide and shall be installed at such distances below ground as may be specified by regulations relating to the sewer department. All work, alterations or extensions affecting sewer pipes shall be subject to the acceptance of the sewer superintendent, and no connections with sewer mains shall be made without first obtaining a permit therefor from the clerk.
- Q. Department to Have Free Access: The sewer superintendent and his agents shall at all ordinary hours have free access to places supplied with sewer services from the Town system for the purpose of examining the apparatus, ascertaining the sewer service being used and the manner of its use.
- R. Trail Sewer Survey: In order to determine the feasibility of connecting a basement or proposed basement to the sanitary sewer, the owner or plumber may make an application for a trial sewer survey, the cost of which shall be as established from time to time by resolution of the Town council. The result of a trial sewer survey shall not constitute a permit to connect to the sewer and is merely for information purposes.

#### **9.04.020 REGULATION AND CONTROL OF SEWER**

- A. Prohibited Uses and Regulations: The Town Council shall have power to and retains the right to adopt regulations controlling the manner and circumstances under which the sewer system may be used in addition to the regulatory provisions set forth expressly in this chapter. Violation of any duly adopted use regulations shall be a class B misdemeanor.
- B. Ownership of Connecting Lines: Unless provision is expressly made for ownership of mains or lines by owner of the adjacent property by means of a written agreement, all lines and mains connecting the sewer system to a land owner or resident's premises which are situated on the public way between the main and the property line shall be deemed to be the property of the municipality and subject to its absolute control and supervision even though actual installation may have been performed by the owner or resident of the premises. All lines or laterals from the property line to the business or residence shall be the property and responsibility of the land owner or resident.
- C. Man-Holes: It shall be unlawful for any person to open any sewer man-hole without permission from the Superintendent.

D. Destruction: It shall be unlawful for any person to destroy, deface, injure or interfere with the operation of any part or appurtenance of the sewer system.

## **10 BUILDINGS AND CONSTRUCTION**

### **10.02 BUILDING CODE**

#### **10.04 RULES AND REGULATIONS TO ALL BUILDING ACTIVITIES**

#### **10.06 IMPACT FEES (RESERVED)**

### **10.02 BUILDING CODE**

#### **10.02.010 INTERNATIONAL BUILDING CODE ADOPTED**

#### **10.02.020 INTERNATIONAL RESIDENTIAL CODE ADOPTED**

#### **10.02.030 NATIONAL ELECTRICAL CODE ADOPTED**

#### **10.02.040 INTERNATIONAL PLUMBING CODE ADOPTED**

#### **10.02.050 INTERNATIONAL MECHANICAL CODE ADOPTED**

#### **10.02.060 INTERNATIONAL FIRE CODE ADOPTED**

#### **10.02.070 INTERNATIONAL FUEL GAS CODE ADOPTED**

#### **10.02.080 UBC ABATEMENT OF DANGEROUS BUILDINGS CODE ADOPTED**

#### **10.02.090 INTERNATIONAL ENERGY CONSERVATION CODE ADOPTED**

#### **10.02.010 INTERNATIONAL BUILDING CODE ADOPTED**

The 2006 edition of the International Building Code, as published by the International Code Council, regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said building code, is hereby referred to and adopted as the building code for Town of Hideout, together with the additions, insertions and changes specifically set forth in this chapter.

#### **10.02.020 INTERNATIONAL RESIDENTIAL CODE ADOPTED**

The 2006 edition of the International Residential Code, as published by the International Code Council, regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three (3) stories in height with separate means of egress; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said residential code, is hereby referred to and adopted as the residential code for Town of Hideout, together with the additions, insertions and changes specifically set forth in this chapter.

#### **10.02.030 NATIONAL ELECTRICAL CODE ADOPTED**

The 2005 edition of the National Electrical Code, as developed by the national electrical code committee of the American National Standards Institute (ANSI), sponsored by the

National Fire Protection Association (NFPA), is hereby adopted as the electrical code for Town of Hideout.

#### **10.02.040 INTERNATIONAL PLUMBING CODE ADOPTED**

The 2006 edition of the International Plumbing Code, as published by the International Code Council, regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said plumbing code, is hereby referred to and adopted as the plumbing code for Town of Hideout, together with the additions, insertions and changes specifically set forth in this chapter.

#### **10.02.050 INTERNATIONAL MECHANICAL CODE ADOPTED**

The 2006 edition of the International Mechanical Code, as published by the International Code Council, regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said mechanical code, is hereby referred to and adopted as the mechanical code for Town of Hideout, together with the additions, insertions and changes specifically set forth in this chapter.

#### **10.02.060 INTERNATIONAL FIRE CODE ADOPTED**

The 2003 edition of the International Fire Code, as published by the International Code Council, regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the town and providing for the issuance of permits for hazardous uses or operations, and each and all of the regulations, provisions, penalties, conditions and terms of said fire code, is hereby referred to and adopted as the fire code for the Town, together with the additions, insertions and changes specifically set forth in this chapter.

#### **10.02.070 INTERNATIONAL FUEL GAS CODE ADOPTED**

The 2006 edition of the International Fuel Gas Code, as published by the International Code Council, regulating and governing fuel and gas systems and gas fired appliances; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said fuel gas code, is hereby referred to and adopted as the fuel gas code for Town of Hideout, together with the additions, insertions and changes specifically set forth in this chapter.

#### **10.02.080 UBC ABATEMENT OF DANGEROUS BUILDINGS CODE ADOPTED**

The 1997 edition of the UBC Abatement of Dangerous Buildings Code is hereby adopted as the abatement of dangerous buildings code for Town of Hideout.

#### **10.02.090 INTERNATIONAL ENERGY CONSERVATION CODE ADOPTED**

The 2006 edition of the International Energy Conservation Code is hereby adopted as the energy conservation code for Town of Hideout.

#### **10.04 RULES AND REGULATIONS TO ALL BUILDING ACTIVITIES**

##### **10.04.010 TOILET FACILITIES AND CONTAINERIZED TRASH SERVICE REQUIRED**

##### **10.04.020 LIMITS OF DISTURBANCE**

##### **10.04.030 PARKING**

##### **10.04.040 HOURS OF OPERATION**

##### **10.04.050 SIGNAGE**

##### **10.04.060 ROADS CUTS/EXTENDED DURATION LAND CLOSURE**

#### **10.04.010 TOILET FACILITIES AND CONTAINERIZED TRASH SERVICE REQUIRED**

- A. All construction sites shall be required to obtain and maintain on the site a container of suitable size and design to hold and confine trash, scraps and other construction related refuse created or accumulated on the site. All such construction refuse shall be maintained in a closed container at all times, until transferred to the landfill. It shall be unlawful to permit accumulated debris, litter or trash on a construction site to blow or scatter onto adjoining properties, including the public street or to accumulate on the site outside of the container or on transit to the landfill or dump. The owner or contractor shall service the container as frequently as needed to prevent trash from over-flowing. There are no landfills or dumping areas within the Town of Hideout, and it shall be unlawful to dump trash or construction debris within the Town limits.
- B. All construction sites shall have a portable toilet placed on the site prior to the start of work on the site.
- C. The dumpster and the portable toilet shall not be placed in any right of way on the work site.
- D. There shall be no dumping of material or stockpiling of soil on any platted lot without a Building Permit.

#### **10.04.020 LIMITS OF DISTURBANCE**

- A. It is the policy of the Town of Hideout to require construction activity on buildings to occur entirely within the Limits of Disturbance (LOD), including the storage of materials, equipment, supplies, temporary offices, tools and also accumulation and disposition of construction related refuse. The right of way of the lot is to be kept clear from any type of obstruction.

- B. The purpose of the Limits of Disturbance regulations is to preserve existing vegetation on building sites thereby minimizing the water demands of new landscaping while reducing the visual and ecological impact of development.
- C. Submitted plans for construction shall show where LOD fences will be installed and indicate the location of the right of way. The plans shall contain a Storm Management Plan which identifies drainage areas and planned Best Management Practices (BMPs) to control erosion and off-site migration of soils, such as silt fences, wattles, etc.
- D. Wattles, silt fences, etc. must be installed correctly in order to manage the drainage on the lot. Gutters shall have gravel bags {silt sacks, wattles) to protect storm drains and keep them clean. From October 31 to April 15, silt sacks shall be placed in storm drain boxes instead of the gutters to allow for snow plowing.
- E. Driveways shall be graveled to keep the mud on the lot instead of the street. It shall be the responsibility of the Contractor to clean any mud or dirt from the streets surrounding the work site daily.
- F. All new construction requires limits of disturbance boundaries to be established. However, the size, location and specific requirements regarding Limits of Disturbance can vary between subdivisions and should be carefully researched prior to submitting plans for review. The recorded subdivision plat and the applicable Home Owners Associates Guidelines (HOAG) shall govern the boundary of the LOD, except in those cases where disturbance beyond what is required for construction would be allowed, then the Town shall establish the LOD as the minimum that is required for construction and grading. Projects that have been approved through the Town's Planning Commission and Town Council shall be governed by those plans and any requirements that the approval was based on.
- G. Once the Limits of Disturbance are approved, it is the Contractors responsibility to Install the LOD boundary fencing. Standard plastic snow fencing with metal T post is generally acceptable. However, steel or other fencing may be required at the Town's discretion. Prior to issuance of any building permits, the LOD fencing must be in place, inspected and approved by the Building Division.

#### **10.04.030 PARKING**

- A. Parking for contractors and subs shall be all on the same side of the street. No vehicles or work trailers, etc. shall be allowed on the street overnight. All debris and trash along parking areas shall be the responsibility of the Contractor. At the sole discretion of the Town during winter storms, street parking may be prohibited or parked vehicles may be required to move for snowplow activities.
- B. Cranes, concrete pumps and similar equipment and material deliveries that cannot be placed within the approved area because of space or access limitations on the site, shall not block traffic lanes on the streets without first having given the Town office forty-eight (48) hours written notice of intent to block the street and having received written permission to block the street from



the Town office. The notice of intent shall indicate date and duration of the blockage, the location and a traffic control plan. The Contractor will have the responsibility of implementing and maintaining the traffic control plan. Lane closures under this section shall not be allowed during winter storms or for a duration longer than 10 hours or after dark. Any material that is stored on the road right of way is subject to this section and also for material that is left within the road right of way beyond ten (10) hours an excavation permit for an extended lane closure is required.

- C. It shall be the responsibility of the contractor to become familiar with the municipal code and ordinances concerning parking regulations.
- D. Track Hoes, skid steers, utility trailers, etc, shall be kept on the lot, not on the street. There is no parking on any other lot except the lot being built on.

#### **10.04.040 HOURS OF OPERATION**

- A. It shall be unlawful for any person to perform, or cause to be performed, any construction work on any work site between the hours of 9 p.m. and 7 a.m. the following day; or before 9 a.m. on Sundays. It shall also be unlawful to move construction equipment and/or construction trailers during those same hours.
- B. The Town office may authorize extended hours for construction operations or procedures which, by their nature, require continuous operations.

#### **10.04.050 SIGNAGE**

- A. Any signs erected on the lot shall be in accordance with HMC 12.22 outlining sign regulations.
- B. A permit board shall be erected on the lot upon which the building permit shall be posted. The permit shall include permit number, name of General Contractor with contact information and street address of property being built on. The Contractor shall keep the posted lot number sign in place until work is complete. The sign size shall be two feet by three feet (2'x3') and shall not exceed a letter type of four inches (4").

#### **10.04.060 ROADS CUTS/EXTENDED DURATION LAND CLOSURE**

- A. If a road cut, in a road that has been dedicated and accepted by the Town, is required the Contractor shall obtain a road cut permit from the Town.
  - 1. If an extended lane closure is required for reasons other than a road cut the Contractor shall follow the same procedures as required for a road cut permit except that the excavation bond shall not be required. The Town will consider requests for an extended lane closure on a case by case basis and reserves the right to deny any request that the Town deems to be not in the best interest of the Town.

## 10.06 IMPACT FEES (RESERVED)

## **11 SUBDIVISION REGULATIONS**

### **11.02 GENERAL PROVISIONS**

#### **11.04 DEFINITIONS - SUBDIVISION REGULATIONS**

#### **11.06 TYPES OF SUBDIVISIONS**

#### **11.08 SUBDIVISION APPLICATION AND REVIEW PROCESS**

### **11.02 GENERAL PROVISIONS**

#### **11.02.010 OVERVIEW**

#### **11.02.020 INTERPRETATION**

#### **11.02.030 COORDINATION WITH OTHER DOCUMENTS**

#### **11.02.040 ORDERLY DEVELOPMENT REQUIRED**

#### **11.02.050 COMPLIANCE REQUIRED**

#### **11.02.060 AMENDMENTS**

#### **11.02.070 PUBLIC NOTICE**

#### **11.02.080 PENALTIES FOR VIOLATION**

#### **11.02.090 APPEALS**

#### **11.02.010 OVERVIEW**

The activities related to the use, sale and development of land have been determined by federal and state law to be in the public interest for local government to oversee and regulate in order to bring about the safe and orderly creation (and maintenance) of communities. These activities may include subdividing land into lots for sale, building structures, constructing roads, constructing trails and/or installing utilities. In order to effectively regulate these activities, communities are empowered to establish review and permitting processes. This title contains the review and permitting processes related to land development activities in the Town. This title contains the review and permitting processes for conventional subdivision developments and phased subdivisions.

#### **11.02.020 INTERPRETATION**

- A. Greater Restrictions Prevail: In their interpretation and application, the provisions of this title shall be considered as minimum requirements. Where the provisions of this title impose greater restrictions than any statute, other regulations, ordinance or covenant, the provisions of this title shall prevail. Where the provisions of any statute, other regulation, ordinance or covenant impose greater restrictions than the provision of this title, the provisions of such statute, other regulation, ordinance or covenant shall prevail.
- B. Definitions: Whenever any word or phrase used in this title is not defined herein, but is defined in related sections of Utah Code Annotated or in this code, such definition is incorporated herein and shall apply as though set forth herein in full, unless the context clearly indicates a contrary intention. Unless a contrary intention clearly appears, words used in the

present tense include the future, the singular includes the plural, the term "shall" is always mandatory and the term "may" is permissive.

- C. Severability of Parts: The various sections, subparagraphs, sentences, phrases and clauses of this title are hereby declared to be severable. If any such part of this title is declared to be invalid by a court of competent jurisdiction or is amended or deleted by the Town Council, all remaining parts shall remain valid and in force.
- D. Rounding: Rounding to whole numbers may be used to determine distance or height, but not in determining maximum or minimum area or other quantitative standards or requirements. A decimal ending with five (5) or greater may be rounded up to the next whole number.
- E. Time Computation: Unless otherwise specified herein, a period of time specified in this title shall be calendar days beginning on the day after the act, event or decision to which the time period refers and ending at eleven fifty nine o'clock (11:59) P.M. the last day of the time period.

#### **11.02.030 COORDINATION WITH OTHER DOCUMENTS**

This title, together with the Town general plan ("general plan"), the Town zoning ordinance ("zoning ordinance"), the Town design guidelines ("design guidelines"), and the Town standard specifications for design and construction ("standard specifications") shall guide the use of all land within the municipal boundaries of the Town.

#### **11.02.040 ORDERLY DEVELOPMENT REQUIRED**

All subdivisions, site plans, condominiums and other developments shall be developed in an orderly manner and in such a way that the required improvements will be continuous and available as necessary during construction activities within the project, and that all of the improvements will be made available for the full, effective and practical use and enjoyment thereof by the purchaser, grantee, assignee, transferee or lessee of any of the lands developed within the time herein provided or in phases specified. Developments shall be planned and developed to accommodate the continuation of roads, utilities, drainage and other infrastructure to adjoining properties. Over sizing of lines or infrastructure in the development may be necessary to accommodate future development outside of the project.

#### **11.02.050 COMPLIANCE REQUIRED**

- A. No tract of land shall be divided, subdivided, reconfigured, developed or redeveloped except in conformance with provisions of this title, the zoning ordinance and all other applicable ordinances and regulations.
- B. No plat, condominium, subdivision amendment or reconfiguring of property shall be recorded except in accordance with the provisions of this title and the zoning ordinance.
- C. All licenses, permits, agreements and plans issued or approved by the Town

shall comply with all requirements and standards of Town ordinances.

- D. All subdivisions, condominiums, site plans, construction and infrastructure shall be designed and constructed in conformance with Town ordinances, engineering regulations and requirements.
- E. All uses shall be conducted in conformance with Town ordinances, approved plans and requirements.
- F. Land which is to be subdivided shall not be transferred, sold or offered for sale prior to recording the subject plat or until all requirements of this title for subdivisions, condominiums or other development have been met.
- G. No building permit may be issued for any structure or development on any land that has been divided, subdivided, reconfigured, developed or redeveloped in a manner not in conformance with the provisions of this title, the zoning ordinance, and all other applicable ordinances and regulations.

#### **11.02.060 AMENDMENTS**

- A. The Town Council may, from time to time and in a manner consistent with the general plan, amend any provision of this title. Amendments shall be approved in accordance with all public notice and public hearing requirements imposed by state law or local ordinance.
- B. Any amendment or revision to this title shall supersede any prior provisions or ordinances. Provisions of this title not affected by the amendment or revision shall continue to be valid and shall not be considered a new enactment when amendments or revisions are adopted. Any prior provisions of Town ordinances, which do not conform to provisions of this title, are declared void. Any uses, structures or buildings which were conforming to previous provisions of this title but do not now conform shall be nonconforming uses, structures or buildings.

#### **11.02.070 PUBLIC NOTICE**

- A. Any required public hearing shall be scheduled and held by the applicable land use authority according to the applicable provisions of this title, the zoning ordinance or state law. Notice of required public hearings shall be provided by the Town at least ten (10) days before the date of the public hearing by publishing notice of the hearing in a newspaper of general circulation in the Town or by giving actual notice of the hearing.
- B. If notice given under the authority of this section is not challenged in accordance with applicable appeal procedures thirty (30) days from the date of the hearing for which the notice was given, the notice is considered adequate and proper. The notice provided in this section may be referred to in this title as "required notice". The cost of required notices shall be paid by the applicant

#### **11.02.080 PENALTIES FOR VIOLATION**

In addition to denial, suspension or refusal to act on a developer or landowner's request, any person who shall violate the provisions of this title shall be guilty of a class B misdemeanor unless otherwise established by law. Each day of violation shall be considered a separate violation and subject to the penalties of this section or any other law, ordinance or other provision.

### **11.02.090 APPEALS**

The requirements and procedures for appealing decisions of the Town land use authorities in administering or interpreting the Town land use ordinances, including this title, are set forth in HMC 12.10.040, and are hereby incorporated herein by this reference.

### **11.04 DEFINITIONS - SUBDIVISION REGULATIONS**

#### **11.04.010 GENERAL**

#### **11.04.020 DEFINITIONS - SUBDIVISION REGULATIONS**

#### **11.04.010 GENERAL**

Unless the context requires otherwise, the following definitions shall be used in the interpretation and construction of this title. Words used in the present tense include the future; the singular includes the plural; the word "shall" is mandatory and not directory; the word "may" is permissive. Words used in this title, but not defined herein, shall have the meaning first as defined in any other ordinance adopted by the town and then its common, ordinary meaning.

#### **11.04.020 DEFINITIONS - SUBDIVISION REGULATIONS**

The definitions set forth in Utah Code § 10-9a-103, as amended, and the zoning ordinance, are hereby incorporated as additional definitions pertaining to this title.

**APPLICANT:** The owner of land proposed to be subdivided or such owner's duly authorized agent. Any agent must have written authorization from the owner.

**TOWN COUNCIL:** The elected Town officials consisting of council members and mayor. Three (3) voting members of the Town council constitute a quorum.

**TOWN ENGINEER:** The Town engineer of the Town or his authorized representative.

**COMMISSION:** The Town of Hideout planning commission.

**COMMISSION'S AUTHORIZED REPRESENTATIVE:** The planning commission chairperson or other Town employee or official who has been designated by the commission to represent the Town in enforcing or carrying out the functions of the commission as set forth in this title.

**DESIGN GUIDELINES:** The document adopted by the Town council to direct and guide the aesthetics of development in Town of Hideout.

DEVELOPER: Either:

- A. an applicant for subdivision approval;
- B. an applicant for a building permit or other permit; or
- C. the owner of any right, title or interest in real property for which subdivision approvals are sought.

DEVELOPMENT AGREEMENT: The agreement between the Town and the owner/developer that outlines the duties, responsibilities, obligations, commitments and promises of the Town and the owner/developer.

DUST CONTROL PLAN: A narrative plan that may include map exhibits prepared by the developer that establishes management practices to be employed and temporary facilities to be installed by developer to control fugitive dust that is released into the air or onto public streets during the construction within the subdivision.

EASEMENT: Authorization by a property owner for the use by another, and for a specified purpose, such as utilities and irrigation ditches, of any designated part of the owner's property. An easement may be for use under, on the surface, or above the owner's property.

ELECTRONIC FORMAT: Drawings, maps, calculations, documents or other data required by the Town to be provided on a disk readable by a compatible computer. Types of electronic files including versions will be as requested by town staff.

FEE SCHEDULE: The schedule or any appendix of fees adopted periodically by resolution of the Town Council setting forth various fees charged by the Town.

FINAL PLAT: A map of a subdivision, required of all subdivisions, which is prepared for final approval and recordation, which has been accurately surveyed, so that streets, lots and other divisions thereof can be identified.

GENERAL PLAN: The Town of Hideout general plan, as adopted, that sets forth general guidelines for proposed future development of the land within the Town.

MODEL HOME: A residential structure that meets all residential occupancy requirements, used for sales purposes only. A subdivision may have up to a maximum of five (5) model homes in any subdivision, provided each has a substantially different floor plan.

OWNER: Any person who alone, jointly or severally with others, has a legal or equitable title to property.

PLANNING COMMISSION: The planning commission of the Town of Hideout, Utah.

PUBLIC IMPROVEMENT: Any street dedications, installations of curb, gutter, sidewalk, road base and asphalt, water, sewer and storm drainage facilities, or other utility or



service required to provide services to a lot, parcel, building or structure.

**SECURITY AGREEMENT:** Agreement to install improvements secured by cash bond, cash escrow, an irrevocable letter of credit, or any combination of the preceding as approved by the Town Council.

**TOPOGRAPHIC (TOPO) MAP:** A graphic representation of natural and manmade features of a place or region in such a way as to show their relative positions and elevations.

**VICINITY MAP:** A map showing project location relative to the Town of Hideout boundaries, major roads and minor roads that serve the property.

**ZONING ORDINANCE:** The Town of Hideout zoning ordinance, as adopted.

## **11.06 TYPES OF SUBDIVISIONS**

### **11.06.010 APPLICATION PROCESS GENERALLY**

#### **11.06.020 CONCEPT PLAN**

#### **11.06.030 PRELIMINARY PLAN**

#### **11.06.040 FINAL PLAT**

#### **11.06.050 DEVELOPMENT AGREEMENT**

### **11.06.010 APPLICATION PROCESS GENERALLY**

- A. Purpose: Land use applications, and application review procedures, are provided to achieve the purposes of the general plan and all land use ordinances, including this title.
- B. Applicability: A land use application or building permit application, as applicable, shall be required for the establishment of all uses, expansion of uses, and construction or modifications for all buildings and structures located within the town, unless exempt, as provided by the land use ordinances or building code, as adopted. All use and building permit applications shall be presented to the town on the applicable application forms, provided by the town. The type of application presented is at the sole discretion of the applicant.
- C. Application Forms and Procedures: The mayor or his/her designee manager shall provide application forms and may identify submittal requirements and processing procedures for the acceptance and filing of all applications required by the land use ordinances and building codes, as adopted.
- D. Permits Required: The requirements of all land use ordinances and building codes, as applicable, shall apply to all uses, buildings or structures located, or proposed, within the town. No use, building or structure shall be commenced or occupied unless and until all necessary approvals, permits and licenses have been issued in accordance with all requirements of the land use ordinances and building codes, as applicable.
- E. Development Application; Initiation: The procedures for any required approval, permit or license shall be initiated by submitting the appropriate land use

application to the zoning administrator.

- F. **Determination of Application Completeness:** Before a land use application is accepted, the zoning administrator, or his designee, shall determine if the application is complete on its face, i.e., all items listed on the application checklist have been submitted with the application. Only if the application is complete will the application be accepted for review. If the zoning administrator determines that the application is incomplete, the zoning administrator shall identify the application deficiencies and advise the applicant that no action will be taken by the land use authority, as applicable, until all application deficiencies have been corrected.
- G. **Withdrawal of Application:** An applicant may withdraw a land use application at any time prior to a land use authority decision on the application. Application fees shall not be refundable if prior to withdrawal:
  - 1. A review of the application by the zoning administrator or technical review committee has commenced; or
  - 2. Required notice of a public hearing or public meeting to consider the application with the land use authority has been provided.
- H. **Reapplication Following Application Denial:** If a land use application is denied for failure to meet the requirements of the land use ordinances and building codes, a land use application for all or any part of the same property shall not be considered by a land use authority for a period of at least one year from the date of denial, unless the subsequent land use application is substantially different from the previously denied application, the prior denial was based upon a mistake of fact, or on a motion duly passed by the town council to act immediately and identifying a valid public purpose.
- I. **Inspections:** In order to review information relevant to an application, a land use authority, the zoning administrator and/or other town staff may enter upon any land at reasonable times to make examinations and surveys related to the application.
- J. **Fees:** The town council shall establish, by resolution, a fee schedule for the processing and review of all land use applications required by all land use ordinances, and designed to recover the actual or anticipated costs for the processing of the land use application. The fee schedule may be included in the town consolidated fee schedule, which schedule may be amended from time to time by resolution of the town council. The fee schedule for the processing and review of all land use applications may include a processing fee and an application fee. Fees shall not be required for land use applications initiated by a land use authority.

#### **11.06.020 CONCEPT PLAN**

- A. **Action Not Binding:** Meetings with staff do not constitute acceptance of the project and only provide a forum to discuss issues that will assist the developers

in preparing a preliminary plan application. Compliance with comments by individual staff members does not grant any vested rights and will not guarantee or imply approval of the preliminary plan or final plat for the subdivision.

#### **11.06.030 PRELIMINARY PLAN**

- A. Review Process: Staff Review And Report: The preliminary plan will be reviewed by the zoning administrator and town engineer for general compliance with this title, the standard specifications, the design guidelines and all applicable ordinances. If the application is not complete or not in general compliance, the zoning administrator shall notify the applicant in writing and specify the deficiencies in the application. When the application is complete and in general compliance, the zoning administrator shall forward the completed application to other town staff and departments, and affected government entities and public utilities to obtain comment regarding the application. Town staff will review the preliminary plan, make site visits, discuss engineering issues, and check compliance with the general plan, master plans and municipal ordinances to determine the adequacy of public facilities. The zoning administrator and town engineer shall prepare a staff report, which shall include all review comments by other staff members and all other agencies required to review the application and submittals. The zoning administrator shall forward the completed application and the staff report to the planning commission.

#### **11.06.040 FINAL PLAT**

- A. Review Process:

1. Town Attorney Review: The town attorney shall review the final plat and the current title report. The legal description in the title report shall be compared with any legal description in the restrictive covenants, articles, consents and other legal documents. All persons shown on the title report as owners or lien holders must sign and have acknowledged by a notary on the plat unless prior approval is given by the town attorney. All lien holder consents must not only show consent to recording of the plat and any restrictive covenants, but must also indicate the lien holder's approval of and joiners in the dedication of any public streets or rights of way. The applicant shall also submit the improvement guarantee and any other documents and information required by the town attorney. Once the town attorney has reviewed and is satisfied that the final plat is in compliance with all requirements of this title, he shall sign the final plat.

- B. Final Plat Expiration: If the final plat is not recorded within one year from the date of approval, the approval shall expire and the final plat shall be null and void. The town council may grant a one time extension to the recording of the final plat not exceeding six (6) months; provided, that the developer submits the request for extension prior to expiration of the final plat and satisfies any new town requirements pertaining to the public health, safety and welfare.

C. Amending Recorded Plat:

1. Any landowner whose land has been platted as provided in this title may, upon application to the town, have such plat or portion thereof, or any street or alley therein contained, altered or amended.
2. The procedure for amending or altering a subdivision plat is the same as for approval of a new subdivision.

D. Vacating Recorded Plat: The procedure for vacation of a plat shall be governed by provisions of Utah Code §§ 10-9a-608 and 10-9a-609.

**11.06.050 DEVELOPMENT AGREEMENT**

A. Purpose: The developer/property owner and the town may enter into a development agreement that outlines the duties, responsibilities, obligations, commitments and promises of the developer/property owner and the commitments of the town.

B. General Requirements:

1. The development agreement shall be prepared by the town attorney and shall incorporate all agreements between the parties.
2. The development agreement must be approved prior to final plat recording.
3. If the developer is including parks, open space, clubhouses and/or trail improvements within a development, the development agreement shall include proposed phasing and terms of completion of these improvements.
4. Any special agreements, conveyances, restrictions or covenants which govern the use, maintenance and continued protection of common areas shall be included in the development agreement.
5. The development agreement may provide limitations on the number of building permits issued and/or phases of the project to be approved subject to the completion of the improvements.
6. The development agreement for phased subdivisions shall incorporate the phased subdivision master plan.
7. The development agreement shall include any provisions for security for completion of the subdivision improvements and/or schedule of utility construction and restoration bond requirements.
8. If the development is a phased subdivision, the development agreement shall specify all conditions and requirements that must be met in order to protect and maintain a vested approval for all subsequent phases. For example, the town may impose as a condition precedent to final approval

of subsequent phases, the availability and access to water and sewer services and source sufficient to accommodate the subsequent phases.

- C. Approval: The development agreement shall be approved by the town council and signed by the mayor.
- D. Recording: The development agreement shall be recorded by the town at the Wasatch County recorder's office. Recordation by the town shall only take place after all of the necessary signatures are obtained, all approvals given, and all bonds and fees posted. The development agreement must be recorded prior to the recording of the final plat.

## **11.08 SUBDIVISION APPLICATION AND REVIEW PROCESS**

### **10.08.010 MUST PROVE RIGHT TO ACCESS**

#### **10.08.020 INSPECTIONS**

#### **10.08.010 MUST PROVE RIGHT TO ACCESS**

Applications for new developments must show proof that they have secured legal access to their property when their property does not abut to a public road in order to be considered for approval.

#### **10.08.020 INSPECTIONS**

- A. Frequency: Construction work involving the installation of public improvements in subdivisions and other developments shall be subject to the inspection of the public works director and town engineer or his/her designee.
- B. Requests For Inspection: Requests for inspections shall be made to the town engineer by the person responsible for the construction. Requests for inspection on work shall be made one working day prior to the commencement of the work. Inspections shall be made by the town engineer after various phases of the construction work are completed. Any faulty or defective work shall be corrected by the developer or the developer's contractor within a period of thirty (30) days from the date of the town engineer's written notification to the developer that correction of the faulty or defective work is required.

## **12 ZONING REGULATIONS**

### **12.02 GENERAL PROVISIONS**

#### **12.04 DEFINITIONS - ZONING REGULATIONS**

#### **12.06 ADMINISTRATION AND ENFORCEMENT**

#### **12.08 AMENDMENTS**

#### **12.10 BOARD OF ADJUSTMENT**

#### **12.12 DEVELOPMENT STANDARDS, APPLICABILITY, AND REGULATIONS**

#### **12.14 MOUNTAIN ZONE**

#### **12.16 PLANNED PERFORMANCE DEVELOPMENT**

#### **12.18 RESORT SPECIALLY PLANNED AREA (RSPA)**

#### **12.20 GENERAL PLAN ADMINISTRATION**

#### **12.18 CONDITIONAL USES**

#### **12.20 NONCONFORMING USE OF BUILDINGS, STRUCTURES, AND LAND**

#### **12.22 SIGN REGULATIONS**

#### **12.24 SENSITIVE LANDS (RESERVED)**

## **12.02 GENERAL PROVISIONS**

### **12.02.010 SHORT TITLE**

### **12.02.020 INTENT**

### **12.02.030 PURPOSE - GENERAL PROVISIONS**

### **12.02.040 CODE NUMBERING**

### **12.02.050 AUTHORITY PROVISIONS**

### **12.02.060 LICENSE TO CONFORM**

### **12.02.070 BUILDING PERMITS REQUIRED**

### **12.02.080 BUILDING PERMITS - PLOT PLAN REQUIRED**

### **12.02.090 PERMITS TO COMPLY WITH LAND USE REGULATIONS**

### **12.02.100 CERTIFICATE OF OCCUPANCY AND ZONING COMPLIANCE**

### **12.02.110 NUISANCE**

### **12.02.120 CONSTRUCTION AND USE TO CONFORM TO PLANS**

### **12.02.130 EXPIRATION OF APPROVALS**

### **12.02.140 EFFECT OF COVENANTS AND RESTRICTIONS**

### **12.02.150 EFFECT OF PRIOR ORDINANCES**

### **12.02.160 FRACTIONAL NUMBERS**

### **12.02.170 PAYMENT OF FEES**

### **12.02.180 EFFECT ON GOVERNMENTAL ENTITIES**

### **12.02.190 CLASSIFICATION OF ANNEXED TERRITORY**

### **12.02.200 ESTABLISHMENT OF ZONES**

### **12.02.210 CODIFICATION, INCLUSION IN CODE, AND SCHRIVENER'S ERRORS**

### **12.02.220 ADMINISTRATIVE DETERMINATION FOR USES NOT LISTED**

### **12.02.230 ADMINISTRATIVE REVIEWS, CERTIFICATES AND PERMITS**

## **12.04 DEFINITIONS - ZONING REGULATIONS**

### **12.04.010 PURPOSE**

### **12.04.020 DEFINITIONS - ZONING REGULATIONS**

### **12.02.010 SHORT TITLE**

This Title shall be known as the Hideout Land Use and Development Code, and may be so cited and pleaded. Whenever a reference is made to this code as the Hideout Land Use and Development Code, or to any portion thereof, or to any ordinance of the Town of Hideout, Utah, codified herein the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made.

### **12.02.020 INTENT**

It is hereby declared to be the intent of the Hideout Legislative Body that this Title and the regulations set forth herein shall be so construed as to further the purpose of this Title and promote the objectives and characteristics of the respective zones.

### **12.04.010 PURPOSE**

For the purposes of this Title, the following terms and words and their derivations shall have the meaning as given herein. When inconsistent with the context, words used in the present tense include the future, words in the singular number include the plural, and the plural the singular. Shall is always mandatory. Words not included herein, but which are defined in the building code shall be construed as defined therein. Words which are not included herein or in the building code shall be given their usual meaning as found in an English dictionary, unless the context of the words clearly indicates a different meaning. Definitions of words applicable particularly to certain chapters may be included in those chapters. All terms used in this Title which are not specifically defined herein are to be given their usual and standard definition. Disputes as to the definition of a term not specifically defined herein shall be referred to the Board of Adjustment for resolution.

### **12.04.020 DEFINITIONS - ZONING REGULATIONS**

The following words shall have the described meaning when used in this ordinance, unless a contrary meaning is apparent from the context of the word:

**ACCESSORY BUILDING:** A building or structure, the use of which is incidental and subordinate to the main building and more than ten feet away from any main building or structure.

**ACCESSORY, RESIDENTIAL DWELLING FOR NON-RESIDENTIAL USES:** A dwelling unit accessory to a non-residential use located on the same premises, to be used solely for persons employed on the premises.

**ACCESSORY, RESIDENTIAL UNIT:** A secondary dwelling unit attached to the existing single family dwelling with accessibility between the unit and main dwelling solely for the housing of a blood relative, which shall not be a rented unit.

**ACCESSORY USE:** A use that: is customarily incidental to and found in connection with a principal or main use;

A. is subordinate to and serves a principal or main use;



- B. is subordinate in extent, area, or purpose to the principal or main use;
- C. is located on the same lot as the principal or main use; and
- D. contributes to the comfort, convenience, or necessity of occupants, business, or industry of the principal or main use.

**AGRICULTURE:** The act or science of cultivating the ground, the act or science of the production of plants and animals useful to man or beast; and includes gardening or horticultural fruit growing, storage and marketing.

**ALTERATION:** Any change or rearrangement in the supporting members of an existing structure, such as bearing walls, columns, beams, girders, or interior partitions, or any change in the dimensions or configurations of the roof or exterior walls, as well as any change in doors, windows, means of ingress or egress, or any expansion or diminution of a building or structure.

**ALTERED:** Any change in the construction or addition to a building that increases the capacity or changes the use.

**ATHLETIC, TENNIS, OR RACQUET CLUB:** An establishment providing facilities for physical development, exercise, sports, or recreation. Facilities may include exercise equipment, indoor and/or outdoor racquetball or tennis courts, jogging track, swimming pools, skating rink, indoor bathing, restaurant or snack bar, and sales of athletic equipment. Facilities may be open to the public for a fee, or available only to persons holding membership.

**AUTO REPAIR:** A building or premises used for the repair of any passenger auto, pick-up truck, semi-tractor, recreational vehicle or similar vehicles where the repair includes but is not limited to the rebuilding of engines, transmissions or differentials.

**AUTO WRECKING, SALVAGE YARD:** See also junkyard. Any lot, portion of lot or tract of land used for the storage and keeping of salvage, including scrap metals or other scrap material, or for dismantling or demolition of automobiles or equipment, machinery or parts thereof; provided that this definition shall not be deemed to include such uses which are clearly accessory and incidental to any agricultural use permitted in the district.

**AVERAGE SLOPE:** The average slope of a parcel of land or any portion thereof shall be computed by applying the formula:

$$S = 0.00229 \text{ IL}$$

to the natural slope of the land before any grading is commenced, as determined from a topography map having a scale of not less than one inch equaling one hundred (100) feet and a contour interval of not less than five (5) feet, where:

S = Average percent slope  
0.00229 = A conversion factor of sq. feet to acres  
I = Contour interval, in feet  
L = Summation of the length of contour lines, in feet within the subject parcel  
A = Area in acres of the parcel or any portion thereof.

**BARN/AGRICULTURAL BUILDING:** An accessory structure upon a lot customarily used for the housing of animals/livestock, storage of crops or feed, and/or machinery used in bona fide agricultural activities.

**BATCHING APARTMENT:** A dwelling unit occupied by three (3) or more batching singles who are jointly utilizing the kitchen facilities of the dwelling unit.

**BATCHING SINGLES:** Three (3) or more unrelated persons who are occupying a dwelling unit.

**BED AND BREAKFAST:** A single-family residence Occupied by an owner-operator, with no more than eight (8) bedrooms located in the main residence, providing temporary accommodations (for compensation) on a nightly basis, not to exceed thirty days.

**BIG BOX RETAIL:** Any single retail store with a gross main floor area of over forty thousand (40,000) square feet.

**BLOCK:** An area of land entirely bounded by streets.

**BOND:** A document that complies with the standards contained in this Title and the state code, and which binds the parties thereto to take certain action if particular conditions are not met.

**BUILDABLE ENVELOPE:** A three dimensional space on a lot within which a structure is permitted to be built. The space does not include any required yard or open space. Buildable areas must be defined on subdivision plats.

**BUILDING, DETACHED:** A freestanding building that has open space on all four sides.

**BUILDING HEIGHT:** The vertical distance measured from the corresponding natural grade point to the highest point of the roof.

**BUILDING INSPECTOR:** The individual(s) appointed by the Town of Hideout to enforce the provisions of the building code.

**BUILDING, MAIN:** The building or buildings on a site which house(s) the main use.

**BUILDING OFFICIAL:** The Town of Hideout Building Official.

**BUILDING, PUBLIC:** A building owned and operated or owned and intended to be operated by a public agency of the United States of America, or the State of Utah or any of its subdivisions including county and municipality in connection with a public use.

**CALIPER:** A standard for trunk measurement of nursery stock, determined by measuring the diameter of the trunk six (6) inches above the ground for up to and including five (5) inch caliper size, and twelve (12) inches above the ground for larger trees.

**CARPORT:** A covered automobile parking space that is not completely enclosed by walls or doors.

**CHILD-CARE, CENTER:** A childcare facility that regularly provides custodial care for six (6) or more children during the part of any day.

**CHILD-CARE, HOME:** A childcare facility operated on residential premises.

**CHURCH OR TEMPLE:** A building, together with its accessory buildings and uses, where persons regularly assemble for worship, which building, together with its accessory buildings and uses, is maintained and controlled by a religious body.

**CIVIL ENGINEER:** A professional engineer registered in the State of Utah to practice in the field of civil engineering.

**CLINIC, DENTAL AND MEDICAL:** A building in which a group of physicians, dentists, and allied professional assistants are associated for the carrying on of their professions including a dental or medical laboratory. Clinic does not include inpatient care or operating rooms for major surgery.

**CLUB, LIMITED MEMBERSHIP:** A building or other structures constructed in accordance with a properly approved plan and used as an integral part of a park or large scale development and operated by an organized association of persons for social, fraternal, religious, or patriotic purposes for the benefit of the members and guests and not for the general public, and may include eating facilities, club administrative offices, off-street parking and retail establishments for the sale of goods and services consumed on the premises. It may also include auxiliary recreational facilities such as swimming pools, gymnasiums, tennis courts and hunting preserves, but a limited membership club shall not include sleeping accommodations nor facilities which are open to use by the general public.

**CLUSTERING:** A subdivision or development design technique that concentrates the buildings or lots on a part of the site to allow the remaining land to be used for recreation, common open space, and/or preservation of environmentally sensitive areas.

**COLLEGE:** An independent institution of higher learning offering a course of general study.

**COMMON AREA:** An area of common ownership designed to serve the recreational, open space or other similar needs of two or more lots or dwelling units in separate ownership.

**COMMUNITY USE:** The uses that have the primary purpose of serving the educational, recreational, religious or governmental needs of the community in general. Such uses may include churches, public and private educational institutions, private non-profit recreation grounds, public parks, public buildings, public facilities, cemeteries and other similar uses. This definition shall not include such uses as detention facilities, halfway houses, alcohol rehabilitation centers, and other similar uses.

**CONDITIONAL USE:** A land use that because of its unique characteristics, or potential impact on the Town of Hideout and/or surrounding neighbors or adjacent land uses, may be allowed, allowed with conditions, or denied in designated zoning districts, based on compliance with standards and criteria set forth in this Land Use Ordinance for those uses.

**CONDOMINIUM:** The ownership of a single unit in a multi-unit project or structure which may be combined with an undivided interest in the common areas and facilities of the property and meeting all requirements of the Condominium Ownership Act of the State of Utah.

**CONDOMINIUM PROJECT:** A project planned in accordance with the Utah Condominium Ownership Act, including, without limitation, all units, limited common area, and common area within the project.

**CONSERVATION EASEMENTS:** An easement voluntarily placed on property to ensure that no future development will occur. The easement will be held by a third party and maintained in perpetuity.

**CONVENIENCE STORE:** A building that contains less than five thousand (5,000) square feet and is primarily engaged in the provision of frequently needed, day to day retail goods including gasoline, food and non-food products.

**DENSITY:** The number of Equivalent Residential Units per acre.

**DEVELOPER:** Any person or entity proposing to divide land for the purposes of selling smaller parcels, or any person or entity proposing to change or increase the use of a tract of land in the Town of Hideout.

**DEVELOPABLE AREA:** The portion of a site or building lot that is not within any areas considered to be physical constraints or within required setbacks. In the case of raw ground developable would mean areas that can be serviced by required infrastructure including roads, sewer and water.

**DEVELOPMENT:** The total area of the parcel of land on which a building permit is to be issued, or the total area of property being improved.

**DRAINAGE DITCH:** Any system of canal(s) or ditch(es) naturally existing or constructed to carry surface and/or subsurface water to a natural stream, whether or not the ditch(es) or canal(s) carry water filed upon by individual(s) to be used for irrigation purposes.

**DRIVEWAY:** A private roadway for access of vehicles to a residence, parking space, garage or other structure.

**DWELLING:** A building or portion thereof designed or used for residential occupancy, including one-family, two-family, multi-family, and apartment structure; but shall not include boarding, rooming, or lodging houses, tents, trailers, mobile home parks, motels, motor courts, motor lodges, cottage camps, or similar structures designed or used primarily for transient residential uses.

**DWELLING, MULTIPLE FAMILY UNIT:** A building arrangement designed for and/or occupied by three or more families.

**DWELLING, SINGLE FAMILY ATTACHED:** A dwelling unit sharing a common wall or walls, but located on an individual lot.

**DWELLING, SINGLE FAMILY DETACHED:** A building designed for and occupied exclusively by one family on a separate lot and not sharing any common wall.

**DWELLING, TWO FAMILY:** Two dwellings sharing a common wall or walls and located on one lot.

**DWELLING UNIT:** A single unit providing complete, independent living facilities for one or more persons including provisions for living, sleeping, eating, cooking and sanitation.

**ENGINEERING GEOLOGIST/GEOTECHNICAL ENGINEER:** A licensed geotechnical or geological engineer concerned with the application of geological knowledge to engineering problems.

**ENVIRONMENT:** The sum total of the surroundings, which includes both natural and man-made elements.

**EQUIVALENT RESIDENTIAL UNITS:** The number of residential equivalents to determine density based on sewer, water and square footage of a structure.

**EXCAVATION:** The mechanical removal of earth material.

**EXPANSION:** An increase in the size of an existing structure or use, including physical size of the property, building, parking and other improvements.

**FAMILY:** An individual or two or more persons related by law, blood, marriage, or adoption or up to two unrelated persons, living together in a single dwelling unit and maintaining a common household.

**FAMILY CARE HOME:** A dwelling wherein room, board, care, and supervision are provided by the resident family in a home setting to persons who are handicapped, mentally ill, or mentally retarded and who are provided with a program of services including training in vocational and recreational activities. To qualify, the dwelling must be approved or operated by an agency of the Utah State Government.

**FAMILY DAY-CARE CENTER:** A dwelling or place of business wherein a resident family provides ordinary care and supervision during customary daytime periods to non-related persons. To qualify for a Day-Care Center, an agency of Utah State Government must approve the dwelling or place of business

**FAMILY FOOD PRODUCTION:** The production of food through gardening or horticulture, for the sole use of the family occupying the premises. The raising of animals or fowl is not included in this definition.

**FARM:** A business enterprise in which land is used for the production of food, feed, or fiber.

**FARM ANIMALS:** Animals and fowl such as commonly used for food or fiber production or as a beast of burden, for commercial purposes or for pleasure.

**FARM INDUSTRY:** The keeping and raising of farm animals and/or fowl for domestic or commercial use such as fur farms, livestock feed yards, pig farms, dairy farms, stables, ranches, and similar uses, and accessory uses thereto.

**FAST FOOD EATING ESTABLISHMENT:** Any establishment where foods or beverages are prepared for consumption and consumption occurs in either the building, on the premises or within a motor vehicle parked thereon, or off-premises and whose operation includes one or more of the following characteristics:

- A. Food or beverages are served to the occupants of a motor vehicle while seated therein (e.g., drive-through window or drive-in); and
- B. Food and beverages are usually served over a general service counter for the customer to carry to a seating area within the restaurant, to a motor vehicle, or off-premises.

**FEMA.** An acronym for the Federal Emergency Management Agency.

**FENCE:** A structure erected to provide privacy or security that defines a private space or is used to constrain domestic animals.

**FENCE, SIGHT-OBSCURING:** A fence that is three (3) feet or more in height that is constructed or planted in such a fashion that causes fifty (50) percent or more opaqueness at any angle of view through such fence.

**FILL:** Earth material that has been deposited by artificial means.

**FINAL PLAN:** A plan of development showing the layout and dimensions of the streets, easements, common areas and other features of a development in accurate detail, prepared in accordance with the Town of Hideout Design and Construction Standards Handbook.

**FINAL PLAT:** A plat or plats of a development that has been prepared for recording purposes in accordance with the applicable standards.

**FLOOD, BASE - 100 YEAR FLOOD:** The flood from whatever source having a one (1) percent chance of being equaled or exceeded in any given year, otherwise commonly referred to as the one hundred (100) year flood.

**FLOOD CHANNEL:** A natural or artificial water course with definite bed and banks to confine and conduct flood water.

**FLOOD PLAIN:** Zone a hundred (100) year flood area) areas as defined in FEMA's Federal Insurance Rate Map of the Town of Hideout.

**FLOOR AREA:** The sum of the gross horizontal area of the several floors of the building or buildings, measured from the exterior faces of the exterior walls.

**FOSTER HOME:** A dwelling unit where minor children, not related by blood, marriage or adoption, are cared for and furnished board and room with or without compensation on a continuing basis.

**FRATERNAL & BENEVOLENT SOCIETY:** A chartered, nonprofit social club or lodge with or without dining facilities and cocktail lounges composing a branch of a fraternal order, or society such as Elks, Masons, American Legion, Eagles, Optimists, Odd Fellows, Kiwanis, Rotary, and other similar nonprofit fellowship organizations which are open only to members and their duly authorized guests.

**FRENCH DRAIN:** A sump or trench filled with crushed rock or gravel intended to receive storm water discharge.

**FRONTAGE:** The distance between the two side lot lines of a parcel measured along the street, or streets of a corner lot, which the parcel is allowed to access. For purposes of this Title, temporary turn-arounds, dead ends of roadways, or emergency accesses shall not be used as frontage.

**GARAGE, PRIVATE:** An attached or detached building accessory to a dwelling on the premises designed or used for the storage of private passenger automobiles owned and used by the occupants of the building to which it is accessory.

**GARAGE, PUBLIC:** A building or portion thereof, other than a private garage, designed or used for the storing, servicing, repairing, equipping, hiring, or selling of motor-driven vehicles.

**GARAGE, YARD SALE:** The sale of personal belongings in a residential zone, which sale is conducted by a legal resident of the premises.

**GASOLINE, RETAIL:** A building or premises used for the sale of gasoline and limited amounts of other oil products. Such premises may also include the sale of food products.

**GENERAL PLAN:** A coordinated plan which has been prepared and adopted by the Town of Hideout for the purpose of identifying present and future needs of the Town of Hideout and guiding the growth and development of land within the Town or any part of



the town, including uses of land for urbanization, trade, industry, residential, agricultural, wildlife habitat, and other purposes.

**GRADE, NATURAL:** A measurement of the degree of slope on the undisturbed, natural surface of the ground.

**GRADE, FINISH:** A measurement of the degree of slope on the disturbed surface of the ground.

**GRADING PLAN:** A topographic development plan prepared by a registered civil engineer showing contours for before and after grading.

**GROUPING OF RESIDENTIAL LOTS:** A development design technique that concentrates the lots in specific areas on a site to allow remaining land to be used for recreation, common spaces, or the preservation of historically or environmentally sensitive features.

**GROSS FLOOR AREA:** The sum of the gross horizontal areas of all floors of a building measured from the exterior face of exterior walls, but not including interior or exterior parking spaces, or loading space for motor vehicles.

**GUEST:** A person or persons staying or receiving services for compensation at a hotel, motel, rooming house, rest home, timeshares or similar use.

**HANDICAPPED PERSON:** A person who has a severe, chronic disability attributable to a mental or physical impairment or to a combination of mental and physical impairments, which is likely to continue indefinitely, and which results in a substantial functional limitation in three or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, or economic self-sufficiency; and who requires a combination or sequence of special interdisciplinary or generic care, treatment, or other services that are individually planned or coordinated to allow the person to function in, and contribute to, a residential neighborhood.

**HARD SURFACE:** An impermeable, dust-free surface such as concrete or asphalt. Road base does not qualify.

**HIGH WATER TABLE:** A condition where the ground water is less than six (6) feet below the ground surface.

**HOME OCCUPATION:** A nonresidential activity, conducted entirely within a dwelling unit, which is clearly incidental and secondary to the use of the dwelling for residential purposes.

**HOMEOWNERS ASSOCIATION:** An incorporated non-profit organization operating under recorded land agreements through which: (a) each lot/home owner is automatically a member; and (b) each lot is automatically subject to a proportionate share of the expenses for the organization's activities and interest, such as maintaining and operating open spaces, landscaping, common property or facilities.

**HOTEL:** A building containing guest rooms in which lodging is provided for compensation to transient or permanent guests or both, and where no provision is made for cooking in the guest rooms, and in which commercial services may be provided for guests.

**HOUSEHOLD PETS:** Animals or fowl ordinarily permitted in the house and kept for company or pleasure and not for profit, such as dogs, cats, and canaries, but not including a sufficient number of dogs to constitute a kennel. Household pets shall not include chickens or any animals that are capable of inflicting harm or discomfort or endangering the health, safety, or welfare of any person or property. The number of household pets shall be limited to that allowed by the provisions of each respective zone as set forth in this Title.

**ILLEGAL LOT:** An illegal lot is any lot or parcel of land which was not created in conformance with the Town of Hideout ordinance in effect at the time the lot was recorded.

**JUNK:** Any scrap, waste, reclaimable material or debris whether or not stored or used in conjunction with dismantling, processing, salvage, storage, disposal or other use or disposition. Junk includes but is not limited to, tires, furniture, tools, paper, rags, plastics, cordage, scrap iron or other metal, glass, building materials, machinery and appliances or parts thereof, brush, wood and lumber, solid waste, and vehicles and parts thereof.

**JUNKYARD:** An open area where junk, used or secondhand materials are bought, sold, exchanged, stored, processed, or handled. An automobile wrecking yard or a salvage yard is also considered a junkyard. The use of buildings used in conjunction with an operation does not exclude the operation from the definition unless the operation is wholly within the buildings and there is no outside storage.

**KENNEL:** An establishment having three or more dogs, cats or other household pets for the purpose of boarding, breeding, buying, letting for hire, training for fee or selling.

**LANDSCAPING:** The installation of plant materials (i.e., lawn, ground covers, annuals and perennial flowering plants, vines, shrubs, and trees), planted directly on the property.

**LIMITS OF DISTURBANCE:** The area(s) in which construction and development activity must be contained, including development and construction of the principal building and permitted accessory structures, play areas, and on-site septic tanks, utilities, drainage, and other services.

**LIVESTOCK CORRAL:** A place or pen where livestock are kept as part of an agricultural or livestock operation as distinguished from a livestock feed lot.

**LIVESTOCK FEED LOT:** A feeding operation on a parcel of land where livestock are conditioned for market on a year-round basis and where the feed is brought to the yard, as contrasted to feed obtained through grazing the animals on the premises.

LOT, AREA: The horizontal area within the exterior lines of the lot, exclusive of any area in a public or private way open to public uses.

LOT, BUILDING: A parcel of land which is of such dimensions as to comply with the minimum requirements of this Title for area, width, and depth applicable to the zone in which it is located, and having frontage on a public or approved private street.

LOT, CORNER: A building lot situated within a corner created by the intersecting lines of a street or streets that has frontage on two (2) sides.

LOT, FLAG: A lot that does not have the required frontage on a Town of Hideout Road or private road built to the Town of Hideout Standards. Access to the buildable portion of the lot is through a narrow private access that is contiguous and part of the lot.

LOT, INSIDE GORE-SHAPED: A lot where side lot lines converge towards the rear to a point or the rear lot line width is less than half the required width for the lot in the applicable zone.

LOT, INTERIOR: Any building lot other than a corner lot.

LOT LINE, REAR, FOR CORNER LOTS: The interior lot line which has been designated as the rear lot line determined by the direction the house faces.

LOT LINE, SIDE, FOR CORNER LOT: All interior lot lines for multi-frontage lots; for other corner lots, that interior lot line which the lot owner has designated as the side lot line.

LOT LINE, SIDE, FOR INTERIOR LOTS: Those interior lines lying opposite each other, running between the front and rear lot lines, or in the case of a multi-frontage lot, those interior lines which run between the two front lot lines

LOT, MULTI-FRONTAGE: Any building lot, the centerline of which intersects two front lot lines and which has no rear lot line.

LOT, DOUBLE FRONTAGE: Any building lot which has both the front and rear yard line bounded by a street. This does not normally include corner lots.

LOT WIDTH, FOR CORNER LOTS: The width of the lot as measured along both street frontages at the required setback.

LOT WIDTH, FOR INTERIOR LOTS: The horizontal distance between the side lot lines measured along a line lying at right angles to the centerline of the lot at the point of the required setback.

MANUFACTURED HOME: A home or other building of new construction without attached axles or wheels which has been assembled fully, or in part, upon another site, or in a factory, and moved to the site upon which it is to be permanently assembled by truck, timber, dolly or similar conveyance; and which is placed upon a permanent foundation in compliance with the provisions of the Uniform Building Code.

**MANUFACTURING:** The assembling, altering, converting, fabricating, finishing, processing, or treatment of a product or good.

**MASONRY:** Stucco, brick, or rock.

**METES AND BOUNDS:** The description of a lot or parcel of land by courses and distances.

**MOBILE HOME:** A detached dwelling designed for long-term occupancy and to be transported on its own wheels, or on a flatbed or other trailers or detachable wheels, and arriving at the site where it is to be occupied as a complete dwelling unit ready for occupancy except for connections to utilities and other minor work. Removal of such wheels or placing such dwelling unit on a foundation shall not remove such unit from classification as a mobile home.

**MOTEL:** A building or group of detached or connected buildings designed or used primarily for providing sleeping accommodations for automobile travelers and having a parking space adjacent to a sleeping room. An automobile court or a tourist court with more than one unit or a motor lodge shall be deemed a motel.

**NONCONFORMING LOT OF RECORD:** A parcel of land that was legally created prior to the adoption of this Title.

**NUISANCE STRIP:** A parcel of property that does not meet the lot requirement for the zone where it is located and was created for the purpose of preventing access and utility extension to the adjacent property.

**OFF-SITE:** Pertaining to the territory outside the boundaries of a particular project.

**ON-SITE:** Pertaining to the territory within the boundaries of a particular project.

**OPEN SPACE:** Land which is not covered by dwellings or by pavement or other impervious material which has common ownership and is dedicated to be used perpetually by the owners or the public for some other purpose besides development.

**OVER-SIZE FACILITIES:** Facilities with added capacity designed to serve other property, in addition to the land within the boundaries of a residential or nonresidential development site.

**PARKING LOT:** An open area, other than a street, used for the temporary parking of more than four automobiles and available for public use, whether free, for compensation, or as an accommodation for clients or customers.

**PASTURE:** An enclosure for animals in which no feed is provided except that which the animals obtain by grazing.

**PHYSICAL CONSTRAINTS INVENTORY:** An inventory and analysis of environmental factors which may effect the potential of land development along with the identifying of critical and sensitive lands which need to be protected.

**PLANNED DWELLING GROUP:** A method of developing property that allows the concentration of development to an area of the property. This allows for large amounts of open space to remain undeveloped in perpetuity.

**PLANNING DIRECTOR:** For purposes of this Title the term Planning Director shall mean the Director of the Planning and Zoning Department.

**PLANTING PLAN:** A plan showing the location and dimensions of irrigation equipment and curbs and other protective features around the edge of the planting beds, and the location, dimensions, and species of plants to be planted.

**PLOT PLAN:** A plat of a lot, drawn to scale, showing its actual measurements, the size and location of any existing structures and structures to be erected in the future, and showing the location of the lot in relation to abutting streets, and other such information.

**PREMISES OCCUPATION:** An occupation conducted on any premises, outside of the main dwelling, by persons residing on those premises and subject to conditional use approval from the Planning Commission.

**PRE-SCHOOL, HOME:** An educational facility operated on residential premises, which regularly provide an educational program for not more than twelve (12) children (including the operator's natural, adopted, or foster children under six (6) years of age) at any one time.

**RADIO/TELE-COMMUNICATIONS TOWER:** A structure intended for transmitting or receiving television, radio, or telephone communications that is primarily supported by its own foundation.

**RECORD OF SURVEY MAP:** A final plat prepared by a professional land surveyor that re-establishes land survey controls, boundaries, location of improvements or the alignment of right-of-ways for recording.

**RECREATIONAL VEHICLE:** A trailer, camper, or motor home designed or used for sleeping by persons while traveling, but not intended as a permanent dwelling, and not constructed for permanent attachment to public utilities.

**RESIDENTIAL FACILITY FOR ELDERLY PERSONS:** A single family or multiple family dwelling unit that is not a business and offers primary care to a limited number of non-related elderly persons.

**RESTAURANT:** Any establishment which provides as a principal use, foods and beverages prepared for consumption within the establishment and whose operation includes both of the following characteristics:

- A. Customers are provided with an individual menu and are served their food or beverage by a restaurant employee at the same table or counter at which said items are consumed; and
- B. The food and beverages are served on non-disposable plates or containers and

non-disposable eating utensils are provided. A restaurant employee clears the table of trash.

C. Notwithstanding the above, a cafeteria where food and beverages are:

1. generally consumed within the establishment; and
2. served on non-disposable plates or containers with non-disposable utensils shall be included in this definition.

D. A restaurant may provide take-out service, provided such service is clearly not the principal business of the restaurant and the take-out function is totally conducted inside of the building.

**REST HOME:** A building for the care and keeping of elderly or infirm people affected with infirmities or chronic illness.

**RETAIL DRIVE-IN:** Any form of merchandising, serving, or dispensing of goods or services in which the customer is serviced while in his automobile.

**RETAINING WALL:** A wall designed and constructed to resist the lateral displacement and erosion of soils or other materials.

**RIDGELINE:** A ridge location that is visible from a major arterial, secondary or collector road that is seen as a distinct edge against a backdrop of sky or land.

**RIDGELINE, SECONDARY:** A ridge below the primary ridgeline that may or may not have a backdrop of sky.

**ROAD, FIRE APPARATUS (SECONDARY):** A road built to the Fire Apparatus standards as directed by the international Fire code and the Fire Marshall.

**ROAD, PRIMARY:** The main access road into a development.

**ROAD, PRIVATE:** A road that is on private property and maintained by the property owners and not a public entity.

**ROAD, PUBLIC:** A road that is dedicated to a public entity and maintained by a public entity.

**SATELLITE DISH:** An antenna intended to receive signals from satellites and other sources.

**SCHOOL, COMMERCIAL:** An establishment for the teaching of industrial, clerical, managerial, or artistic skills. This definition applies to schools that are owned and operated privately and do not offer a complete educational curriculum.

**SCHOOL, COLLEGE, UNIVERSITY PRIVATE OR QUASI-PUBLIC:** A school operated by a private or quasi-public organization, or individual, which has a program similar to that provided in any public school in the State of Utah, except that such curriculum may

include religious instruction. A private school may be a for-profit or nonprofit organization. This definition shall not include commercial schools.

**SCHOOL, PUBLIC:** An educational facility operated by the Town of Hideout School District or other public agency of the State of Utah.

**SECONDARY RESIDENTIAL UNIT:** A living unit subordinate and accessory to the main structure with living space found within the main dwelling unit for family of the occupants of the main structure only.

**SEPTIC TANK:** A watertight receptacle that receives the discharge of sewage and is designed and constructed to permit the deposition of settled solids, the digestion of the matter deposited, and the discharge of the liquid portion into a leaching system.

**SEPTIC TANK DRAINFIELD:** A specified tract or parcel of land in which the sewage that flows from a septic tank is oxidized.

**SETBACK:** The minimum distance by which any building or structure must be separated from a street right-of-way or lot line.

**SERVICE STATION:** A building or premises used for the sale of gasoline and oil products including the servicing of motor vehicles and the retail sale and installation of tires, replacement parts and accessories in and upon such vehicles; but not including paint, body and frame repair, or rebuilding of engines, transmissions, or differentials. Such premises may also include the sale of food products.

**SIGN:** Any device for visual communication that is used for the purpose of advertising a product thereof to the attention of the public, but not including a flag pole which is used for the display of the state or national flag.

**SLOPE:** The ratio of the vertical distance moved to the horizontal distance moved, expressed in percentage or degrees, when traversing along the surface of land.

**SOIL ENGINEER:** A civil engineer registered in the State of Utah with training and experience in soil engineering.

**SOLID WASTE:** Any discarded material that does not flow under stress.

**STABLE:** A detached accessory building for the keeping of horses owned by the occupants of the premises and not kept for remuneration, hire, or sale.

**STORY:** That portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor or next ceiling above.

**STREET, STUB:** A street having only one outlet for vehicular traffic and which is intended to be extended or continued to serve future subdivisions or developments on adjacent lands.



**STREET, THROUGH:** Streets that extend continuously between other major streets in the community.

**STRUCTURE:** That which is framed, erected, constructed or placed upon the ground; but not including fences that are six (6) feet or less in height.

**SUBDIVISION:** The term “subdivision” shall have the meaning set forth in the Land Use Management Act in the Utah Code.

**SURFACE DRAINAGE:** That amount of water run-off caused as a result of precipitation or irrigation.

**SWIMMING POOL:** A portable or permanent structure above or below grade, designed to hold water eighteen (18) inches deep or greater and/or two-hundred fifty (250) square feet or greater surface area and intended for therapeutic or recreational purposes. This definition does not include an ornamental reflecting pool, fish pond or other type of pool not used for swimming and/or wading and must be located and designed so as not to create a hazard.

**VACATION VEHICLE COURT:** An area or tract of land used to accommodate two or more vacation vehicles or camper units for a period of less than thirty (30) days.

**VARIANCE:** A variation of, or deviation from the regulations or standards adopted by Ordinance, which the Board of Adjustment is permitted to grant.

**VOCATIONAL SCHOOL:** A school that specifically trains people for a skill or trade to be pursued as a trade.

**YARD:** A space on a lot, other than a court, unoccupied and unobstructed from the ground upward except as otherwise provided in this Title.

**YARD, FRONT:** Any yard between the front lot line and the setback line of a main building and extending for the full width of the lot.

**YARD, REAR:** A yard between the rear lot line and the setback line of a main building, extending across the full width of inside lots and for corner lots a yard between the rear lot line and the setback line of the building and extending between the side lot line and the front yard lying opposite

**YARD, SIDE:** Any yard between the side lot line and the setback line of a main building, extending from the front yard to the rear yard.

**YARD, STREET SIDE:** On corner lots, the yard determined by the owner to be the side yard on the street and running from the front setback line to the rear property line.

**YOUTH GROUP HOME:** A dwelling unit wherein room, board, ordinary care, and supervision are provided in a family environment by the resident family or group home parents to persons who are unrelated to the resident family or group home parents and

who are under the age of eighteen (18) years. To qualify, the dwelling unit must be approved by an agency of Utah State Government.

**ZERO LOT LINE DEVELOPMENT:** Single family dwellings arranged on lots with one common wall of the building located on the property line.

### **12.02.030 PURPOSE - GENERAL PROVISIONS**

This Title and the regulations and restrictions contained herein are adopted and enacted for the purpose of promoting the health, safety, welfare, prosperity, improved morals, peace, good order, comfort, convenience and aesthetics of the present and future inhabitants of the Town of Hideout and to:

- A. Guide the future growth and development of the Town of Hideout, in accordance with the Hideout General Plan;
- B. Provide for adequate open space, light, air, air quality, privacy, safety from fire, flood, landslides and other geologic hazards, and other dangers and to try to prevent overcrowding of the land, and to lessen traffic congestion;
- C. Protect and conserve the character and stability of the Town of Hideout, and to encourage the orderly development of the land;
- D. Protect and conserve Hideout property values and minimize conflicts among uses of the land and structures;
- E. Establish public and private policy that encourages action to provide adequate and efficient transportation, water, sewerage, schools, parks, playgrounds, recreation and other public facilities;
- F. Establish reasonable standards of design and procedures for development;
- G. Create an atmosphere attractive to visitors and residents;
- H. Fully exercise all of the powers granted to the Town of Hideout by the provisions of the Utah Code Â§10-9a-101 et. seq. Municipal Land Use Development and Management Act, and all other powers granted by statute or by common law for the regulation of land uses and improvements;
- I. Protect and enhance the quality of life in general for Hideout residents;
- J. Allow development in a manner that encourages the preservation of scenic values and minimizes the impact on natural resources in Hideout;
- K. Provide for well-planned commercial and residential centers, efficient traffic circulation, and efficient use of town services;
- L. Regulate development that may add to existing geologic hazards, erosion, flooding or other conditions that create potential dangers to life and safety in the community or detract from the quality of life in the community;
- M. Require new development to be fiscally responsible by providing all required improvements and adequately mitigating any impacts to the Town of Hideout;

- N. Establish Zone Districts within which the Legislative Body may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings and structures and the uses of land; and
- O. Provide methods of administration and enforcement of this Title and provide penalties for the violation thereof.

#### **12.02.040 CODE NUMBERING**

The chapter numbering and designation of this code is adopted as the official chapter numbering and designation for the Hideout Land Use and Development Code. The title, chapter and section headings or numbers contained in this code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section of this Title.

#### **12.02.050 AUTHORITY PROVISIONS**

It is hereby declared to be within the authority of the Town of Hideout to approve the subdivision and development of land, amendment of plats, or adjustment of lot lines, rezoning of property, amendments to the Hideout General Plan, and approval of site plans pursuant to the guidance of the Hideout General Plan and Land Use Code, for the orderly, planned, efficient and economic development of the Town of Hideout.

#### **12.02.060 LICENSE TO CONFORM**

All departments, officials, and employees of the Town of Hideout that are vested with a duty or authority to issue permits and licenses shall do so in conformance with the provisions of this Title. No permit or license for a use, building, or purpose shall be issued where the same would be in conflict with the provisions of this Title. A permit or license, if issued in conflict with the provisions of this Title, shall be null and void.

#### **12.02.070 BUILDING PERMITS REQUIRED**

No building or structure shall be constructed, reconstructed, altered or moved, except after the issuance of a permit for the same by the Building Department, unless exempted by State Law.

#### **12.02.080 BUILDING PERMITS - PLOT PLAN REQUIRED**

- A. All applications for building permits for new construction (and not interior remodels) shall be accompanied by:
  - 1. A plot plan drawn to scale showing the actual dimensions of the lot to be built upon, the size and location of existing buildings, buildings to be erected, and existing buildings on adjacent property and such other information as may be deemed necessary by the building Inspector or the Planning Department for the enforcement of this Title.
  - 2. When property boundaries are unclear or undetermined, a complete and

accurate legal description of the property, which is the subject of the application, together with a certified survey of the property showing any conflict with adjoining property, overlaps or discrepancies between the legal description, and any existing fence lines.

#### **12.02.090 PERMITS TO COMPLY WITH LAND USE REGULATIONS**

- A. Permits shall not be granted for the construction, reconstruction or alteration of any building or structure, or for the moving of a building onto a lot, or for the change of the use of any land, building, or structure if such construction, alteration, moving, or change in use violates any of the provisions of this Title.
- B. No sewer service line and/or wastewater treatment facility, no water service line and/or water facility, or electrical utilities shall be installed to serve such premises if such use violates this Title.

#### **12.02.100 CERTIFICATE OF OCCUPANCY AND ZONING COMPLIANCE**

- A. Unlawful to Occupy. It shall be unlawful to use or occupy, or to permit the use or occupancy of any building or premises until a Certificate of Occupancy and Land Use Compliance shall have been issued for the premises and/or building by the Town of Hideout. It shall also be unlawful to occupy any building which has greater intensity of use or different occupancy than provided for specifically in the Certificate of Occupancy and Land Use Compliance.
- B. Issuance of Certificates. A Certificate of Occupancy and Land Use Compliance, is required to be issued by the Planning Department of the Town of Hideout at the time a building is completed and final inspection granted by the Building Inspection Department. In addition, a new certificate shall be required at any time the occupancy of the building changes to a more intensive use or that the number of occupants in an apartment building or multiple residential building increases more than five (5) percent above the number declared in the previously-issued certificate.
- C. Information Required on Certificates. The following information shall be made a part of any application for a Certificate of Occupancy and Land Use Compliance issued by the Town of Hideout Planning Department.
  - 1. Residential Certificates.
    - a. The number of residential units in the building or buildings. (If there is more than one building, the number of units should be listed separately for each building).
    - b. Number of families residing or anticipated to live in the building.
    - c. The number of legal off-street parking spaces, sized to conform to this Title and being provided on the premises.
    - d. A signed certification of the property owner of the building or

premises, or his authorized agent, stating that the information contained in the application is accurate and that the stated conditions will be maintained on the premises.

- e. A notice directed to the owner of the building or premises that any change in the intensity of use of the building or premises, or an increase of more than five (5) percent in the number of occupants in an apartment building or multiple residential building, will require the issuance of a new certificate.

## 2. Commercial, Industrial, and Institutional Certificates.

- a. The proposed maximum number of employees on the premises.
- b. The number of off-street parking spaces sized to conform to this Title and provided for employees on the site.
- c. The number of off-street parking spaces sized to conform to this Title and provided for customers or visitors.
- d. The number and type of restroom facilities provided.
- e. The square foot area within the building used for each separate type of occupancy.
- f. A signed certificate by the owner of the building or premises or his authorized agent stating that the information and conditions set forth in the application are true and will be maintained upon the site in this condition.
- g. A notice directed to the owner of the premises that a change in intensity of use of more than five percent increase in the intended occupancy of the building will require the issuance of a new certificate.

### **12.02.110 NUISANCE**

The Town of Hideout may avail itself of all remedies available at law or in equity to abate any nuisance or public nuisance. Each of the following acts is hereby declared to be a nuisance and may be abated in as such:

- A. Any act which constitutes a nuisance or public nuisance under state law;
- B. Engaging in a use or activity that is not permitted in the zone where the use or activity is located;
- C. The occupation of any building or structure for which a Certificate of Occupancy and Land Use Compliance has not been issued; and
- D. The occupation or use of a building or structure with a greater density or intensity of use than is permitted in the Certificate of Occupancy and Land Use

Compliance.

#### **12.02.120 CONSTRUCTION AND USE TO CONFORM TO PLANS**

Building permits or Certificates of Occupancy and Land Use Compliance, issued on the basis of plans and specifications approved by the Building Inspector, authorizes only the use, arrangement, and construction set forth in the approved application, plans and specifications and no other use, arrangement, or construction. The use, arrangement, or construction at variance with that authorized in said plans and specifications shall be deemed a violation of this Title and shall be punishable as provided in HMC 12.06.040.

#### **12.02.130 EXPIRATION OF APPROVALS**

- A. Building Permits. A building permit shall expire if construction is not begun within one year (1) from the date the building permit was issued. A building permit shall expire if construction is not completed and a Certificate of Occupancy and Land Use Compliance obtained within two (2) years from the date the building permit was issued. The Building Department may, for good cause shown, extend the expiration date for a period of time not to exceed one (1) additional year.
- B. Preliminary Approvals of Developments. Preliminary approvals of developments shall expire if application for Final Approval has not been submitted for consideration within three (3) years from the date of receiving Preliminary Approval. An extension not to exceed two (2) additional years upon a finding of good cause.
- C. Final Development Approvals. Final Approval of developments shall expire if the Plat is not recorded within three (3) years from the date of receipt of Final Approval by the legislative body. The Planning Commission may grant a two (2) years extension upon a showing of good cause.

#### **12.02.140 EFFECT OF COVENANTS AND RESTRICTIONS**

Enforcement of private covenants, conditions and restrictions shall not be the responsibility of the Town of Hideout.

#### **12.02.150 EFFECT OF PRIOR ORDINANCES**

Uses which were commenced legally prior to the adoption of this Title, or for which permits were properly issued and are acted upon in a timely manner, shall, to the extent they do not conform to this Title, be considered as non-conforming uses, and shall not be affected hereby. Uses, which were unlawful prior to the enactment of this Title, shall not become legal by the enactment of this Title.

#### **12.02.160 FRACTIONAL NUMBERS**

Any computation or measurement resulting in a fractional number shall be rounded to the closest whole number. For example twenty three and three-quarters (23.75) inches would be rounded to twenty four (24) inches.

### **12.02.170 PAYMENT OF FEES**

Any application for approval by the Planning Staff or Planning Commission shall not be considered complete or accepted until the applicant has submitted a complete application, including payment of all fees as required by Title. Fees paid shall be non-refundable. Payment of the appropriate fee is no guarantee that the proposal will be approved.

### **12.02.180 EFFECT ON GOVERNMENTAL ENTITIES**

In accordance with the laws of the state, the provisions of this title shall not apply to the properties owned by the state, or the United States government; however, any person, firm or corporation who may obtain such properties by purchase, lease or other arrangement with the state shall utilize such properties in accordance with regulations as set forth in Utah Code Annotated.

### **12.02.190 CLASSIFICATION OF ANNEXED TERRITORY**

All property hereafter annexed to the town shall be classified as Resort Specially Planned Area (RSPA), and all of the zone regulations shall apply thereto until such time that a public hearing is held to consider a change in classification thereof. Such hearing and classification shall be considered in the same manner as set forth in HMC 12.08 pertaining to the amendment of this title.

### **12.02.200 ESTABLISHMENT OF ZONES**

The municipality is divided into zoning districts as shown on the map entitled, "Zoning Map of the Town of Hideout, Utah", which map and boundaries, notations, references and other information shown thereon shall be as much a part of this title as if the information and matters set forth by the map were all fully described herein.

### **12.02.210 CODIFICATION, INCLUSION IN CODE, AND SCHRIVENER'S ERRORS**

It is the intent of the Hideout Legislative Body that the provisions of this Title may become and be made part of a Hideout Municipal Code as adopted; and that sections of this Title may be re-numbered or re-lettered and the word ordinance may be changed to section, chapter, or other such appropriate word or phrase in order to accomplish such intentions; and regardless of whether such inclusion in the Hideout Municipal Code is accomplished, sections of the Title may be re-numbered or re-lettered and typographical errors which do not affect the intent may be authorized by the Town of Hideout without need of public hearing by filing a corrected or re-codified copy of the same with the Hideout Clerk office.

### **12.02.220 ADMINISTRATIVE DETERMINATION FOR USES NOT LISTED**

Determination as to the classification of uses not specifically listed in this title, shall be made by the zoning administrator and shall be subject to appeal to the board of adjustment as set forth in HMC 12.10. The procedure shall be as follows:



- A. Request For Determination: A written request for such a determination shall be filed with the zoning administrator. The request shall include a detailed description of the proposed use and such other information as may be required.
- B. Investigation: The zoning administrator shall thereupon make such investigations as are deemed necessary to compare the nature and characteristics of the proposed use with those of uses specifically listed in this title, and shall make a determination of its classification based on these investigations.
- C. Determination; Time Limit: The determination of the zoning administrator shall be rendered in writing within a reasonable time. The determination shall state the zone classification in which the proposed use will be conditional or permitted, as well as the findings which established that such use is of the same or similar character as uses permitted in that zone classification. Upon making this decision, the zoning administrator shall notify the applicant in writing of the decision.
- D. Decision Permanent Public Record; Status: The determination and all information pertaining thereto shall be assigned a file number classifying it as an administrative determination and shall become a permanent public record in the planning department. Such use shall become a permitted or conditional use in the class of district specified in the determination, and shall have the same status as a permitted or conditional use specifically named in the regulations or the zone classification.

#### **12.02.230 ADMINISTRATIVE REVIEWS, CERTIFICATES AND PERMITS**

- A. Zoning Review for Building Permits And Business Licenses: All applications for building permits shall be submitted to the community development department for zoning review. Such review shall assure compliance with the requirements of this code. The application for a building permit shall be accompanied by a plot plan showing lot lines and dimensions, locations of structures and improvements, building elevations, and all data necessary to ensure provisions of this code are met. The building department shall not issue any building permit until approved by the building official.
- B. Conditional Use Permit: Applications for a conditional use permit shall be submitted to the planning department as provided for in this title. The planning commission chair shall assure completeness and prepare submittal for review and action by the planning commission. Permits approved by the planning commission shall be issued by the planning commission chair.
- C. Zoning Amendments: Requests for amendments or changes to the zoning ordinance or zoning district map shall be initiated with the planning commission chair. The amendment process shall proceed as provided for in this title.
- D. Home Occupations: Home occupation permits and applications for a home occupation permit shall be presented for review and approval to the planning commission chair.

Upon such approval, the planning commission chair is authorized to issue a land use permit as described in this title.

## **12.06 ADMINISTRATION AND ENFORCEMENT**

### **12.06.010 ADMINISTRATIVE PROCEDURES**

### **12.06.020 NOTICE OF PUBLIC HEARINGS**

### **12.06.030 PLAT AMENDMENTS**

### **12.06.040 BOUNDARY LINE ADJUSTMENTS**

### **12.06.050 PROPOSED USES SUBSTANTIALLY SIMILAR TO PERMITTED USES BUT NOT PERMITTED IN THE ZONING DISTRICT**

### **12.06.060 ADOPTION OF LOCAL STREET PLAN**

### **12.06.070 ENFORCEMENT**

### **12.06.080 INSPECTION**

### **12.06.090 ENFORCEMENT ACTION**

### **12.06.100 PENALTIES**

## **12.06.010 ADMINISTRATIVE PROCEDURES**

The purpose of this chapter is to establish the administrative procedures for land use policy decisions in the Town of Hideout.

## **12.06.020 NOTICE OF PUBLIC HEARINGS**

- A. The Town of Hideout shall give reasonable notice of any public hearing mandated by this Title, which notice shall be given in a manner consistent with the requirements of state law.
- B. If notice given under authority of this section is not challenged as provided by State Law within thirty (30) days from the date of the meeting for which notice was given, the notice is considered adequate and proper.

## **12.06.030 PLAT AMENDMENTS**

Plat amendments that do not qualify for treatment as a Boundary Line Adjustment, shall be processed in accordance with the requirements of Utah State Statute. An application including a copy of the proposed amended plat shall be submitted to the Town of Hideout Offices.

## **12.06.040 BOUNDARY LINE ADJUSTMENTS**

- A. Application. An application must be completed and the application fees paid. A complete application may be required to include a draft copy of the proposed plat as adjusted by the proposed boundary line adjustment. A determination of whether a new plat will be required will be made by the Hideout Legislative Body, depending upon the adjustments to be made to the property.
- B. Processing. The Planning Staff shall review the application in accordance with Utah State Statute. If complete, the Boundary Line Adjustment may be

processed.

#### **12.06.050 PROPOSED USES SUBSTANTIALLY SIMILAR TO PERMITTED USES BUT NOT PERMITTED IN THE ZONING DISTRICT**

Any use proposed in a zoning district that does not specifically permit such use may be considered by the Hideout Legislative Body after a determination that the proposed use is substantially similar in type and impact to a permitted use in the Land Use district. The Hideout Legislative Body shall process and consider such proposed uses in the same manner as any amendment to the zoning Ordinance, except that such proposed uses may be considered at any time during the calendar year.

#### **12.06.060 ADOPTION OF LOCAL STREET PLAN**

The Hideout Legislative Body may adopt and maintain a local street plan, which will provide long-range planning for local neighborhood streets. This process is intended to ensure that property within a given area can be adequately developed and serviced. Elements of this plan shall show the proposed streets layout, lots, and other features including existing utilities and water courses in relation to the existing and planned street within the development. The plan shall be prepared at a scale of not smaller than one inch equals four hundred feet. Upon recommendation by the Planning Commission, local street plan shall be submitted to the Hideout Legislative Body for adoption. The land developer shall coordinate with the Planning Department in developing the local street plan.

#### **12.06.070 ENFORCEMENT**

- A. The "ordinance enforcement officer" is hereby designated and authorized as the officer charged with the enforcement of this title. He/she shall enforce all the provisions of this title, entering actions in the court when necessary, and his/her failure to do so shall not legalize any violation of such provisions.
- B. The Town Council may, by resolution or ordinance, from time to time, entrust the enforcement and administration of this title, in whole or in part, to any officer of the town, without amendment to this title.

#### **12.06.080 INSPECTION**

- A. The Town planner or building official is hereby authorized to inspect or cause to be inspected all buildings and structures in the course of construction, modification, or repair, and to inspect land uses to determine compliance with the provisions of this title; provided, however, that no such inspection shall be required as a condition precedent to commencement or continuation of any construction, modification or repair of any building or structure.
- B. The Town planner or any employee of the Town who is authorized to represent the Town shall have the right to enter any building for the purpose of determining the use thereof or to enter the premises for the purpose of determining

compliance with the provisions of this title; provided, that such right of entry shall be exercised only at a reasonable hour and that in no case shall entry be made to any occupied building or premises in the absence of the owners or tenants thereof without the written order of a court of competent jurisdiction.

### **12.06.090 ENFORCEMENT ACTION**

The provisions of this Title shall be administered by the Planning and Zoning Department under the supervision of the Hideout Legislative Body. The Director or his/her representative shall investigate alleged violations of this Title, and initiate enforcement actions if violations are found to exist. The failure of the Town of Hideout to enforce the requirements of this Title shall not operate to waive or stop the Town of Hideout from pursuing subsequent enforcement actions. Permits issued in violation of this Title shall have no force or effect.

### **12.06.100 PENALTIES**

It shall be unlawful for any person to violate any of the provisions of this Title. Any person, firm, partnership, corporation, or other entity, whether as principal, agent, employee or otherwise, violating or causing the violation of the provisions of this Title shall be guilty of a Class "C" Misdemeanor, and upon conviction thereof may be punished by a fine of not more than seven hundred and fifty (\$750.00) dollars per offense, or by imprisonment in jail for a period not more than ninety (90) days or by a combination of said fine and imprisonment.

### **12.08 AMENDMENTS**

#### **12.08.010 POWER OF PLANNING COMMISSION AND TOWN COUNCIL**

#### **12.08.020 PETITION FOR CHANGE**

#### **12.08.030 PLANNING COMMISSION REVIEW**

#### **12.08.040 PUBLIC HEARINGS; TOWN COUNCIL ACTION**

### **12.08.010 POWER OF PLANNING COMMISSION AND TOWN COUNCIL**

The planning commission or town council may initiate proposals for change or modification of any section of this title as necessity may arise.

### **12.08.020 PETITION FOR CHANGE**

Any person desiring to initiate a change in this title or the zoning map shall submit a petition to the town planning commission chair explaining the request and the reasons therefor. The petition shall be accompanied by an amendment petition fee in an amount determined by the town fee schedule.

### **12.08.030 PLANNING COMMISSION REVIEW**

- A. Required; Time Limit: The planning commission shall review the petition and certify its recommendations to the town council.
- B. Conditions For Recommending Adoption: The planning commission shall

recommend adoption of proposed amendments only where it finds the proposed amendment furthers the purpose of the general plan, or that changed conditions make the proposed amendment necessary to fulfill the purposes of this title.

- C. Public Hearing: Prior to making recommendations to the town council regarding amendments to the general plan, the planning commission shall hold a public hearing and shall give notice of said hearing. Notice of hearing shall be published in at least one newspaper of general circulation in the town at least ten (10) days prior to such hearing.

#### **12.08.040 PUBLIC HEARINGS; TOWN COUNCIL ACTION**

- A. Public Hearing Required: A public hearing shall be held by the town council before any amendment or change shall be passed.
- B. Procedure: Notice of such hearing shall be published in at least one newspaper of general circulation in the town at least ten (10) days prior to such hearing; and
- C. Submission to Planning Commission Required: All proposed amendments shall be first submitted to the planning commission for its recommendation as provided in this chapter.
- D. Decision of Town Council: After the required hearing on the proposed amendment, the town council may adopt, modify or reject such amendment.
- E. Resubmission: Resubmission of an application for the same amendment shall not be allowed for a period of twelve (12) months. Any such resubmission shall follow the same procedures as the original submission.

#### **12.10 BOARD OF ADJUSTMENT**

##### **12.10.010 APPOINTMENT, TERM, VACANCY**

##### **12.10.020 ORGANIZATION; PROCEDURES**

##### **12.10.030 POWERS AND DUTIES**

##### **12.10.040 APPEALS**

##### **12.10.050 ROUTINE AND UNCONTESTED MATTERS**

##### **12.10.060 VARIANCES**

##### **12.10.070 DISTRICT COURT REVIEW OF BOARD DECISION**

#### **12.10.010 APPOINTMENT, TERM, VACANCY**

- A. Board Created: In order to provide for just and fair treatment in the administration of this title, and to ensure that substantial justice is done, the town shall appoint a board of adjustment to exercise the powers and duties provided in this chapter. Unless otherwise designated in this Title, the Board of Adjustment shall be the Land Use Appeal Authority.
- B. Membership; Appointment:
  - 1. The board of adjustment shall consist of three (3) members and whatever alternate members that the chief executive officer considers appropriate.

2. The chief executive officer shall appoint the members and alternate members with the advice and consent of the legislative body for a term of three (3) years.
3. The chief executive officer shall appoint members of the board of adjustment to terms so that the term of one member expires each year.
4. No member of the board shall be allowed to serve for more than two (2) consecutive terms.

C. Alternate Members:

1. No more than two (2) alternate members may sit at any meeting of the board of adjustment at one time.
2. The town council shall make rules establishing a procedure for alternate members to serve in the absence of members of the board of adjustment.

D. Removal: The chief executive officer may remove any member of the board of adjustment with or without cause.

E. Vacancies:

1. The chief executive officer, with the advice and consent of the town council, shall fill any vacancy.
2. The person appointed shall serve for the unexpired term of the member or alternate member whose office is vacant.

## **12.10.020 ORGANIZATION; PROCEDURES**

A. Elect Chairperson; Adopt Rules: The board of adjustment shall:

1. Organize and elect a chairperson; and
2. Adopt rules that comply with any ordinance adopted by the town council.

B. Meetings: The board of adjustment shall meet at the call of the chairperson and at any other times that the board of adjustment determines.

C. Administer Oaths; Compel Attendance: The chairperson, or in the absence of the chairperson, the acting chairperson, may administer oaths and compel the attendance of witnesses.

D. Open Meetings; Records, Minutes:

1. All meetings of the board of adjustment shall comply with the requirements of Utah Code Title 52-4, open and public meetings.
2. The board of adjustment shall:

- a. Keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating that fact; and
  - b. Keep records of its examinations and other official actions.
- 3. The board of adjustment may, but is not required to, have its proceedings contemporaneously transcribed by a court reporter or a tape recorder.
- 4. The board of adjustment shall file its records in the office of the board of adjustment.
- 5. All records in the office of the board of adjustment are public records.
- E. Voting: The concurring vote of two (2) members of the board of adjustment is necessary to reverse or modify any order, requirement, decision or determination of any administrative official or agency, or to decide in favor of the appellant.
- F. Decisions, When Effective: Decisions of the board of adjustment become effective at the meeting in which the decision is made, unless a different time is designated in the board's rules or at the time the decision is made.

#### **12.10.030 POWERS AND DUTIES**

- A. Generally: The board of adjustment shall hear and decide:
  - 1. Appeals from zoning decisions applying the zoning ordinance;
  - 2. Variances from the terms of the zoning ordinance.
- B. Nonconforming Uses: The board of adjustment may make determinations regarding the existence, expansion or modification of nonconforming uses as delegated to them by the town council.

#### **12.10.040 APPEALS**

Appeals to the Board of Adjustment shall be made as follows:

- A. Standing to Appeal. Any person or entity (including a town department or elected official) affected by an administrative decision applying the Land Use Ordinance may appeal that decision to the Board of Adjustment by alleging that there is an error in any order, requirement, decision, or determination by an official.
- B. Deadline for Filing Notice of Appeal. Notice of Appeal and all supporting documents shall be filed within thirty (30) days of decision or action taken by the official. Notice of Appeal shall be filed with the Planning Department.
- C. Contents. Notice of Appeals shall state the administrative order, requirement, decision or determination from which the person or entity appeals, and shall



specify the grounds for the appeal and circumstances related thereto. Any filings shall include copies of any documentary evidence or written arguments intended to be presented to the Board of Adjustment. A written appeal failing to specify grounds of appeal may be summarily dismissed by the Board of Adjustment, with or without prejudice. The brief should address all issues to be brought before the Board of Adjustment. Any new issues not addressed in the brief that are put forth at the hearing, shall be grounds to continue the matter to allow for adequate time to respond to the new issues.

- D. Determination of Hearing Date. Within five (5) business days of receipt of a Notice of Appeal, the applicant will be informed of a date for the hearing before the Board of Adjustment, which shall be no sooner than thirty (30) days thereafter, and no later than seventy five (75) days thereafter.
- E. Record Sent to Board of Adjustment. The official responsible for the administrative decision being appealed shall refer to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken, at least seven (7) days prior to the hearing.
- F. Appeal Stays Action. An appeal stays all proceedings unless the Planning Department certifies to the Board of Adjustment that a stay would cause imminent peril to life or property, or irreparable harm.
- G. Burden of Proof. The person or entity making the appeal has the burden of proving that an error has been made.
- H. Actions of Board of Adjustment. In exercising its powers, the Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, condition, decision or determination as ought to be made. The majority vote of the members of the Board shall be necessary to reverse any order, requirement, decision or determination applying the Land Use Ordinance.
- I. Appeal of Decision of Board of Adjustment. Any person or entity aggrieved by a decision of the Board of Adjustment may petition the district court for a review of the decision as permitted by Utah State Law.

#### **12.10.050 ROUTINE AND UNCONTESTED MATTERS**

- A. The planning staff is hereby authorized to decide certain matters, as designated by the board of adjustment, that are consistent with the guidelines established by this title and state law and the rules adopted by the board of adjustment. Pursuant to that authority, the zoning administrator may decide all cases which are routine in nature, uncontested, that do not impact the character of the neighborhood, are primarily brought about by recent changes in the zoning ordinance or town initiated development or construction that has resulted in the creation of nonconforming structures or uses. The specific types of decisions the zoning administrator is authorized to make shall include:

1. The determination of a nonconforming use which can be verified by substantial evidence. "Substantial evidence", for the purpose of this section, shall mean official documents, including any written correspondence, receipts, permits or documents issued by a public body or agency thereof, etc., that may establish the truth of the matter asserted by the applicant;
2. Consider additions or alterations to existing buildings and structures, which are nonconforming as to height, area or yard regulations; providing, that the addition follows the existing wall lines and no additional dwelling units are added to the building or structure;
3. Change in the status of a nonconforming use to a less intense use than that immediately preceding the proposed use;
4. Final review and approval on plans where the board has required that a final plan be submitted for special approval, showing that all requirements imposed by the board in granting the original approval have been complied with; and
5. The granting of a variance in the very limited instance wherein the applicant and the town are in complete agreement regarding all issues, and that the spirit and intent of this title is satisfied and that all criteria required statutorily for a variance has also been satisfied.

B. Notice Requirements: The notice requirements established by this title, that are required before a hearing on a variance, must still be satisfied by the zoning administrator. However, in lieu of giving notice of a time, date and place of a hearing, the zoning administrator's notice shall provide for a time frame within which all interested parties may submit their input to the zoning administrator. All responses received pursuant to the notice shall become a permanent part of the file.

Appeal: A decision of the planning staff may be appealed to the board as provided for in this chapter.

#### **12.10.060 VARIANCES**

- A. Authorized: Any person or entity desiring a waiver or modification of the requirements of this title as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the board of adjustment for a variance from the terms of this title.
- B. Applications. Applications for variance shall be filed with the Town of Hideout Offices. Applications shall contain the following information:
1. A description of the requested variance together with a designation of that section of the Hideout Planning, Land Use and Development Code from which relief is being requested;

2. An accurate plot plan, if appropriate, indicating the manner in which the variance will be applied and its effect upon adjacent properties; and
  3. A filing fee as established by ordinance.
- C. Public Hearing. Upon receipt of a complete application as determined by the Planning Department, a public hearing shall be set with the Board of Adjustment for the next available meeting date.
- D. Burden of Proof. The applicant for a variance shall bear the burden of proving that all of the foregoing conditions are satisfied as determined by the planning department.
- E. Findings Required. The Board of Adjustment may authorize variances from the requirements of this Title, only when those variances serve the public interest, and are consistent with State law. In addition the Board of Adjustment may not grant use variances. The majority vote of the members of the Board of Adjustment shall be necessary to grant a variance.
- F. Requirements for Granting a Variance. The Board of Adjustment may grant a variance only if all of the following conditions are met:
1. Literal enforcement of the Land Use Ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Land Use Ordinance;
  2. There are special circumstances attached to the property that do not generally apply to other properties in the same districts;
  3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district;
  4. The variance will not substantially affect the general plan and will not be contrary to the public interest; and
  5. The spirit of the Land Use Ordinance is observed and substantial justice done.
- G. Unreasonable Hardship. In determining whether or not enforcement of the Land Use Ordinance would cause unreasonable hardship under Paragraph F, the Board of Adjustment may not find an unreasonable hardship unless the alleged hardship:
1. Is located on or associated with the property for which the variance is sought; and
  2. Comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
    - a. In determining whether or not enforcement of the Land Use Ordinance would cause unreasonable hardship under Paragraph F, the Board of Adjustment may not find an unreasonable hardship if the hardship is self-imposed.

b. In determining whether or not there are special circumstances attached to the property under Paragraph F, the Board of Adjustment may find that special circumstances exist only if the special circumstances:

(1) Relate to the hardship complained of; and

(2) Deprive the property of privileges granted to other properties in the same district.

H. Meeting Conditions. The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.

I. Variance Applicability. Variances run with the land.

J. Use Variance. The Board of Adjustment and any other body may not grant use variances.

K. Additional Requirements. In granting a variance, the Board of Adjustment may impose additional requirements on the applicant that will:

1. Mitigate any harmful affects of the variance; or

2. Serve the purpose of the standard or requirement that is waived or modified.

#### **12.10.070 DISTRICT COURT REVIEW OF BOARD DECISION**

Any person adversely affected by any decision of a board of adjustment may petition the district court for a review of the decision as provided by state law.

#### **12.12 DEVELOPMENT STANDARDS, APPLICABILITY, AND REGULATIONS**

[12.12.010 PURPOSE](#)

[12.12.020 LANDS TO WHICH HIDEOUT DEVELOPMENT STANDARDS APPLY](#)

[12.12.030 PHYSICAL CONSTRAINTS RESTRICTIONS](#)

[12.12.040 ERU CALCULATIONS](#)

[12.12.050 TRANSPORTATION](#)

[12.12.060 PUBLIC SERVICES](#)

[12.12.070 OPEN SPACE](#)

[12.12.080 BUILDING ELEMENTS](#)

[12.12.090 REQUIREMENTS FOR COMMERCIAL/INDUSTRIAL BUILDINGS](#)

[12.12.100 SETBACKS](#)

[12.12.110 MINIMUM LOT FRONTAGE](#)

[12.12.120 WEED CONTROL](#)

[12.12.130 IMPACT FEES](#)

[12.12.140 DENSITY INCREASES](#)

[12.12.150 FIRE SPRINKLERS REQUIRED](#)

[12.12.160 SALE OF PROPERTY UNDER CONDOMINIUM OWNERSHIP ACT](#)

## 12.12.170 DEVELOPMENT APPLICATION PROCESS

### **12.12.010 PURPOSE**

The establishment of the Hideout Development Standards (â€œHDSâ€) is to achieve development that can work in unison with the surroundings to maximize the beauty, enjoyment and long term stability and accomplish the following purposes:

- A. To preserve and protect the natural beauty of the Hideout; and
- B. To establish regulations by which development may take place.

### **12.12.020 LANDS TO WHICH HIDEOUT DEVELOPMENT STANDARDS APPLY**

The HDS shall apply to all lands within the the Town of Hideout.

### **12.12.030 PHYSICAL CONSTRAINTS RESTRICTIONS**

No land shall be developed that does not conform to the physical constraints standards established by recommendations of a geological engineer or a geotechnical engineer licensed in the State of Utah for the particular development, subject to approval by the legislative body.

### **12.12.040 ERU CALCULATIONS**

ERU calculations shall be based upon the Unit Equivalent Chart attached as [Appendix 5](#) hereto.

### **12.12.050 TRANSPORTATION**

- A. Roads. Planned roads within a development should connect when practical to roads planned in the adjoining development, and be kept open to the public at all times, unless special approval is granted by the Hideout Legislative Body to allow a gated community.
- B. Retaining Walls. No retaining wall shall exceed ten (13) feet in height without a step or horizontal break of at least three (3) feet. However, on a limited basis, walls without the three (3) foot break may be approved, if the developer can show that the appearance of the retaining wall, without the required three (3) foot steps can be mitigated or that physical constraints limit the ability to provide the required step. Timber retaining walls are discouraged. Retaining wall material shall be colored to blend with the environment.

### **12.12.060 PUBLIC SERVICES**

- A. Sewer. All lots shall be served with public sewer, except that if the property line is more than three hundred (300) feet from a sewer line, and an owner wishes to build one (1) residence on a parcel of land of at least ten (10) acres, a septic

system for the single residence may be permitted if approved by the health department and Hideout Legislative Body.

- B. Water. All lots shall be served with a public water source, if such is available within five hundred (500) feet of any portion of the lot, and the lot is a minimum of ten (10) acres in size. In the event a private well is allowed by the Hideout Legislative Body it must meet all Town and State requirements.
- C. Storm Water Management. All developments and lots contained therein shall control the release of storm water run-off by complying with the regulations established in the Hideout Water Quality Management Plan, which is attached hereto as [Appendix 2](#).
- D. Utilities. All developments shall supply stub-outs to each lot contained in the development for all utilities including, but not limited to natural gas, telephone, electricity, cable television, etc. In the event, wireless solution for phone, internet and television are used, an implementation plan will be provided for approval.
- E. Snow Removal and Road Maintenance. Snow removal and road maintenance will be the responsibility of the Homeowner's Association within each development for roads contained therein, except for any roads, or portions thereof, which are specifically accepted and dedicated as public roads, at the time of approval of the development, by the Town of Hideout. All roads accepted and dedicated as public roads by the Town of Hideout shall be maintained and snow removed by the Town of Hideout. All developments will be planned with snow removal requirements in mind.
- F. Garbage. Construction debris shall be properly disposed of by the contractor prior to a Certificate of Occupancy being granted for any building.

#### **12.12.070 OPEN SPACE**

A minimum of twenty (20) percent open space is required within each development. The intent of the open space is that some open space shall be available for gathering spaces, parks, golf courses, playgrounds and other areas that is easily accessible to people who may not be able to access steeper areas.

- A. Sensitive Areas. All areas which have been designated as a sensitive area shall remain as open space, but may be counted toward the open space requirement for the development. If any development has a larger amount of sensitive area than is required for their development, density allowances for the extra land required to be left in open space may be transferred to other areas if requested and if such transfer will not result in an over-crowding of the area to which it is being transferred.
- B. Contiguous. Open spaces shall be designed to be as contiguous as possible.
- C. Usable. Wherever possible lands designated as open spaces should be usable for hiking and biking trails and small parks.
- D. Maintenance. Provisions must be made for regular maintenance of all open

spaces. In the case of open space that is left in its native conditions a management plan may be required.

### **12.12.080 BUILDING ELEMENTS**

All buildings shall be designed to meet the requirements of the Hideout Development Area Design Guidelines. Evidence of conformance to the Design Guidelines shall be in the form of typical drawings and in through the Developer CC&R<sup>™</sup>s and Design Review Guidelines that bind future buildings in the development to at least the minimum standards that are established by the Hideout Development Area Design Guidelines and as approved by the Hideout Legislative Body.

### **12.12.090 REQUIREMENTS FOR COMMERCIAL/INDUSTRIAL BUILDINGS**

#### **A. Parking and Pedestrian Access.**

1. Pedestrian access to all public right-of ways and between all structures within the development.
  - a. Access through parking areas shall be separated from vehicular traffic. Pedestrian access should be defined.
  - b. Crossings through parking areas should be minimized.
  - c. Lighting analysis and plan be provided. Lighting plan should comply with dark sky initiative.
  - d. If developments have more than one parcel, an overall pedestrian plan shall be submitted and approved as part of the preliminary approval.

B. Traffic Impact Study. A traffic impact study may be required by the Town of Hideout, and must be prepared by a registered traffic engineer. The traffic study shall include an analysis of on-site circulation, capacities of existing streets, number of additional trips, which will be generated, origin/destination studies and peak home traffic generation and movements.

C. Landscaping. For the purpose of buffering and site compatibility with surrounding development, commercial and industrial projects may require additional landscaping and architectural integration. Landscaping areas and buffer strips may be increased to ensure compatibility. Site compatibility is particularly important when commercial or industrial Projects are developed adjacent to residential and professional office buildings.

D. Fencing/Screening. Fencing may be allowed depending on the adjacent land use and the applicant<sup>™</sup>s security needs. Screening of any outside storage shall be required, if appropriate, with a combination of fencing, walls, live plants and/or earth berming.

E. Fences shall be constructed so that significant variations in top line, bottom line



and/or height do not occur due to erratic grading of the site.

#### **12.12.100 SETBACKS**

All setback lines shall be reviewed for recommendation by the Planning Commission and subject to final approval by the Legislative based upon a visual assessment of the property and the use for which it is intended. Building setbacks shall vary from structure to structure within any one (1) lot or development. Setbacks shall also vary from those on adjoining roadway-oriented property to avoid creating a walled effect. Buildings shall be located in such a manner as to enhance and frame views as determined in the visual assessment, to allow for appropriate gathering and seating areas in commercial nodes, and to maximize the usable space on the lot.

#### **12.12.110 MINIMUM LOT FRONTAGE**

Each lot or parcel of land in a residential development shall abut a public road or road built to town standards, for a minimum distance of seventy (70) feet on a line parallel to the centerline of the road or around the circumference of a cul-de-sac.

#### **12.12.120 WEED CONTROL**

The developer shall be responsible for the control and eradication of noxious weeds on all areas of the property including graded and disturbed areas until such time that the individual lot is sold, at which time the individual lot owners shall become responsible.

#### **12.12.130 IMPACT FEES**

Each development and each individual lot contained within each development shall be subject to all Town of Hideout Impact Fees for the Town of Hideout, as adopted and amended from time-to-time.

#### **12.12.140 DENSITY INCREASES**

The Hideout Legislative Body, after public hearings, may award reasonable increases in density where appropriate and not barred by sensitive lands, as a means of compensating owners for dedication or contribution of approved schools sites, public facilities or increased open space above the required amount. Such density increases may not exceed twenty five (25) percent of the lowest base density that would have been granted for the land use. The twenty five (25) percent maximum shall be calculated based upon the lowest base density, and only one (1) bonus may be granted for any qualifying category. Developer can request bonus density of one (1) unit for every 500 feet of paved (minimum 5'™ width) public trails, and will therefore reduce open space requirement proportionately.

#### **12.12.150 FIRE SPRINKLERS REQUIRED**

All building constructed or modified within Hideout shall be required to install fire sprinklers. Fire sprinklers shall be installed in accordance with applicable building codes.

## **12.12.160 SALE OF PROPERTY UNDER CONDOMINIUM OWNERSHIP ACT**

Where all or part of a development is structured as a condominium project, the documentation for the project shall comply with the provisions of the Utah Condominium Ownership Act, as well as with the provisions of the Town of Hideout Code. To the extent there is a conflict between the provisions of this Title and the Act, the provisions of the Act shall control. All condominium projects must be submitted to the Planning Commission and approved by the Hideout Legislative Body. No declaration, bylaw, or other instrument required by or under the act, shall be recorded in the office of the Town Recorder unless and until the declaration, by law, or other instrument shall have been submitted to and approved by the Hideout Legislative Body.

## **12.12.170 DEVELOPMENT APPLICATION PROCESS**

A. Concept Plan. A Concept Plan shall be prepared for all proposed developments. The Concept Plan shall conform to the goals of the Plan and the Town of Hideout Code relating to the zone governing the application. As used in this process the term “Concept Plan” refers to a preliminarily engineered sketch plan drawn to illustrate initial thoughts about the layout for open space lands, development sites, public trails, and street alignments, etc. This plan should be prepared using spatial data. This is the stage where drawings are tentatively illustrated, before heavy engineering costs are incurred in the design of any proposed development, but after consideration of spatial data. These drawings shall be prepared by a team that is headed up by a licensed professional engineer or licensed architect. After preparation, an appointment should be made with the Town office to have the plan reviewed. The concept plan should use the criteria established in:

1. [Appendix 1](#) - Road Design Planning Submittal Criteria and
2. [Appendix 2](#) - Storm Drainage and Erosion Control Planning Submittal Requirements
3. [Appendix 3](#) - Sewer and Water Design Criteria
4. [Appendix 4](#) “ Modification to WPA
5. Appendix 5 “ Adoption of Codes
6. [Appendix 6](#) “ ERU/Equivalent Residential Units
7. Manual of Standard Plans 2007 editions APWA

B. Preliminary Plans. The Preliminary Application Package shall contain a submittal of the application in a form which complies with the Town of Hideout Policy. The Preliminary Plans shall be drawn to a scale not smaller than one inch equals one hundred feet (1" = 100'), and shall show the following:

1. Project name and address;
2. North point, scale, date;

3. A copy of the Record of Survey filed with the Town of Hideout Surveyor's office of the proposed boundary of the overall development and/or phase. In the event that the development has multiple phases, the proposed plat shall show the recorded file number of the Record of Survey and/or paper copy of the survey;
4. A copy of the closure sheet which shall show the following:
  - a. The courses and distance of the proposed development/subdivision boundary and the error of closure;
  - b. The area of each lot in square feet and acres.
5. All open spaces and roadways
6. Names, addresses, and telephone numbers of developer, engineer, and current and prospective owners;
7. Nearest section corner tie, township(s) and range(s);
8. Acreage, property dimensions, project perimeter;
9. All proposed phases of the development, numbered and defined, with approximate timetable for development;
10. Location of entire development in relation to surrounding neighborhoods and developments (include names of adjacent subdivisions and developments, adjacent property owners' names and addresses, and adjacent land uses and buildings);
11. Existing topography with a contour interval of two (2) feet;
12. Landscaping Concept plans illustrating cut and fill limits and limits of disturbance and landscaping plans including topographic lines, and evidencing conformance with the Hideout Water Quality Plan;
13. Existing and proposed lot lines, easements, walkways, streets and rights-of-way (public and private), including widths, names, and numbers, on subject and surrounding areas; proposed dedications of public use areas; existing and proposed curb, gutter, and sidewalk. Sidewalks may not be required in all residential areas, but should be noted on the plans if proposed by the developer or if required by the Town of Hideout after initial review.
14. Existing waterways (including irrigation), significant vegetation, and natural features of the land;
15. Sensitive lands in the proposed development shall be identified on a plan prepared and stamped by a licensed geotechnical engineer or licensed geologist;
16. Soils testing and geotechnical analysis as required by the Town of Hideout;

17. Existing and proposed infrastructure including all fire hydrants, water and sewer lines, storm sewer system, and all utilities, including but not limited to electricity, natural gas, telephone, cable television;
18. Proposed layout of all public and private streets, if any, including profiles (same scale as site plan) and cross-sections (same as Town standards, at an interval of one hundred (100) feet (or as determined by the Hideout Planner);
19. Location and conceptual elevation drawings of existing and proposed buildings, signs, dumpster and utility enclosures, fences and other structures;
20. Drainage plans illustrating that the development as planned does not impose adverse impacts to the drainage system or increase the sediment contribution to receiving waters. The Drainage Plan will illustrate methods of controlling runoff, directing flow and detaining or retaining water. Methods in preparing the necessary items to be contained in the Drainage Plan are described in the Hideout Water Quality Plan. The Drainage Plan shall include the following:
  - a. Site Description;
  - b. Development Plan;
  - c. Drainage Assessment; and
  - d. Storm Water Pollution Prevention Plan.
21. Unit configuration footprints and typical architectural elevations;
22. Tabulation of projected ERUs, as described in the Plan;
23. Any additional information which the Hideout Legislative Body may reasonably require in a specific instance. Where a developer owns or controls more land than he or she wishes to develop immediately, the Town of Hideout may require that a preliminary plan of the whole area be submitted, in which case the developer shall indicate the portion to be developed immediately and the portion to be held for future development.
24. Preliminary Plan shall incorporate the criteria and requirements of the following:
  - a. Appendix 1 - Road Design Planning Submittal Criteria and
  - b. Appendix 2 - Storm Drainage and Erosion Control Planning Submittal Requirements
  - c. Appendix 3 - Sewer and Water Design Criteria
  - d. Appendix 4 - Modification to WPA
  - e. Appendix 5 - Adoption of Codes
  - f. Appendix 6 - ERU/Equivalent Residential Units

- g. Manual of Standard Plans 2007 editions APWA
  - h. Manual of Standard Specifications 2007 editions APWA
25. The following documents which shall be prepared in accordance with applicable standards, and shall be submitted in accordance with the requirements of this Code, or any amendment thereto, with the required application fees. These documents shall be a draft copy of each document, which shall be reviewed and the final copies will be submitted with the final documentation when application is made for Final Approval.
  26. Draft copy of Articles of Incorporation and Bylaws of the Property Owners Association;
  27. Draft copy of Declaration of covenants, conditions, restrictions and management policies;
  28. A will-serve letter from any Special Service District and/or other appropriate agency, indicating the availability of water, water service, sewer service, extended fire, extended police, schools, garbage collection and disposal, roads maintenance, trails maintenance, open space management, storm water detention, telephone service, electric service, natural gas, and other municipal type services;
  29. A form of certification for each of the following (these are proposed certifications of what is intended to be placed on the plat, a sample of which may be obtained from the Planning office):
    - a. Owner's dedications;
    - b. Surveyor's certificate of accuracy of survey;
    - c. Surveyor's approval;
    - d. Hideout Legislative Body approval.
  30. Preliminary Procedures
  31. Submit application along with required fees and 5 copies of all required plans, reports and required documents.
  32. Public Notice as required by the Town of Hideout Standards.
  33. Hearing before the Planning Commission: The Public hearing before the Planning Commission will be held, and comments requested from the public at that time. If, after such hearing and at such time that the Planning Commission determines that a complete application has been provided it will forward the application along with its recommendations to the Hideout Legislative Body.
  34. The matter will be placed on the next available Hideout Legislative Body agenda.

35. Public Notice of the Hideout Legislative Body hearing shall be given as required by the Hideout Standards for Public Notice.
36. Hearing before the Hideout Legislative Body: The hearing before the Hideout Legislative Body will be held, and comments requested from the public at that time. If, after such hearing the Hideout Legislative Body approves the project, the project may then proceed to apply for Final Approval, provided however if any conditions are set forth by the Hideout Legislative Body, all such conditions must be met prior to application for Final Approval unless otherwise required by the Hideout Legislative Body.
37. Final Plans. The Final Plans must first evidence how the Final Plans conform to the Preliminary Plans and any conditions for Preliminary Approval and such plans must include but not limited to the following:
38. Submit application along with required fees and 5 copies of all required plans, reports and required documents;
39. Project name and address;
40. North point, scale (not smaller than 1" = 100'), date;
41. Development phase number, if a phased project;
42. Names, addresses, and telephone numbers of developer, engineer, and current owners;
43. Nearest section corner tie, township(s), and range(s);
44. Lot lines, dimensions and area; adjacent lots and phases;
45. Existing and proposed easements, walkways, streets, and rights-of-way (public and private), and trails, including widths, names, and numbers; proposed dedications of public use areas; existing and proposed curb, gutter and sidewalk (public and private);
46. Existing waterways (including irrigation and piping);
47. Topography (contours at 2-foot intervals) and site drainage plan which illustrate existing and proposed conditions;
48. Existing vegetation to remain on development and natural features of the land;
49. Soils testing and analysis. A letter of purpose will be prepared, and submitted by a licensed geotechnical engineer that shall consider the findings of the sensitive lands study along with the project engineering, that will determine they type frequency and nature of the geotechnical investigation and subsequent report. The purpose letter will also state what minimum requirements, with respect to geotechnical studies, will be imposed on the subdivided land prior to the issuing of building permits.
50. UDOT approval for access off state roads if applicable; approval as

- required of other state and federal agencies;
51. Final grading plans illustrating cut and fill limits and limits of disturbance;
  52. Temporary construction erosion control plan;
  53. Final drainage plan illustrating methods of controlling runoff, directing water flow, and detention / retention areas;
  54. Existing and proposed utilities including, fire hydrants, water and sewer lines, and storm sewer system; including plan and profile.
  55. Location and elevation drawings of existing and proposed buildings, signs, dumpster and utility enclosures, fences and other structures;
  56. Landscaping plan;
  57. Parking, access, and loading plan when applicable;
  58. Lighting plan, including dark sky initiative;
  59. Architectural concept plans;
  60. Tabulation of ERUs, as defined by the Plan
  61. Final Plan shall incorporate the criteria and requirements of the following:
  62. Appendix 1 - Road Design Planning Submittal Criteria and
  63. Appendix 2 - Storm Drainage and Erosion Control Planning Submittal Requirements
  64. Appendix 3 - Sewer and Water Design Criteria
  65. Appendix 4 - Modification to WPA
  66. Appendix 5 - Adoption of Codes
  67. Appendix 6 - ERU/Equivalent Residential Units
  68. Manual of Standard Plans 2007 editions APWA
  69. Manuel of Standard Specifications 2007 editions APWA
  70. Final Documentation. The following official documents prepared in a manner that will fully present information:
  71. Articles of Incorporation and Bylaws of the Association;
  72. Declaration of covenants, conditions, restrictions, and management policies;
  73. An information brochure (prepared in accordance with applicable standards) for use in the sales program to inform all home buyers in simple terms about the Homeowners Association and the rights and obligations of lot owners;
  74. A final form of certification for each of the following (these are the



certifications intended to be placed on the plat):

- a. Owner's dedications;
- b. Surveyors certificate of accuracy of survey;
- c. Surveyor's approval;
- d. Hideout Legislative Body approval;
- e. Notary Public's acknowledgement

- 75. The Design Review Guidelines governing building design within the development
- 76. Geotechnical Studies required prior to the issuing of a building permit within the development
- 77. Procedures for Final.
- 78. Submit application along with required fees and 5 copies of all required plans, reports and required documents
- 79. Public Notice as required by the Town of Hideout Standards.
- 80. Hearing before the Planning Commission: The Public hearing before the Planning Commission will be held, and comments requested from the public at that time. If, after such hearing and at such time that the Planning Commission determines that a complete application has been provided it will forward the application along with its recommendations to the Hideout Legislative Body.
- 81. The matter will be placed on the next available Hideout Legislative Body agenda.
- 82. Public Notice of the Hideout Legislative Body hearing shall be given as required by the Hideout Standards for Public Notice.
- 83. Hearing before the Hideout Legislative Body: The hearing before the Hideout Legislative Body will be held, and comments requested from the public at that time. After such hearing the Hideout Legislative Body will vote to either approve the projects without conditions, approve the project with conditions or to not approve the project.
- 84. Final Plat Recordation. After gaining final approval a final plat shall be prepared on a reproducible Mylar drawn in accordance with the Town of Hideout standards at a scale not smaller than one inch equals one hundred feet (1" = 100'), and shall show the following:
- 85. Boundaries of the development and location of all required survey monuments;
- 86. Location of all lot lines;
- 87. Location and extent of all street and other parcels of land to be dedicated

- to the public and to be retained in private ownership;
88. Location and extent of all easements; and
  89. The certifications previously proposed and approved as part of the Final Documentation provided.
  90. Condominium Plats. The processing of Plats for condominium developments shall follow the procedures set forth in this chapter.
  91. A registered architect or engineer shall certify the Final Condominium Plat.
  92. Conversion of Conventional Apartment Developments. Preliminary Plats shall show the following, in addition to all information required by the department checklist for site plans:
    93. Firewall construction, as required by the International Fire Code, the adopted Building Code;
    94. Additional parking, if required;
    95. Additional open space, if required;
    96. Location of individual utility lines and meters, if required; and
    97. Additional exits.
  98. Final Plats shall show:
    - a. All buildings;
    - b. Private drives and parking areas;
    - c. Required assessments;
    - d. Designation of commonly owned property;
    - e. Necessary dedication statement;
    - f. Statement concerning the formation of a homeowners' association for the maintenance of the commonly owned property; and
    - g. Necessary certifications and approvals.
  99. New developments:
    - a. Preliminary Plat shall show all of the information required by the Planning Department's site plan checklist;
    - b. Final Plats shall show all of the information required in this chapter;
    - c. Building permits shall be issued in accordance with Final approved Plats; and

d. Final Plats to be approved by the Hideout Legislative Body;

100. No Sale of Lots Until Final Approval

101. Lot(s), in a development that have not received final approval according to the requirements contained in this Title, may not be sold, advertised for sale, or offered for sale in any manner until after the plat has been recorded.

102. Bonds Guaranteeing Construction of Improvements

103. Definitions.

104. "Performance Bond" is an instrument, in a form approved by Hideout, with a sum not fixed as a penalty binding the developer to Hideout, to complete certain actions according to the standards in this code and, and any other applicable regulation or condition imposed by Hideout as a condition of approval, conditioned however, that the payment of the penalty may be avoided by the performance by the developer of the acts agreed to in the bond documents. The performance bond must include protection for Hideout against the developer's failure to perform all of the actions specified by the Legislative Body. The bond may consist of one of the following: cash deposited with Hideout; an escrow fund; an irrevocable letter of credit; documentation in a form acceptable to Hideout that demonstrates that the value of the completed improvements of the development are in excess of 200 percent of the proposed new improvements or collateral in the form of fully improved lots within the development that have a combined value of at least twice the value of the proposed improvements; or a surety bond.

105. "Warranty Bond" is an instrument, approved by Hideout, with a sum fixed guaranteeing the quality and/or conformance of completed and accepted improvements or other promised performance according to the standards in this code, and any other applicable regulation or condition imposed by the Town as a condition of approval. The warranty bond must provide that in the event the completed and accepted improvements or other promised performance covered by the bond fail, or are found to be less than the accepted standard during the term of the bond, that Hide out has the right to require repair and or replacement, and in the event of failure by the developer to adequately respond, Hideout shall have the right to recover against the warranty bond and repair or replace the covered improvements or other promised performance.

C. Performance Bonding Required. A performance bond shall be posted with Hideout in a principal amount of one hundred ten (110) percent of the total estimated cost of any improvement or other performance required by or promised to Hideout Canyon as part of the development. Such bonds shall be required prior to recording Plats to guarantee the completion of any and all approved improvements within or required by the platted area. The bond may also be required prior to commencement of any approved improvements if the

legislative body after reviewing the projects financial information and funding information determines that is required. The estimated cost shall be based upon the estimate of Hideout's Engineer who shall take in to account some or all of the following factors when making his estimate:

1. The developer's engineering estimate;
2. The estimate of any reviewing engineer;
3. Any other relevant information.

D. Failure of Performance, Extension of Time. In the event that any performance covered by a performance bond required is not completed within the time period allowed for under the performance bond, the developer may petition Hideout for an extension of time in which to complete the required performance. A one-year extension of time may be granted by Hideout upon application by the developer, upon a showing of good cause and diligent effort by the developer to complete the performance as provided in this chapter.

E. Warranty Bonding. Upon completion of the required improvements or other performance subject to a performance bond, the developer shall petition Hideout for release of the performance bonds. The developer, prior to release of the performance bond, shall obtain a warranty bond warranting the required improvements or other promised performance for a minimum of two (2) years following the date of acceptance of the improvements, by Hideout. The Warranty Bond shall be in the amount of fifty (50) percent of the actual cost of the required improvement or other promised performance. Hideout may waive the warranty bond for those improvements that remain the property of or are part of the development's maintained improvements, if at the discretion of Hideout the development's HOA accepts the improvements and it can satisfactorily demonstrate that it is financial responsible to assume this responsibility. In the event the required improvement or other promised performance is not completed in a satisfactory manner, Hideout may, at its discretion, for good cause, require an extended warranty of up to five (5) years. The warranty bond provided for herein shall be required in order to insure that the improvements are installed pursuant to the approved plans, are structurally sound, and that no further replacements or repairs are required.

F. Amount of Bonds.

1. As work is completed, the developer may replace his performance bond with bonds from the Contractor who performed the work. The Contractor's bonds shall name Hideout as a beneficiary. The Developer's performance bond may be released in an amount equal to the approved Contractor's bond. The legislative body may approve partial releases of the Performance Bond prior to final release. A two hundred dollar (\$200.00) fee will be assessed for each release to cover any administrative costs. The releases shall not exceed the Contractor's bond and shall not exceed the percentage of work completed and, at no time prior to final acceptance of the improvements by the Town may the total

amount of bond be allowed to be reduced lower than one hundred ten percent (110%) of the value of Hideout's engineer's estimate of the uncompleted improvement(s) or other promised performance.

2. Warranty bonds required herein must have a face amount of at least fifty (50) percent of the value of Hideout engineer's current estimate of the improvements to be warranted. Developer may not draw against the warranty bond for any purpose other than the replacement or repair of improvements as required and approved by Hideout. At no time prior to expiration of the warranty period warranty bond amount be allowed to be reduced by approved draws lower than twenty five (25) percent of the value of the original value of the warranty.

#### G. Ridgeline/Views.

1. In order to protect the valuable views of the ridgelines of Hideout, buildings shall not protrude above primary ridgelines, and that an applicant's consideration of views will be consideration during the approval process.

#### H. Property Access Requirements.

1. Must Prove Right to Access. Applications for new developments must show proof that they have secured legal access to their property when their property does not abut to a public road in order to be considered for approval.

#### I. Fire District Review.

1. Without limiting any other provision of this Paragraph, upon receipt of a Preliminary Plan application, the zoning administrator will forward a copy of the Preliminary Plan to the Wasatch County Fire District for review and comment. The Fire Chief of the Wasatch County Fire District or his designee shall, within twenty-one (21) days from receipt, provide comment and feedback regarding the Preliminary Plan in the form of a written report which cites to relevant provisions of the International Fire Code or other applicable fire and safety standards. If the Fire District does not provide written comment and feedback within that time, the Fire District will be deemed to have waived the opportunity to do so with respect to such application. Any report received from the Fire District shall be forwarded to the Planning Commission for consideration. A copy of any report received from the Fire District shall also be forwarded to the Applicant. The Applicant will have up to seven (7) calendar days to provide written notice to the Planning Commission of the Applicant's intent to submit any additional information relevant to public safety, including (if desired) a report from an expert of Applicant's choosing, for consideration by the Planning Commission. The Planning Commission shall consider the Fire District's report along with any information provided by the Applicant in determining whether to approve the

Preliminary Plan. If the Planning Commission approves the Preliminary Plan, the Planning Commission will forward the Fire District's report, together with any information provided by the Applicant to the Town Council along with the Planning Commission's recommendation.

2. Before any subdivision plat is approved for recording with respect to any subdivision which obtained Preliminary Plan approval prior to the date of this Paragraph, or for which the Fire District review required in Paragraph I,1 above, has not taken place, the Town shall request that the Fire District, within twenty-one (21) days, approve such plat or provide comments and feedback in the form of written recommendations which cite to relevant provisions of the International Fire Code or other applicable fire and safety standards. If the Fire District does not provide written comments and feedback within that time, the Fire District will be deemed to have waived the opportunity to do so with respect to such plat. If the Fire District approves the plat or fails to provide comment and feedback within the time provided for herein, the plat shall be approved and signed so long as it otherwise complies with the Town Code. If the Fire District does not approve the plat, then a copy of the Fire District's recommendations, together with any additional information which the applicant chooses to provide, as provided in Paragraph I,1 above, will be forwarded to the Town Council. The Town Council shall thereafter hold a public hearing to determine whether to approve the plat or to instruct the applicant to address the Fire District's recommendations prior to approving. At such hearing, the scope of the Town Council's review shall be limited to Fire District's recommendations.

## **12.14 MOUNTAIN ZONE**

### **12.14.020 PURPOSE**

### **12.14.030 PERMITTED PRINCIPAL USES**

### **12.14.040 PERMITTED ACCESSORY USES**

### **12.14.050 CONDITIONAL USES**

### **12.14.060 LOT AREA**

### **12.14.070 LOT WIDTH**

### **12.14.080 LOT FRONTAGE**

### **12.14.090 PRIOR CREATED LOTS**

### **12.14.100 LOT AREA PER DWELLING**

### **12.14.110 SETBACK REQUIREMENTS**

### **12.14.120 BUILDING HEIGHT**

### **12.14.130 DISTANCE BETWEEN BUILDINGS**

### **12.14.140 SITE PLAN PROVISIONS**

### **12.14.150 PERMISSIBLE LOT COVERAGE**

### **12.14.160 OFF-STREET PARKING REQUIRED**

### **12.14.170 RESIDENTIAL REQUIREMENTS**

### **12.14.180 MINIMUM OPEN SPACE REQUIREMENTS**

### **12.14.190 OWNERSHIP**

## 12.14.200 CONSTRUCTION AND MAINTENANCE

### **12.14.020 PURPOSE**

The (M) Mountain Zone is established for development Hideout that may or may not have services readily available. Development should be in harmony with mountain settings and adverse impacts shall be mitigated. The specific intent in establishing the Mountain Zone is for the following purposes:

- A. Provide an appropriate location within the Hideout for the development of mountain residential dwellings.
- B. Prevent excessive scattering of mountain dwellings, accompanied by excessively long streets, and infrastructure.
- C. Facilitate payment for services rendered by the municipality for streets, fire, police, health, sanitation and other services.
- D. Prevent soil erosion generated from excessive streets and soil displacement.
- E. Protect the vegetation and aesthetic characteristics of the Hideout canyons and mountains.
- F. Encourage the protection of wildlife, plant life and ground water.
- G. Protect the health, safety and welfare of the residents of the Town of Hideout by only allowing development that will have appropriate access to and from the development and provide appropriate fire and emergency access.

### **12.14.030 PERMITTED PRINCIPAL USES**

Those principal uses or categories of uses as listed herein, and no others, are allowed as a permitted use in the (M) Mountain Zone.

Permitted principal uses in the (M) Mountain Zone:

- A. Single family dwellings (detached)
- B. Highway and street right-of-way
- C. Underground gas pipeline right-of-way
- D. Underground water pipeline right-of-way
- E. Water pressure control stations and pumping plants
- F. Underground sewage pipeline right-of-way
- G. Underground power and communication lines.

### **12.14.040 PERMITTED ACCESSORY USES**



Accessory uses and structures are permitted in the (M) Mountain Zone provided they are incidental to, and do not substantially alter the character of the permitted principal use or structure.

Accessory buildings such as garages, gardening sheds, recreation rooms, and similar structures, which are customarily used in conjunction with and are incidental to a principal use or structure.

Storage of materials used for the construction of a building including a temporary contractor's office and/or tool shed, provided that such uses are on the building site, and provided further, that such use shall be for only the period of construction and thirty (30) days thereafter. Approval is subject to a bond and site plan approval from planning staff.

#### **12.14.050 CONDITIONAL USES**

The following shows the uses and structures that are permitted in the (M) Mountain Zone only after a conditional use permit has been approved, and subject to the terms and conditions thereof.

Conditional Uses in the (M) Mountain Zone:

- A. Single family (attached) as part of a Planned Performance Development
- B. Single Family clustering as part of a Planned Performance Development
- C. Golf Courses as part of a Planned Performance Development
- D. Green Houses
- E. Hotels / Lodges as part of a Planned Performance Development, equestrian facilities
- F. Telephone Relay Towers, Microwave or Other
- G. Electric Utility
- H. Gas Pressure Control Stations
  - I. Water Treatment Plant
  - J. Water storage
  - K. Water storage covered
  - L. Swimming pools and incidental bath houses
- M. Underground pipeline right-of way and pressure control stations
- N. Electrical transmission lines

#### **12.14.060 LOT AREA**

Unless approved as part of a Planned Performance Development, the minimum lot size shall be one 1 acre per dwelling unit. If approved as part of a Planned Performance Development, lot sizes and density shall be in accordance with the approval thereof. Any development with a proposed density greater than one (1) unit per one acre shall be submitted as a Planned Performance Development.

#### **12.14.070 LOT WIDTH**

Each lot or parcel of land in the (M) Mountain Zone shall have a lot width of at least one hundred and twenty-five (125) feet on a straight-line lot and one hundred (100) feet on a cul-de-sac lot at the required setback unless approved as part of a Planned Performance Development.

#### **12.14.080 LOT FRONTAGE**

Each lot or parcel of land in the (M) Mountain Zone shall abut a Hideout or road built to Hideout standards for a minimum distance of three hundred (300) feet. Corner lots shall have a minimum of three hundred (300) feet on both roads. Deviation of this standard may be allowed, if the proposed development is a Planned Performance Development.

#### **12.14.090 PRIOR CREATED LOTS**

Lots or parcels of land which were legally created prior to the enactment of the requirements of the (M) Mountain Zone shall not be denied a building permit solely for reasons of nonconformance with the parcel requirements of this chapter.

#### **12.14.100 LOT AREA PER DWELLING**

Not more than one (1) single-family dwelling may be placed upon a lot or parcel of land in the (M) Mountain Zone unless approved as a Planned Performance Development. If a conditional use is obtained, an accessory residential unit may be built within the lot.

#### **12.14.110 SETBACK REQUIREMENTS**

The setback requirements for this zone shall be as follows:

- A. Front Setback. The front setbacks for dwellings shall be a minimum of sixty (60) feet from the center of the road, or thirty (30) feet from the edge of the right-of-way, whichever is greater. If the property is located on a State or Federal Highway, the setbacks shall be a minimum of one hundred and fifty (150) feet from the right-of way. For buildings abutting upon a Hideout street that is designated as a major collector road the setback shall be eighty-five (85) feet from the center line of any street, or fifty (50) feet from the right-of-way, whichever is greater.
- B. Corner Lots. For corner lots, the side setback on the street side shall be the same setback as that required for the front.
- C. Rear Setbacks. All permitted structures shall be set back from the rear property

line a minimum of thirty (30) feet.

- D. Planned Performance Developments. Setbacks shall be approved by the Legislative body on a case-by-case basis during the plan approval process.

#### **12.14.120 BUILDING HEIGHT**

Height of all dwellings, accessory buildings, and/or structures shall not exceed thirty five (35) feet above natural grade. For purposes of identifying the natural ground surface, small localized depressions or mounds should be excluded from the surface data. To determine the maximum building height the natural grade surface shall be raised 35â€™™. This shall be called the Height Restriction surface. No elements of the house shall project above the Height Restriction Surface.

Exceptions: Chimneys and vents that are required to extend above the roof line by code may penetrate the Height Restriction Surface.

#### **12.14.130 DISTANCE BETWEEN BUILDINGS**

The distance between any accessory building and the main building shall be twenty (20) feet.

#### **12.14.140 SITE PLAN PROVISIONS**

To obtain a building permit for a dwelling or any other permitted or conditional use, a site plan must be submitted showing existing conditions, structures, topography or any sensitive lands located on the lot. Dwellings shall be designed and constructed in accordance with recommendations from a licensed Geotechnical engineer such recommendations shall be stamped and submitted to the Building department with the building permit application.

#### **12.14.150 PERMISSIBLE LOT COVERAGE**

For lots or parcels one acre in size or greater, the Limited of Disturbance (LOD) for an individual single family use and any accessory structure shall not exceed twelve thousand (12,000) square feet, or as approved by the Town of Hideout.

#### **12.14.160 OFF-STREET PARKING REQUIRED**

There shall be provided at the time of the establishment of any use or at the time any main building is enlarged or constructed minimum off-street parking, permanently maintained, with adequate provisions for ingress or egress by standard sized automobiles.

#### **12.14.170 RESIDENTIAL REQUIREMENTS**

- A. There shall be provided in a private garage, sufficient space for the parking of two (2) automobiles for each unit

- B. No portion of a required front yard, other than driveways leading to a garage or properly located parking area, shall be paved or improved to encourage or make possible the parking of vehicles thereon. Parking of vehicles shall not be allowed except in such designated improved parking areas, and shall not be permitted in areas intended to be landscaped.
- C. Access to parking spaces and private garages used in conjunction with dwellings of two (2) or less units shall be limited as follows:
  - 1. Driveways shall be located a minimum of forty (40) feet from any street intersection;
  - 2. No driveway approach shall be located closer than ten (10) feet from a side lot line, excepting an approved shared driveway with the adjoining property. No driveway may interfere with any recorded easement;
  - 3. If approved by the legislative body an approved shared driveway on private property may be constructed up to the side or rear property line so long as the driveway does not interfere with a recorded easement or the surface drainage of the lot or adjacent lots where drainage easements are provided. The drainage from the driveway must be kept within the property.
- D. Driveways shall be paved with a hard surfaced material such as concrete, asphalt, brick, or stone pavers face.
- E. Lots shall be limited to one driveway approach per frontage except where a second driveway approach is specifically approved by the Planning Department to increase safety. Lots that are double-fronted with one (1) frontage on a major collector street, or corner lots with frontage on a major collector street, shall not be permitted to have a drive approach on the major collector street. (7) Driveways shall be a minimum of sixteen (16) feet wide unless International Fire Codes requires a greater width and a maximum of twenty six (26) feet wide.
- F. Driveways widths shall have a minimum width of twelve (12) feet with the property owner bearing the burden of showing public safety unless the Utah Building Code requires a greater width. The maximum width shall be twenty-six (26) feet.
- G. The maximum driveway shall be twelve (12) percent.

#### **12.14.180 MINIMUM OPEN SPACE REQUIREMENTS**

The (M) Mountain Zone shall have a minimum amount of Twenty (20) percent open space.

Intended Uses for Open Space.

- A. Open space should preserve environmentally sensitive areas, including slopes, unstable soils, geologic hazard areas, wetlands, desirable vegetation areas,

wildlife habitat, view corridors, flood plains, culinary water sources, aquifer recharge areas, streams, seeps, springs and drainage corridors, ridge-lines, or other environmentally sensitive areas or important features.

- B. Roadways, parking, storage areas, residential, and any land within a building lot, whether single family or multi-family, and any area within twenty (20) feet of any building shall be excluded in calculating the required area for open space.
- C. Open Space to Remain in Perpetuity. As assurance that the designated open space will remain open and unobstructed from the ground upward, the developers shall execute an open space preservation agreement with Hideout, which agreement shall run with the land and shall be binding upon the developer, heirs, successors, and assigns. The open space agreement shall preclude building on or development of the designated open space areas throughout the life of the development, unless approved by the Legislative Body. The land shall either be dedicated to Hideout for a public use, if acceptable to Hideout, or to the homeowners association to hold as dedicated open space. If deemed appropriate by the Planning Department, for smaller subdivisions, the open space may be contained within the lots owned by separate ownership, but must be deed restricted to prevent building of any structures, including fences thereon.

#### **12.14.190 OWNERSHIP**

Open space shall remain under the ownership of the homeowners association. In the event that Hideout accepts dedication of the open space, Hideout shall then assume the responsibility of maintaining the property.

#### **12.14.200 CONSTRUCTION AND MAINTENANCE**

The developer shall construct and landscape all areas and build all facilities, as per the approved plan. The Homeowners Association shall maintain all common areas and facilities. Hideout may place a lien upon each property contained within the development for the costs of such maintenance. Such lien may be foreclosed in the same fashion as a lien placed for property taxes.

#### **12.16 PLANNED PERFORMANCE DEVELOPMENT**

##### **12.14.220 PURPOSE**

##### **12.14.230 SCOPE**

##### **12.14.240 PERMITTED USES**

##### **12.14.250 CONDITIONAL USES**

##### **12.14.260 DESIGN**

##### **12.14.270 COMPLIANCE WITH THIS TITLE**

##### **12.14.280 MINIMUM OPEN SPACE**

##### **12.14.290 CONTENT OF DEVELOPMENT**

##### **12.14.300 DENSITY**

##### **12.14.310 PERFORMANCE CHART**

##### **12.14.320 SETBACK**

#### **12.14.220 PURPOSE**

The purpose of the Planned Performance Developments Chapter is to encourage imaginative and efficient utilization of land, to develop a sense of community, and to ensure compatibility with the surrounding neighborhoods and environment. This is accomplished by providing greater flexibility in the location of buildings on the land, the consolidation of open spaces and clustering of dwelling units. These provisions are intended to create more attractive and more desirable environments within Hideout to encourage the following:

- A. Allow creative use of the land and encourage the preservation of permanent open space and sensitive areas;
- B. Permit developers to vary density, architectural styles and building forms on a project-by-project basis, rather than on the basis of traditional zoning concepts, in a manner that will permit developers to create recreational/resort housing styles and amenities, in response to changing markets;
- C. Permit developers to situate the various features of their developments in harmony with the natural features of the land more than would otherwise be possible under a lot-by-lot development;
- D. Preserve to the greatest extent possible the existing landscape features, watershed, animal habitat and natural amenities and to utilize such features in a harmonious and aesthetically pleasing manner;

#### **12.14.230 SCOPE**

Planned Performance Developments are applicable to the (M) Mountain Zone.

#### **12.14.240 PERMITTED USES**

Uses permitted in the Planned Performance Development shall be limited to those uses listed by the provision of the underlying zone, except as follows:

- A. Permitted Accessory Uses in common areas or buildings may be used only by the residents of the development, and shall not at any time become commercial for the use of the general public, except for required trails which shall be open to the public.
- B. Single family attached
- C. Single family clustering

#### **12.14.250 CONDITIONAL USES**

Accessory uses shall include recreational facilities and structures, day care centers, personal services.

#### **12.14.260 DESIGN**

The design of the development shall be guided by the Physical Constraints Analysis, the suitability of soils, slopes, geologic hazards, traffic safety and travel efficiency, enhancement of aesthetic and scenic values, convenience of vehicular access to the development and to the dwellings within the development, un-crowded appearance around buildings, quality of landscaping and other amenities, the preservation of bodies of water, and other significant features. The development should incorporate a compact clustered lot layout that minimizes large amounts of infrastructure.

#### **12.14.270 COMPLIANCE WITH THIS TITLE**

The development will comply with the regulations set forth in this Title, including, but not limited to landscaping, preservation of sensitive lands, lighting, signs, and all other pertinent sections contained therein.

#### **12.14.280 MINIMUM OPEN SPACE**

At least twenty (20) percent of the gross land area contained within the development will be preserved for dedicated open space and not part of the platted lots. A density bonus may be provided to compensate for additional open space, as outlined in the Performance Chart attached hereto.

#### **12.14.290 CONTENT OF DEVELOPMENT**

The development may mix the uses contained within the development between single-family lots and attached housing.

#### **12.14.300 DENSITY**

Density bonus may be awarded by the legislative body based on the criteria established by the Performance Chart. The maximum density bonus will be 150% of the base density. The cumulative Equivalent Residential Unit (ERU) total of all phases within a development can not exceed the Maximum density approved by the Legislative body.

Density of individual phases or portions of phases with in a Planned Performance development can not exceed a maximum of 5 ERU™s per acre.

#### **12.14.310 PERFORMANCE CHART**

<b>Amenity</b>	
Base Density	1 ERU per acre
20 % open space preserved	required
Preserves sensitive areas in Open Space	required
Extra unusable Open Space	0% - 15%
Extra usable Open Space for public use	0% - 15%
Improving public open space with public amenities	0% - 15%



Private recreational amenities for development	0% - 15%
Positive Fiscal Analysis	0% - 15%
Use of environmental devices or enhancements	0% - 15%
Design consistent with neighborhood	0% - 15%
Mixture of Housing Types	0% - 15%
Quality and Quantity of landscaping	0% - 15%
Good clustered design	0% - 15%
Good architectural design	0% - 15%
Good streetscape design	0% - 15%
Total Maximum Increase	150%

### **12.14.320 SETBACK**

The setback requirements for this zone shall be determined by the legislative body as part of the Preliminary plan approval.

### **12.18 RESORT SPECIALLY PLANNED AREA (RSPA)**

#### **12.14.340 VISION AND PURPOSE**

#### **12.14.350 DESIGN OBJECTIVES**

#### **12.14.360 LONG DEVELOPMENT PERIODS**

#### **12.14.370 DENSITY GUIDELINES AND PROCEDURES**

#### **12.14.380 BUILDING CODES**

#### **12.14.390 MODIFICATION OF THIS TITLE**

#### **12.14.400 ERU CALCULATIONS**

#### **12.14.410 DEFINITIONS PERTAINING TO THE RSPA**

#### **12.14.420 RESIDENTIAL SINGLE FAMILY (RSF)**

#### **12.14.430 RESIDENTIAL MEDIUM DENSITY (RMD)**

#### **12.14.440 HOSPITALITY CASITA (HC)**

#### **12.14.450 RESORT VILLAGE MEDIUM DENSITY (RVMD)**

#### **12.14.460 RESORT VILLAGE HIGH DENSITY (RVHD)**

#### **12.14.470 NEIGHBORHOOD COMMERCIAL (NC)**

#### **12.14.480 COMMUNITY SITE (CS)**

#### **12.14.490 OPEN SPACE (OP)**

#### **12.14.500 RESORT FEATURE (RF)**

#### **12.14.510 MAXIMUM DENSITY**

#### **12.14.520 PERMITTED USE CATEGORIES**

#### **12.14.530 APPLICATION PROCESS**

### **12.14.340 VISION AND PURPOSE**

The Vision and Purpose for the RSPA is as follows:

- A. To create a nationally recognized resort.
- B. To Preserve and Enhance the Beauty and Environmental Integrity of the RSPA.
- C. To Provide Amenities Supporting Year Round Activities including:
  - 1. Density Pods, designed in a manner to support recreational activities of th
  - 2. Hotels;
  - 3. Golf courses and golf club;
  - 4. Fitness and wellness centers,
  - 5. Meeting facilities;
  - 6. Amphitheatre;
  - 7. Trail system
  - 8. The potential for enhanced lakeside recreation;
  - 9. High-end retail, dining and entertainment; transit and people-moving syste  
Features and amenities;
  - 10. Adequate and accessible parking;
  - 11. A wide range of well segmented, upscale real estate products; and
  - 12. Immediate access to local recreational activities

#### **12.14.350 DESIGN OBJECTIVES**

This title has been created to guide the development of the RSPA, to achieve the "Vision," and to encourage a consistent and unified high-level quality of land planning, architecture and public spaces.

#### **12.14.360 LONG DEVELOPMENT PERIODS**

This Title contemplate that the development of the RSPA, because of its size, design, quality and consideration of market factors, will occur in multiple phases and will take several years to complete. Market circumstances are likely to change many times over the life of the development. Consequently, there are certain flexibilities built into the approval and development process to allow developers to be responsive to the changing expectations and requirements of the buyers and visitors.

##### **A. Specific Objectives:**

- 1. Encourage responsible land use practices based on central and compact growth centers rather than scattered development;
- 2. Respect the natural topography of the land and existing vegetation;
- 3. Respect the architectural heritage of the region and the quality design precedents set by Hideout Canyon;

4. Create inspired themes, complete with pedestrian oriented streets and public spaces, humanly scaled buildings, appropriate landscaping, and rustic detailing;
5. Create a long term operationally sound resort that encourages walking;
6. Foster the development of year-round amenities and activities that are complementary of each other and consistent with the "Vision;"
7. Design the RSPA to meet the transportation and parking needs of the entire community, both public and private, properly address snow removal, and provide required services;
8. Where possible, create a community that is "wired," where visitors and residents will have access to high bandwidth services to experience voice, data and video feeds to every room of every hotel, multi-unit and single family residence in the area.

#### **12.14.370 DENSITY GUIDELINES AND PROCEDURES**

The property contained with-in the RSPA shall be granted 1.5 ERU's per acre as its base density. The development will establish its base density ERU totals (Maximum ERU's for the property included in the RSPA) by multiplying its total acreage contained in the RSPA by 1.5. The development will provide a table with each application that clearly shows its base density total, the total number of ERU's used in each previous phase, the total ERU's of the proposed phase and net ERU's remaining.

This Title creates RSPA density pods (as defined below) that will establish the maximum density that a particular area can be designed for. Resort specially Planned Area.

- A. In the event of any inconsistency between the terms of the Other Titles in the Hideout Code, Ordinances and Regulations and this Title, the terms and provisions of this Title shall control.

#### **12.14.380 BUILDING CODES**

The Implementation Guidelines are to be interpreted in a manner which is consistent with the Adopted building regulations and codes of Hideout.

#### **12.14.390 MODIFICATION OF THIS TITLE**

These guidelines and standards are intended to guide development within the RSPA throughout the long-term development of the property contained therein. It is crucial to the long-term success of the RSPA that modifications to this Title are permitted in order to respond to changes in circumstances and market conditions that will inevitably occur

over time. The developer may submit changes to this Title for review and approval by the legislative body.

- A. The boundaries of the RSPA Area may be modified from time to time by submission of a request for modification by the owner of the property to be added or deleted, and with the approval of a majority of the other owners of property within the RSPA (based on number of approved ERU's for each parcel) and approval of the Legislative Body.

#### **12.14.400 ERU CALCULATIONS**

Calculations of ERUs will be made pursuant to the procedures described and the ERU/Equivalent Residential Units found in [Appendix 6](#).

#### **12.14.410 DEFINITIONS PERTAINING TO THE RSPA**

For purposes of the RSPA, the following definitions shall apply:

**SETBACKS:** The distance from the right-of-way line or the property lines before any structure can be built. Chimneys or protrusions in a building may be located within the setback to the edge of the building eaves.

**STORY:** Is defined residential floors should range from 8-12 feet, commercial use floors in Resort Villages should range from 12-18 feet, and in hotels where meeting space is found it can range up to 30 feet.

**DENSITY PODS:** Areas of development. Each Density Pod has associated with it a specified number of Target Equivalent Residential Units (TERU's). Hideout, and the participating landowners understand that these Density Pods are subject to change in size and location as the RSPA master plan actually develops from the concept stage to actual buildable site.

**FSR (Floor Space Ratio):** The ratio or percentage computed by the floor surface area (or floor plate) of the main floor of a building, as the numerator, and the size of the building parcel, as the denominator.

**GROSS DENSITY:** The total Units in a Property, Density Pod or Zone, divided by the acreage in that Density Pod or Zone.

**NET DENSITY OF A PROPERTY, DENSITY POD OR ZONE:** Is a measure of density determined by computing the total number of Units of the Property, Density Pod or Zone and dividing it by the total acreage in that Property, Density Pod or Zone less the area of any public rights-of-ways or private roads.

**RESORT VILLAGE:** A center or hub for the RSPA. Resort Villages, and the reason they are important to the success of the RSPA, are described further in HMC 12.14.340 Paragraph C. In order to qualify as a Resort Village, the area or Zone must have the attributes listed below. A Resort Village can be located in more than one property:

A. A minimum of four of the following planned uses:

1. LAND USE PLAN

- a. Condominiums;
- b. Hotels;
- c. Timeshares or other shared-ownership products;
- d. Private residence clubs;
- e. Town homes;
- f. Single-family homes;
- g. Seasonal Community Housing or other Affordable Housing
- h. Meeting facilities.

2. Other required components;

- a. Retail, dining and entertainment facilities;
- b. A minimum of 150 Units (not ERU's) in the Resort Village Zone;

**12.14.420 RESIDENTIAL SINGLE FAMILY (RSF)**

Residential Single Family (RSF) is a Classification of a single family housing element in the land use plan is for larger lot development and shall contain detached housing. Housing in the RSF Zone should respond to the topography and the amenities located near the site. Larger lots are typically located on steeper slopes to allow any necessary grading to be integrated back into land form.

- A. Permitted Uses. Permitted uses within this RSF Zone include single family detached housing, recreational, trails, golf, and parks.
- B. Density per Acre. Gross Density shall not exceed 6 Units per acre.
- C. Building Heights. Building heights are limited to thirty five (35) feet or 2 1/2 Stories, whichever is greater.
- D. Setback. Front setbacks shall be taken from the back of curb or edge of road asphalt (if there is no curb). All other setbacks shall be taken from property lines. The side yard minimum setback shall be 10 feet, the rear yard minimum shall be 20 and front yard minimum setback shall be 20 feet. Larger houses should be located further from roads to avoid dominating the streetscape. and to provide room for sensitive grading transitions into existing slopes. Small units should typically be set closer to the front setback line to provide a more urban pedestrian environment.

**12.14.430 RESIDENTIAL MEDIUM DENSITY (RMD)**

The RMD Classification is provided to allow for greater density near recreational facilities such as the golf course and near the Resort Villages.

- A. Permitted Uses. Permitted uses within this Zone include residential attached, town homes, timeshares and other shared ownership facilities, condominiums, apartments, flats, seasonal employee housing, recreational, trails, parks and other Resort Features.
- B. Density per Acre. The maximum Gross Density for the RMD Zone is 6 to 20 Units per acre.
- C. Building Height. Building heights are limited to forty two (42) feet or 3½ Stories, whichever is greater.
- D. Setback. Front setbacks shall be taken from the back of curb or edge of road asphalt if there is no curb. All other setbacks shall be taken from property lines. Minimum setback shall be 10 feet; the rear yard minimum shall be 20 feet and front yard minimum setback shall be 20 feet. Larger houses should be located further from roads to avoid dominating the streetscape and to provide room of sensitive grading transitions into existing slopes. Multi-unit structures should be set at the setback line to provide a more urban pedestrian environment.

#### **12.14.440 HOSPITALITY CASITA (HC)**

The HC Classification is provided to allow for small casitas or bungalows as an additional room type for a hotel, other lodging or timeshare or other shared use facility in the RSPA. The HC Classification is available only if it is designed as an additional product to such a facility.

- A. Permitted Uses. Permitted uses within the HC Classification include hospitality and short-term rental, timeshare or other shared use facilities, recreational, hospitality support and Resort Features.
- B. Density per Acre. The maximum Gross Density allowable for this Zone is 20 to 40 Units per acre.
- C. Building Height. The maximum allowable building height is the greater of 25 feet or 2 stories.
- D. Setbacks. Property line setbacks for the HC Classification are 15 feet for the rear yard and 12 feet for the front yard. There are no side yard setback requirements.

#### **12.14.450 RESORT VILLAGE MEDIUM DENSITY (RVMD)**

Classification contemplates a mixed use Resort Village, as described in HMC 11.07.134 and in HMC 11.07.141, with a maximum six (6) Story height limit.

- A. Permitted Uses. Permitted uses include convention facilities, hotels, condominium hotels, condominiums, town homes, timeshare and other shared ownership, office, retail, dining, service, community uses, affordable housing,

single family residences, entertainment, kiosks and street vendors, equestrian facilities, service, storage, support and Resort Features

- B. Density Per Acre. The maximum Net Density allowable for the RVMD Classification is a range from 6 to 70 Units per acre. Commercial uses will be limited to the amount of floor area on the street level Story and to a maximum of fifty percent (50%) of the second Story. Meeting or convention space shall not be deemed to be commercial space for purposes of this limitation.
- C. Building Height. The maximum allowable building height is 6 Stories above ground.
- D. Setbacks. Not applicable.
- E. Density Exclusions. The following items will not be counted as a commercial use, within the meaning of the regulations of the Development Code, for purposes of calculating ERUs for hotels, condominium hotels, other lodging facilities, timeshare, other shared ownership facilities, convention or entertainment facilities, ski and ski support facilities, golf and golf support facilities and restaurants:
  - 1. Back of house, support, storage, and service areas as a part of the above mentioned facilities;
  - 2. Public space, lobby, restrooms and circulation areas as a part of the above mentioned facilities;
  - 3. Stairwells and elevator shafts as a part of the above mentioned facilities;
  - 4. Pools, fitness centers, spas and exercise facilities as a part of the above mentioned facilities;
  - 5. Parking, Porte cochere and entry areas as a part of the above mentioned facilities;
- F. Meeting, conference, convention, function and pre-function areas as a part of or adjunct to the above mentioned facilities;
- G. Kitchens, warming kitchens, food storage and preparation areas as a part of the above mentioned facilities; and
- H. Outdoor seating areas for restaurants and banquet areas as the above mentioned facilities.

#### **12.14.460 RESORT VILLAGE HIGH DENSITY (RVHD)**

This Classification contemplates a mixed use Resort Village.

- A. Permitted Uses. Permitted uses include convention facilities, hotels, condominium hotels, condominiums, town homes, timeshare and other shared ownership, office, retail, dining, service, community uses, affordable housing,



single family residences, entertainment, kiosks and street vendors, equestrian facilities, service, storage, support and Resort Features.

- B. Density per Acre. Maximum Net Density allowable is 6 to 80 Units per acre. Commercial uses will be limited to the amount of floor area on the street level Story and to a maximum of fifty percent (50%) of the second Story. Meeting or convention space shall not be deemed to be commercial space for purposes of this limitation.
- C. Building Height. The maximum allowable height shall be 8 Stories. Basement and below grade structures will not be counted as a Story.
- D. Setbacks. Not applicable.
- E. Density Exclusions. The following items will not be counted as a commercial use, within the meaning of the regulations of the Town of Hideout Land Use and Development Code, for purposes of calculating ERUs for hotels, condominium hotels, other lodging facilities, timeshare, other shared ownership facilities, convention or entertainment facilities, ski and ski support facilities, golf and golf support facilities and restaurants:
  - 1. Back of house, support, storage, and service areas as a part of the above mentioned facilities;
  - 2. Public space, lobby, restrooms and circulation areas as a part of the above mentioned facilities;
  - 3. Stairwells and elevator shafts as a part of the above mentioned facilities;
  - 4. Pools, fitness centers, spas and exercise facilities as a part of the above mentioned facilities;
  - 5. Parking, porte cochere and entry areas as a part of the above mentioned facilities; meeting, conference, convention, function and pre-function areas as a part of or adjunct to the above mentioned facilities;
  - 6. Kitchens, warming kitchens, food storage and preparation areas as a part of the above mentioned facilities; and Outdoor seating areas for restaurants and banquet areas as the above mentioned facilities.

#### **12.14.470 NEIGHBORHOOD COMMERCIAL (NC)**

- A. Permitted Uses. Permitted uses include convenience stores, restaurants, neighborhood services, offices, parks and Resort Features (as defined in HMC 12.14.500).
- B. Building Height. The maximum allowable height is 45 feet.
- C. Setbacks. Property line setbacks for the NC Classification are 20 feet for the rear, 18 feet for the front and 10 feet for the side.

#### **12.14.480 COMMUNITY SITE (CS)**

The CS Classification contemplates areas and facilities that are gathering places for residents and visitors.

- A. Permitted Uses. Permitted uses within areas of the CS Classification include convention/conference centers, equestrian centers, amphitheatres, community centers, parks, trails, overlooks, and other gathering places as determined suitable by the Legislative Body.
- B. Density. Not applicable.
- C. Height. Not applicable.
- D. Setbacks. Not applicable.

#### **12.14.490 OPEN SPACE (OP)**

The OS Classification has as objectives to preserve visual corridors, to provide recreational opportunities, and enhance the "open" feeling of the RSPA.

- A. Permitted Uses. Permitted uses include ski areas, golf courses and ancillary uses, trails including equestrian/pedestrian/bicycle/cross-country uses, parks, overlooks, amphitheatres, developed and natural parks, ancillary park facilities, and natural terrain.
- B. Density. Not applicable.
- C. Height. Not applicable.
- D. Setbacks. Not applicable.
- E. Roof Slopes. Not applicable.

#### **12.14.500 RESORT FEATURE (RF)**

A Resort Feature is a facility or area which serves as a major attraction. In other words, it provides activities or reasons for visitors to travel to the RSPA.

- A. Permitted uses include, but are not limited to, cross country ski trails, golf, lake/water activities, tubing hills, convention facilities, amphitheatres, distinctive pedestrian walks or plazas, skating ponds or rinks, health or spa facilities, water sport areas, swimming pools, trail heads, rock climbing walls and hot springs.

#### **12.14.510 MAXIMUM DENSITY**

Maximum Density means the sum of the Target Densities of all of the Zones in a Property which is the Maximum Density or maximum ERU's allowable for such Property.

#### **12.14.520 PERMITTED USE CATEGORIES**

Specific permitted uses within each category are indicated in HMC 12.14.420 through HMC 12.14.500:

- RSF - Residential Single Family
- MD - Residential Medium Density
- HC - Hospitality Casita
- RVMD- Resort Village Medium Density
- RVHD - Resort Village High Density
- NC - Neighborhood Commercial
- CS - Community Site
- OS - Open Space
- RF - Resort Feature

### **12.14.530 APPLICATION PROCESS**

The application process for the approval of phases within the RSPA shall be the same as that found in HMC 11.06 except for the following:

In order to achieve the goals set by Hideout for the RSPA. The property owner(s) shall endeavor to develop an overall programming plan that identifies uses and proposed density pod locations throughout the planning area. Since this process is likely to be highly influenced by market forces it is anticipated that the programming plan will focus on resort attractions and amenities and not on the required infrastructure and that the plan will be subject to frequent changes. As portions of the plan are complete they may be submitted to Hideout for comment and approval. If approved the plan will then serve as the guiding design and marketing document for the resort.

### **12.20 GENERAL PLAN ADMINISTRATION**

#### **12.16.020 PURPOSE**

#### **12.16.030 SCOPE**

#### **12.16.040 GENERAL PLAN INTERPRETATION**

#### **12.16.050 GENERAL PLAN AMENDMENT**

#### **12.16.060 APPLICATION PROCEDURES**

#### **12.16.070 NOTIFICATION PROCESS**

#### **12.16.080 APPEAL OF HIDEOUT LEGISLATIVE BODY ACTION**

#### **12.16.090 HIDEOUT LEGISLATIVE BODY ACTION**

#### **12.16.100 GENERAL PLAN CONSISTENCY**

### **12.16.020 PURPOSE**

The purpose of this chapter is to establish guidelines and procedures for amendment, maintenance and administration of a comprehensive, long-term General Plan and for

the conservation and development of portions of the Town of Hideout. The plan and procedures are to be consistent with State planning statutes.

- A. The purpose of the Hideout General Plan is to set policies to guide future growth and development in a manner consistent with the goals and quality of life desired by Hideout citizens. The Hideout General Plan is intended to be an integrated and internally consistent statement of policies to serve as a clear and useful guide for land use planning for public agencies and private citizens. The General Plan forms the basis for the Town of Hideout's zoning, subdivision and other land use regulations and for such implementation measures as capital improvement programs, housing programs, and growth management programs.
- B. The General Plan is based on community values and an understanding of existing and projected conditions and needs, all of which are subject to change. The General Plan Amendment process established by Utah State Law and this chapter therefore enables the General Plan map designations and/or written policy statements to be changed. The General Plan is a policy document for the entire Town of Hideout and may be amended only if the amendment is in the best interest of the residents on a town wide basis. Every General Plan Amendment must be consistent with the rest of the General Plan or appropriate changes must be made to maintain internal consistency.

#### **12.16.030 SCOPE**

This chapter requires the Town of Hideout to maintain a comprehensive General Plan consistent with state statutes and establishes procedures for interpretation and amendment of the General Plan. Administrative procedures are also provided for an annual review of the General Plan and a review of public works projects.

#### **12.16.040 GENERAL PLAN INTERPRETATION**

Where disputes arise over the interpretation of General Plan policies or mapping designations, such interpretation shall be resolved by a majority vote of the Hideout Legislative Body based on a report by the Planning Commission.

#### **12.16.050 GENERAL PLAN AMENDMENT**

- A. Amendment Initiation. A General Plan Amendment may be initiated by:
  - 1. A Resolution of Intention by the Hideout Legislative Body or the Planning Commission;
  - 2. An application by a property owner, an interested party having the owner's authorization, or any member of the general public.
- B. Amendment Frequency. Proposed amendments to the General Plan will be considered by the Hideout Legislative Body once each calendar year in November.

- C. Consistency of Land Use. When a General Plan amendment is approved by the Hideout Legislative Body and the amendment affects the land use designation of specific properties, those properties shall be concurrently rezoned to a zoning district(s) as necessary to maintain consistency with the General Plan.

#### **12.16.060 APPLICATION PROCEDURES**

- A. Application. Application to amend the General Plan shall be accompanied by a written description of the proposed amendment, the reasons for the request, and any supporting information as may be available, appropriate or as requested to process the application. General Plan Amendments for specific properties shall be accompanied by an application to rezone the property to a zoning district consistent with the proposed amendment.
- B. Fees. Applications for General Plan Amendments shall be processed on a full cost recovery basis, in accordance with the Town of Hideout Ordinance Setting Fees.
- C. Physical Constraints Analysis. A General Plan Amendment shall require a Physical Constraints Analysis to be submitted with the application.

#### **12.16.070 NOTIFICATION PROCESS**

Notice of a proposed amendment to the General Plan shall be consistent with the requirements of State law.

#### **12.16.080 APPEAL OF HIDEOUT LEGISLATIVE BODY ACTION**

- A. If a proposed amendment to the General Plan is initiated by Resolution of the Hideout Legislative Body or by application of a property owner, interested party, or member of the general public, and the Hideout Legislative Body fails to approve the proposed amendment, that decision is final unless appealed to the Board of Adjustments within thirty (30) days of the date of the Hideout Legislative Body's decision.
- B. If a proposed amendment to the General Plan is initiated by Resolution of the Hideout Legislative Body, the Planning Commission will review the proposed amendment and recommend approval or denial to the Hideout Legislative Body for a final decision.

#### **12.16.090 HIDEOUT LEGISLATIVE BODY ACTION**

- A. Public Hearing. After receiving the Planning Commission recommendation, the Hideout Legislative Body shall hold a public hearing on the proposed amendment after giving notice as required by state law. The public hearing shall be set for the November public hearing of the General Plan Amendments.
- B. Action on Planning Commission Recommendation. The Hideout Legislative Body may approve, modify, or disapprove the Planning Commission's

recommendation, provided that any substantial modification, not previously considered by the Planning Commission, shall be referred to the Planning Commission for a report and recommendation.

- C. Referral. If the Hideout Legislative Body initiates an amendment to the General Plan, the proposed amendment shall first be referred to the Planning Commission for a report. The Planning Commission shall hold a public hearing after giving notice as required by state law and shall submit a report to the Hideout Legislative Body.

## **12.16.100 GENERAL PLAN CONSISTENCY**

- A. Land Use Regulation. All land use regulations including building, zoning, subdivision and environmental protection regulations shall be consistent with the adopted General Plan. No discretionary land use project, public or private, shall be approved by the Town of Hideout unless it is found to be consistent with the adopted General Plan.
- B. Reviewing Department. The Planning Department is designated as the department authorized to review discretionary land use projects, public or private, and to make findings regarding whether such projects are consistent

## **12.18 CONDITIONAL USES**

### **12.18.010 PURPOSE**

### **12.18.020 CONDITIONAL USE PERMIT**

### **12.18.030 APPROVAL OF CONDITIONAL USE PERMIT**

### **12.18.040 NOTIFICATION OF A CONDITIONAL USE**

### **12.18.050 APPEALS OF DECISION**

### **12.18.060 INSPECTION**

### **12.18.070 TIME LIMIT**

### **12.18.080 DETERMINATION AND CONSIDERATIONS**

### **12.18.090 STANDARDS FOR CONDITIONS**

### **12.18.100 CONDITIONS RELATING TO SPECIFIC TYPES OF USES (RESERVED)**

## **12.18.010 PURPOSE**

The purpose of this chapter is to allow the proper integration into the town of uses which may be suitable only in certain locations in the Town, and only if such uses are designed or laid out on the site in a particular manner.

## **12.18.020 CONDITIONAL USE PERMIT**

A conditional use permit shall be required for all uses listed as conditional uses in the zoning district regulations or elsewhere in this title. A conditional use permit may be revoked upon failure to comply with or failure to maintain conditions precedent to the original approval of the permit.

- A. Application: Application for a conditional use permit shall be made by the

property owner or certified agent thereof to the planning staff.

B. Considerations Of Conditional Use Procedure: The application shall be accompanied by maps, drawings, or other documents sufficient to meet the requirements of a site plan review for those conditional uses which require such a review, and sufficient to demonstrate that the general and specific requirements of this title will be met by the construction and operation of the proposed building, structure or use. In considering an application for a conditional use permit, the planning commission shall give due regard to the nature and condition of adjacent uses and structures. The commission may deny a permit; may grant a permit as applied for; or may grant a permit subject to such requirements and conditions with respect to location, construction maintenance, operation and duration of the proposed use as it may deem necessary for the protection of adjacent properties and the public interest. The granting of a conditional use permit shall not exempt the application from other relevant provisions of this or other ordinances of the Town.

C. Fee: The appropriate fee as authorized in the Town's fee schedule shall accompany the application for any conditional use permit.

#### **12.18.030 APPROVAL OF CONDITIONAL USE PERMIT**

A conditional use permit shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.

#### **12.18.040 NOTIFICATION OF A CONDITIONAL USE**

At least seven (7) days prior to the planning commission meeting during which the conditional use will be considered by the commission, a designated agent shall publish a notice in a newspaper of general circulation stating the proposed or requested use, and the date, time and location of the planning commission meeting in which the conditional use will be considered.

#### **12.18.050 APPEALS OF DECISION**

Any person shall have the right to appeal the decision of the planning commission to the Town Council. Such appeal shall be applied for within thirty (30) days from the date of the decision of the planning commission. Upon receipt of such appeal, the Town council shall respond within forty five (45) days.

#### **12.18.060 INSPECTION**

Following the issuance of a conditional use permit by the planning commission, the planning director may approve an application for a building permit and shall ensure that



development is undertaken and completed in compliance with said certificate and permit.

#### **12.18.070 TIME LIMIT**

Unless the uses and conditions prescribed in a conditional use permit are implemented within a maximum period of one year of its issuance, the conditional use permit shall expire. The planning commission may grant a maximum extension of six (6) months under exceptional circumstances. If the application is not approved, a reapplication shall not be submitted for the same purpose for a minimum period of twelve (12) months.

#### **12.18.080 DETERMINATION AND CONSIDERATIONS**

The planning commission may allow a conditional use to be located in any zoning district in which the particular use is allowed as a conditional use by this title. In authorizing any conditional use, the planning commission shall impose such requirements and conditions necessary for the protection of adjacent properties and the public welfare. The planning commission shall not authorize a conditional use permit unless the evidence presented is such as to establish that the proposed use:

- A. At the specified location, is in harmony with the general intent and purpose of the general plan and the applicable zoning district regulations;
- B. Is necessary or desirable to provide a service or facility which will contribute to the general well-being of the community and the neighborhood;
- C. Such use will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity; and
- D. Conditions imposed by the planning commission shall be based upon options described in this chapter or any special conditions or requirements as may be specified elsewhere in this title.

#### **12.18.090 STANDARDS FOR CONDITIONS**

Applicants for conditional use permits shall meet all specific requirements made in this title. In addition, the planning commission may establish conditions as outlined herein to meet the concerns of safety for persons and property, health and sanitation, environment, comprehensive plan proposals and neighborhood needs, performance and administration. More specifically, the planning commission may require:

- A. Compliance: Conditions relating to compliance with the intent of the comprehensive plan and characteristics of the zoning district:
  - 1. The placement of conditional uses only in specific areas of a district, e.g., along an arterial or collector street.
  - 2. The removal of structures, debris or plant materials incompatible with the desired characteristics of the district.

3. The screening of yards or other areas as protection from obnoxious land uses and activities.
4. Landscaping in addition to that already required ensuring compatibility with the intended neighboring land uses.
5. Limitations or controls on the location, height and materials of walls, fences, hedges and screen plantings to ensure harmony with adjacent development, or to conceal storage areas, utility installations, or other unsightly development.
6. The relocation of proposed or existing structures as necessary to provide for future streets on the master street plan, adequate sight distances for general safety, ground water control, or similar problems.
7. Provision for construction of recreational facilities necessary to satisfy needs of the conditional use.
8. Modification to allowed population density and intensity of land use where land capability and/or vicinity relationships make it appropriate to do so to protect health, safety and welfare.
9. Other improvements which serve the property in question and which may compensate, in part or in whole, possible adverse impacts to the district from the proposed conditional use.

B. Safety: Conditions relating to safety for persons and property:

1. Building elevation and grading plans which will prevent or minimize flood water damage, where property may be subject to flooding.
2. The relocation, covering or fencing of irrigation ditches, drainage channels, and other potentially attractive nuisances existing on or adjacent to the property.
3. Increased setback distances from lot lines where the planning commission determines it to be necessary to ensure the public safety and to ensure compatibility with the intended characteristics of the district as outlined in this title, or where the lot abuts an arterial or collector street.
4. Appropriate design, construction and location of structures, buildings and facilities in relation to an earthquake fault which may exist on the property, and limitations and/or restrictions to use and/or location of use due to special site conditions, including, but not limited to, geologically hazardous areas, floodplains, fault zones, and landslide areas other than may be required by the sensitive lands regulations.
5. Limitations and control of the number, location, color, size, height, lighting and landscaping of signs and structures in relation to the creation of traffic hazards and appearance and harmony with adjacent development.

6. Plans for the location, arrangement and dimensions of truck loading and unloading facilities.
7. Construction of curbs, gutters, drainage culverts, sidewalks, streets, fire hydrants and street lighting.

C. Health And Sanitation: Conditions relating to health and sanitation:

1. A guarantee of sufficient water to serve the intended land use and a water delivery system meeting standards adopted by the town.
2. A wastewater disposal system and a solid waste disposal system meeting standards adopted by the Town Council.
3. Construction of water mains, sewer mains and drainage facilities serving the proposed use, in sizes necessary to protect existing utility users in the district and to provide for an orderly development of land in the Town.

D. Environment: Conditions relating to environmental concerns:

1. Limitations and/or restrictions on the use and/or location of uses in sensitive areas due to soils capabilities, wildlife and plant life.
2. Processes for the control, elimination or prevention of land, water or air pollution; the prevention of soil erosion; and the control of objectionable odors and noise.
3. The planting of ground cover or other surfacing to prevent dust and erosion.
4. Restructuring of the land and planting of the same as directed by the planning commission when the conditional use involves cutting and/or filling the land, and where such land would be adversely affected if not restructured.

**12.18.100 CONDITIONS RELATING TO SPECIFIC TYPES OF USES (RESERVED)**

**12.20 NONCONFORMING USE OF BUILDINGS, STRUCTURES, AND LAND**

**12.20.010 MAINTENANCE PERMITTED**

**12.20.020 DETERMINATION OF NONCONFORMING BUILDINGS AND LAND USES**

**12.20.030 ALTERATION OR MODIFICATION TO NONCOMPLYING BUILDINGS AND STRUCTURES**

**12.20.040 NONCONFORMING USE OF LAND**

**12.20.050 NONCONFORMING USE OF BUILDINGS AND NONCOMPLYING STRUCTURES**

**12.20.060 CHANGE IN STATUS OF NONCONFORMING USE**

**12.20.070 ALTERATIONS OR MODIFICATIONS TO NONCONFORMING USES**

**12.20.080 RECONSTRUCTION OF PARTIALLY DESTROYED NONCOMPLYING BUILDINGS OR STRUCTURES**

## 12.20.090 AMORTIZATION OF NONCONFORMING USES

### **12.20.010 MAINTENANCE PERMITTED**

Except as otherwise provided in this title, a nonconforming use of land or a structure may be continued.

### **12.20.020 DETERMINATION OF NONCONFORMING BUILDINGS AND LAND USES**

The board of adjustment shall determine all matters regarding the nonconforming use of buildings and land. Upon application, after public hearing on the matter, the board shall determine if the use of building is nonconforming with respect to the current provisions of this chapter. The planning staff may determine routine and uncontested requests to verify nonconforming uses and noncomplyng buildings and structures, as provided in the rules adopted by the board.

### **12.20.030 ALTERATION OR MODIFICATION TO NONCOMPLYING BUILDINGS AND STRUCTURES**

Noncomplying buildings and structures with respect to setbacks or height may be continued. Additions, enlargements or structural alterations may be made to the extent that they comply with all requirements of this code. In addition, the board, may allow an enlargement or structural alteration, provided the changes are in harmony with the surrounding and in keeping with the intent of the general plan and this title. The proposed change shall not impose any unreasonable impact or burden upon land located in the vicinity. Reasonable conditions may be attached to the approval in order to assure neighborhood compatibility. If any such noncomplying building is removed, every future use of the land on which the building was located shall conform to the provisions of this title.

### **12.20.040 NONCONFORMING USE OF LAND**

A nonconforming use of land lawfully existing on the effective date hereof may be continued, provided such nonconforming use shall not be expanded or extended into any other open land, except as otherwise provided in this chapter. If the nonconforming use is discontinued for a continuous period of more than one year, it shall constitute an abandonment of the use and any future use of such land shall conform to the provisions of the zone in which it is located.

### **12.20.050 NONCONFORMING USE OF BUILDINGS AND NONCOMPLYING STRUCTURES**

The nonconforming use of a building lawfully existing on the effective date hereof may be continued and may be expanded or extended throughout such building or structure, provided no structural alterations, except those permitted by law, are proposed or made for the purpose of extension. The addition of a solar energy device to a building shall not be considered a structural alteration. If such nonconforming use is discontinued for continuous period of more than one year, it shall constitute an abandonment of the use

and any future use of the building or structure shall conform to the provisions of the zone in which it is located.

#### **12.20.060 CHANGE IN STATUS OF NONCONFORMING USE**

If a nonconforming use is abandoned, it may be succeeded, upon approval of the town planner, by an equally restrictive or more restrictive nonconforming use, provided such change is effected within one year from the first day of abandonment. After a change to a less intensive use occurs, the use may not change back to a more intensive use.

#### **12.20.070 ALTERATIONS OR MODIFICATIONS TO NONCONFORMING USES**

A use, which has been declared nonconforming, shall not be enlarged or moved except as provided in this section. The board, may allow an enlargement or modification, provided the change is in harmony with the surrounding neighborhood and in keeping with the intent of the general plan and this title. The proposed change shall not impose any unreasonable impact or burden upon land located in the vicinity. Reasonable conditions may be attached to the approval in order to assure neighborhood compatibility.

#### **12.20.080 RECONSTRUCTION OF PARTIALLY DESTROYED NONCOMPLYING BUILDINGS OR STRUCTURES**

A nonconforming building or noncomplying structure destroyed in whole or in part, due to fire or other calamity, may be restored unless the structure or use has been abandoned. A nonconforming building or noncomplying structure may not be restored if:

The structure is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired or restored within six (6) months after written notice to the property owner that the structure is uninhabitable and that the noncomplying structure or nonconforming use will be lost if the structure is not repaired or restored within six (6) months; or

The property owner has voluntarily demolished a majority of the noncomplying structure or the building that houses the nonconforming use.

#### **12.20.090 AMORTIZATION OF NONCONFORMING USES**

The board, under authorization of state statute, may provide for the timely modification or removal of a nonconforming use in order to comply with the general plan and zoning ordinance. The board may provide for a shorter time period by providing a formula establishing a reasonable time period during which the owner can recover or amortize the amount of any investment in the nonconforming use or structure, if any.

### **12.22 SIGN REGULATIONS**

#### **12.22.010 INTENT**

#### **12.22.020 PURPOSE AND SCOPES**

#### **12.22.030 INTERPRETATION**

#### **12.22.040 DEFINITIONS**

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### **12.22.010 INTENT**

It is the purpose and intent of this ordinance to regulate signs and to authorize the use of signs that are compatible with their surroundings, are legible under the circumstances in which they are seen, are effective in indexing the environment, and are conducive to promoting traffic and pedestrian safety and the convenience and enjoyment of public travel by preventing visual distraction; protecting pedestrians; attracting tourists to the Town; preserving and enhancing property values; establishing first-class business and commercial districts; and eliminating fire hazards.

It is also the intention and purpose of this ordinance to promote short and long term civic beauty and order by establishing standards and regulations for sign design, location, size, type, compatibility, and aesthetics. By doing so it is hoped that this ordinance will help create streetscapes that are functional and attractive to residents of Hideout Town as well as visitors.

### **12.22.020 PURPOSE AND SCOPES**

The intent is to regulate the design and placement of commercial and governmental identification/communication devices and structures that are built specifically to identify, inform, and direct patrons to a particular merchant, store, establishment, or service. It is not the intent of this ordinance to regulate the content of public speech.

The regulations of this ordinance are intended to apply to both on-premise and off-premise signs, but do not apply to hand-held placards and other similar devices traditionally used for public protest and the exercise of free speech. Any non-commercial message may be substituted for any commercial message permitted under this ordinance.

### **12.22.030 INTERPRETATION**

In interpreting and applying the provisions of this chapter, the sign regulations contained herein are declared to be the maximum allowable for the purposes set forth. If the Mayor (Director) determines that an application needs further interpretation, he may request that the Planning Commission review the proposal. If the applicant wishes to

propose or retain a sign that exceeds ordinance standards, he may apply to the Board of Adjustment for a variance as outlined in HMC 12.10.

#### **12.22.040 DEFINITIONS**

All definitions are attempted to be clearly written within the paragraph pertaining to such work within the body of this ordinance, but those not precisely defined within the body of the ordinance shall be defined by the definitions within this Section. If any word is not clearly defined, the generally accepted meaning of such word may apply.

**ABANDONED SIGN:** Any sign applicable to use that has been discontinued for a period of forty-five (45) days.

**ALTERATIONS:** Alterations as applied to a sign means change or rearrangement in the structural parts or its design, whether by extending on a side, by increasing in area or height, or in moving from one location or position to another. It also means changing the copy of a sign to name a new business or type of business.

**ANIMATED SIGN:** A sign that involves motion or rotation of any part or display of flashing, chasing or intermittent lights.

**ARTISTIC OR DECORATIVE SIGN:** A sign placed on the base of a statue, sculpture, monument or approved object other than the display of an item to be sold or traded.

**AWNING SIGN:** A roofed structure constructed of fabric, canvas, vinyl, or metal so as to extend outward from the building providing a functional protective shield for doors, windows, and other openings with supports extending back to the building.

**BILLBOARD:** A large sign that identifies or communicates a commercial or non-commercial message related to an activity conducted, a service rendered, or a commodity sold at a location other than where the sign is located.

**BUILDING:** A building for retail businesses may be defined as an independent unit regardless if it is connected by a common wall. For other business establishments such as office, industrial, research and development and manufacturing, a building may be defined as an independent building without common walls.

**DIRECTOR:** Refers to the Director of the Hideout Planning Department or his designated representative.

**FREESTANDING SIGN:** A sign which is not supported by a building, but rather a separate structure consisting of a pole or poles, that incorporates the design and building materials used in the construction of, or accenting the architectural theme of the building(s) that the sign will identify.

**IDENTIFICATION SIGN:** A sign identifying an apartment complex, condominium complex, residence, school, church or other non-sales use.



**ILLUMINATED SIGN:** Any sign which has characters, letters, logos, designs, or other outlines illuminated by interior or exterior lights, luminous tubes, neon, or similar devices.

**LOGO:** A reproducible image or design, which serves to represent a business or company's identity.

**MONUMENT SIGN:** A low profile ground mounted sign with at least a one (1) foot enclosed or solid base (usually brick or stone), meant to serve as a primary identification sign for the purpose of advertising a commercial use.

**NON-CONFORMING SIGN:** Any advertising structure or sign which was lawfully erected and maintained prior to such time as it came within the purview of this ordinance and any amendments hereto and which fails to conform to all applicable regulations and restrictions of this ordinance.

**ON-PREMISE SIGNS:** A sign that directs attention to a business, commodity, service or entertainment that is conducted, sold or offered on the premises where the sign is located.

**OFF-PREMISE SIGNS:** A sign that directs attention to a business, commodity, service or entertainment that is not, other than incidentally, conducted, sold or offered on the premises where the sign is located.

**PROJECTING SIGN:** A sign characterized by its attachment at an angle to the face of the building as opposed to being mounted flat on the surface of the building.

**PROMOTIONAL SIGNS:**

- A. Development. Signs indicating the sales, lease or rental of commercial units or on-premise signs advertising the existence of a new development whether residential, commercial or mixed use.
- B. Retail Sales. Signs that are placed temporarily to advertise a special sales event. This can include holiday sales signs.

**PUBLIC NECESSITY SIGN:** A County or State Sign for the purpose of identifying streets, highways, walkways, detours, road work or otherwise.

**ROOF SIGN:** A sign located on the roof or above a building or face of a wall, which projects above the height of the roof or the face of the wall.

**SIGN AREA:** The area of a sign and shall be considered to include all lettering, working and accompanying designs or symbols, and any background material. Where a sign consists of individual letters or symbols attached to or painted on a building, wall, window or background, the area of the sign shall be considered to be the area of the smallest rectangle that encompasses all such letters or symbols.

**SNIPE SIGN:** A sign for which a permit is required and has not been obtained, and which is tacked, nailed, posted or otherwise attached to poles, trees, fences, sticks, or other objects, with a message appearing thereon.

**SUSPENDED SIGN:** A sign which hangs from the eave of a roof or architectural feature of a building, parallel to the wall of the building, or on an approved support, hanging perpendicular to the building, but not extending over the sidewalk.

**TEMPORARY SIGN:** A sign that is intended for use during specified periods of time, including individual real estate signs and construction signs.

**VEHICLE SIGN:** A sign placed, added to, or painted on a vehicle or trailer that is parked or located in such a manner as that its sole purpose is to act as a sign or advertisement, not transportation.

**WALL SIGN:** A sign mounted or flush on the facade of a building, identifying the building, a business, a profession, or industry and occupants.

**WIND SIGN:** Any sign inflated by or displayed by wind or air movement.

**WINDOW SIGN:** A sign attached to or painted upon a window or door, or located within a building so as to be visible through a window or door from the outside of the building.

#### **12.22.050 ENFORCEMENT AND PENALTIES**

Any sign not expressly allowed by this chapter is prohibited. The Director or his authorized representatives shall be vested with the duty of enforcing this chapter and in performance of such duty, shall be empowered and directed to:

- A. **Issue Permits:** To issue permits to construct, alter, or repair signs, which conform to the provisions of this title. The expiration date for such permits shall be one hundred and eighty (180) days from issuance, to allow sufficient time to complete the construction, alteration or repairs.
- B. **Determine Conformance:** To ascertain that all signs, constructions and re-constructions or modifications of existing signs are built, altered, modified or constructed in conformance with this chapter by conducting an initial inspection or re-inspection upon the completion of construction, erection, re-erection, or modification of any sign for which a permit has been issued and an inspection request is made. This shall also include the inspection of temporary electrical signs. The Director may authorize the Building Inspector to make such inspections.
- C. **Legal Action:** The Director or his authorized representative shall be empowered to institute any appropriate action or proceeding in any case where any sign is illegally erected, constructed, reconstructed, altered, repaired, converted, or maintained, or in any case where any sign is used in violation of any Town Ordinance, by issuing notices by mail and posting of such notices upon the sign for the specified period of time as follows:

1. Issuing a Written Notice of Violation. A Notice of Violation may be issued to the person who owns the property upon which the sign is located or the person having charge or control or benefit of any sign found to be unsafe, dangerous or in violation of this chapter particularly when the Town is contemplating removal of said sign. Notice may be mailed to the property owner's address as contained in the County Tax Rolls and posted upon the sign for five (5) working days prior to removal. Such official may also issue criminal citations and swear to information against violators.
2. Removal of Dangerous Sign. If an unsafe or dangerous sign is not repaired or made safe within five (5) working days after giving said notice, the Director or his authorized representative may at once abate and remove the sign, and the person having charge, control or benefit of any such sign shall pay to the Town within thirty (30) calendar days after written notice is mailed to such person, the costs incurred in such removal. In the event the Director determines there is imminent danger the sign may be removed without prior notice, but such notice shall then be mailed immediately.
3. Abate and Remove Illegal Sign. If a permanent sign is installed without a permit, or is otherwise illegal as defined by this Title, and is not made conforming within thirty (30) calendar days after written notice has been given, the Director or his authorized representative may at once abate and remove the sign. If the name and/or address of the owner cannot be reasonably determined, notice may be given by posting such notice upon the sign itself for the thirty (30) day period. The person responsible for any such illegal sign shall be liable for the cost incurred in the removal thereof and the Town is authorized to effect the collection of said cost.
4. Removal of Temporary Sign. If a Temporary Sign posted upon private property, without a permit, or is otherwise illegal as defined by this chapter, the Director may provide a written notice to abate or remove said Temporary Sign. The time period for removal of such sign shall not exceed seventy two (72) hours. All costs pertaining to the removal of said sign shall be borne by the property owner and/or persons or company responsible for product or service that is advertised by the sign. The Town is authorized to effect the collection of such costs.
5. Removal of Sign on Public Property. Any sign posted upon public property may be removed by the Town without prior notice. In that event, the sign must be retained by the Town for a period of thirty (30) calendar days prior to destruction, to allow the owner to claim such sign if desired. Failure of the Town to remove said signs shall not constitute approval of the illegal placement of any such signs, nor waive the right to later remove the sign. Any costs associated with the removal of such signs shall be paid by the person responsible for such posting. The Town is authorized to effect the collection of such costs.
6. Removal of Abandoned Sign. Each sign, which is non-maintained,

abandoned, or identified as a discontinued use shall be removed within forty five (45) calendar days after a written notice or posting on such sign, a notice of non-maintenance, abandonment or discontinuance as described in this chapter. All costs of such removal shall be paid by the owner of such sign

7. Right to Appeal. Any person who has been ordered to alter or remove any sign or has had a sign removed by the Town or any person whose application for a sign permit has been denied, may appeal to the Board of Adjustment by serving written notice to the Director with ten (10) days of the order or denial, except in the case of a removal on the grounds of safety, the filing of such appeal shall stay the removal of such sign pending the outcome of the appeal to the Board of Adjustment.

- D. Penalties: It shall be unlawful for any person to violate any of the provisions of this chapter. Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating or causing the violation of the provisions of this chapter shall be guilty of a Class "C" Misdemeanor, and upon conviction thereof may be punished by a fine or imprisonment in the County Jail. Each and every day a violation occurs shall constitute a separate offense.

#### **12.22.060 NONCONFORMING SIGNS**

- A. Definition: Any advertising structure or sign which was lawfully erected and maintained prior to this chapter or any amendments hereto, or if it fails to conform to all applicable regulations and restrictions of this chapter.
- B. Previous Illegally Placed Signs: Previous illegal signs shall not be grandfathered in under this chapter.
- C. Regulation, Containment, and Elimination: In order to minimize confusion and unfair competitive disadvantage to those businesses that are required to satisfy the current Sign Ordinance Standards, the Town intends to apply firm regulation of existing nonconforming signs with a view to their eventual elimination. This goal shall be achieved by strictly construing limits on change, expansion, alteration, abandonment and restoration. Excluding normal maintenance and repair, a nonconforming sign shall not be moved, altered (including face changes) or enlarged unless it is brought into complete compliance with this chapter. The following alterations are exempt from this provision:
  1. Face changes in nonconforming multi-tenant signs, to reflect a change of tenants only; and
  2. Copy changes in nonconforming permanent signs, which were originally approved by the Town with a changeable copy feature.
- D. Abandonment: Within forty-five (45) calendar days after vacation of existing business, any on-site nonconforming signs must be removed or brought into compliance by the property owner. If removal or compliance does not occur, the

Town may, after giving notice to the owner, have the entire nonconforming sign (both face and structure) removed at the expense of the owner.

- E. Variances: Upon application by the sign owner or business, the Board of Adjustment may grant a variance, if appropriate. The variance may allow the retention, alteration, movement, or expansion of a nonconforming sign.

## **12.22.070 PROHIBITED SIGN DEVICES**

The following signs and devices used to attract pedestrian or vehicular attention are prohibited in any zone in Hideout Town. Additionally, any sign not specifically allowed under this chapter is prohibited.

- A. Hot or cold air balloons or inflatables except those specifically allowed by this chapter for temporary signs as part of a grand opening or special promotion.
- B. Any sign that flashes, blinks, uses chaser lights, or moves in any way, animate or inanimate. Subtle lighting changes of low intensity are allowed if approved. (Commercial signs may be approved with time/temperature or electronic message center capability).
- C. Statuary bearing the likeness or suggestion of any product or logo.
- D. Projecting signs.
- E. Roof signs or fence signs.
- F. Wind signs.
- G. Snipe signs.
- H. Temporary signs except those allowed specifically by this chapter.
  - I. Any truck, trailer or other vehicle conspicuously or regularly parked on or off-premise with an advertising message or logo displayed to attract attention to a business, product or promotion. The Director or his authorized representative may require the removal of same if i\_n his opinion, such a vehicle is being utilized for advertising purposes.
- J. Graffiti.
- K. Spotlights directed into the night sky except as part of an approved promotional period for temporary signs.
- L. Off-Premise signs except as specifically allowed herein.
- M. Signs on public property, including, but not limited to public utility poles, public bridges, or within any public right of way unless specifically approved herein for a public purpose. However, nothing in this section shall apply to the installation of a plaque in a sidewalk commemorating an historical, cultural, or artistic event, location, or personality for which the Town has granted written permission. Nor shall this section apply to the painting of house numbers upon curbs.
- N. "A"-frame or sandwich board signs.

O. Portable Signs.

P. Signage that is prohibited by subdivision/HOA covenants.

### **12.22.080 SIGNS ALLOWED WITHOUT A PERMIT**

The following signs are allowed in any zone indicated, on private property with the consent of the owner, without the requirement of a sign permit. If there is any deviation from the strict requirements of this section, the applicant must apply for a permit, and the Director will determine if a review by the Planning Commission is required.

- A. Directional or Instructional Signs: Signs which provide direction or instruction and are located entirely on-premise and which do not in any way advertise a business shall not exceed four (4) square feet in area or four (4) feet in height. These signs may identify restrooms, public telephones, walkways, or shall provide direction such as parking lot entrance and exit signs and those of a similar nature.
- B. No Trespassing or No Dumping Signs: No trespassing or no dumping signs may be posted not closer than three hundred (300) feet and each sign shall not exceed four (4) square feet. If more signs are requested, the Director or his authorized representative may allow more if he finds that more are required to prevent violation.
- C. Plaques or Name Plates: Plaques or Name Plates no more than two (2) square feet are allowed when fastened directly to the building.
- D. Symbols or Insignia. Religious symbols, commemorative plaques of recognized historical agencies; or identification emblems of religious orders or historical agencies, provided that no such sign shall exceed eight (8) square feet in area; and provided further that all such signs be placed flat against the building.
- E. Institutional Signs: Churches, public schools, public utility companies, libraries, governmental buildings, parks, public golf courses, etc., are allowed one (1) monument sign not exceeding thirty two (32) square feet. If the institution has frontage on more than one (1) arterial street, then an additional sign of the same size is allowed.
- F. Flags: The flags, emblems or insignia of any nation, state, county or city, or Olympics organization, not exceeding twenty (20) square feet each, may be flown in tandem with each other.
- G. Public Necessity Signs: Installed by a unit of the government for control of traffic and other regulatory purposes.
- H. Holiday Decorations. Must be non-commercial in nature, clearly incidental and associated with any national, local or religious holiday, and contained entirely within the boundary of the private property on which they are erected. They must be placed to avoid confusion and traffic hazards, and removed within a reasonable period after the holiday is over.

I. Temporary Holiday Signs: A business (in the Industrial or Commercial Zone only) may advertise a special service, product or sale on the premises of the business, during the following holiday periods without a permit:

1. President's Day, (February 5 days);
2. Easter, (March or April 5 days);
3. Memorial Day, (May 5 days);
4. July 4th, (July 5 days);
5. July 24th, (July 5 days);
6. Labor Day, (September 5 days);
7. Halloween (October 5 days);
8. Veterans Day, (November 5 days);
9. Thanksgiving, (November 5 days);
10. Hanukkah, Christmas & New Years, (beginning the day after Thanksgiving and ending January 2nd); and
11. One banner sign is allowed during those periods in addition to the normal signage, mounted on the building, and not exceeding fifteen (15) percent of the size of area of the side of the building.

J. Changing Copy: The changing of the message on a permitted sign that has an approved marquee, reader board, electronic message or other replaceable copy area.

K. Political or Campaign Signs: Candidates for public office or measures on election ballots as follows:

1. May not be erected earlier than thirty (30) days prior to a primary election, and must be removed by the Monday following the general election. Candidates who lose in a primary election must remove their signs by the Monday following the primary election;
2. Shall not exceed forty-eight (48) square feet in area and, if freestanding, shall not exceed eight (8) feet in height;
3. May not be placed on roofs, fences, public property, in a public right-of-way, or in any manner which would impede traffic visibility or safety; and
4. May not be placed closer than one hundred fifty (150) feet from any building where an official voting station is located.

L. On-Premise Real Estate Signs: Individual properties (not developments), advertising the sale, rent or lease of property may be placed as follows:

1. One (1) sign per street frontage up to one hundred (100) feet.



2. Shall not exceed six (6) square feet and six (6) feet in height. Signs shall be constructed with a minimum 3.5"x3.5" wood post and borders. Borders and post shall be stained brown.
  3. On- or off-premise open house real estate signs not exceeding nine (9) square feet may be placed only on private property, with the permission of the property owner. They shall not be attached to trees, poles, in rights of ways or other public property, and shall be displayed only during those hours in which the house is open for actual inspection. No open house may be exhibited between the hours of 7:00 p.m. and 7:00 a.m.
- M. On-Premise Home Occupation Signs: One (1) non-illuminated flat wall sign not over two (2) square feet in size which identifies the name of the business is allowed without a permit. No other forms of advertising are allowed for a home occupation.
- N. Garage Sale Signs: Must be placed on private property with the consent of the owner. May not exceed two (2) square feet in area, may not exceed two (2) signs total within the Town and may not be posted more than twenty-four (24) hours prior to nor twelve (12) hours after the time of the sale. The sale may not last longer than eight (8) hours.

#### **12.22.090 SIGNS REQUIRING A PERMIT**

Any sign not specifically allowed in HMC 12.22.080, shall comply with the adopted building code.

- A. Purpose-Streetscape: The streetscape is the combination of vehicles, buildings, signs, landscaping, roads, utility poles, etc. that dominate the view of the driver or pedestrian. The streetscape tells residents and visitors how the Town as a whole feels about the environment, safety, aesthetics, and its sense of order, among other things. A useful, attractive, and safe streetscape is one that necessarily regulates the size, location and design of signs. Because a proliferation of poorly designed, oversized and inappropriately located signs can be detrimental to the achievement of effective, safe and attractive streetscapes, it is important that the permanent signs in these areas receive approval (permits) from the Town.

Commercial and industrial uses are generally more intensive than those found in residential zones. Since these uses are designed, by size, location and style to attract attention and provide services to the public, they generally need signage to achieve that end. Business signs of any kind in residential neighborhoods can diminish the quality of life for which those zones were specifically created. However, there may be some residential uses that merit a sign, though much smaller and more subdued than in commercial or industrial zones.

Therefore, it is the intent and purpose of this section to outline regulations and design standards for signs in both commercial/industrial and residential areas

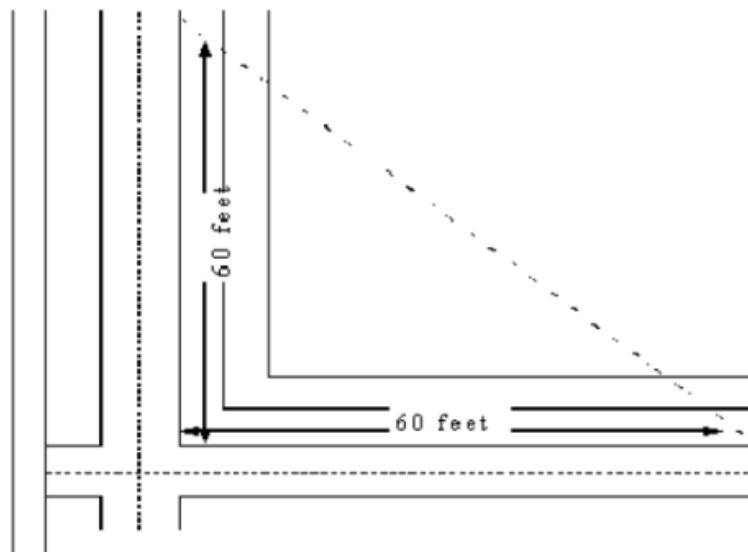
that will allow the business to identify itself while allowing Hideout Town to create and maintain safe and aesthetically pleasing streetscapes regardless of zone.

- B. Sign Theme Required: All multi-tenant centers/buildings must submit a proposal for all on-premise signs to the Planning Commission for design and placement approval. When the premises of the multitenant parcel is five (5) acres or more, and has frontage of two hundred (200) feet or more, sign approvals may vary from the regulations set forth herein. In that event such signs shall be considered as a conditional use, providing there is a finding that the proposed sign exceptions are not in conflict with the purpose and intent of this ordinance; and are in architectural harmony with uses adjacent to the development; and with the understanding that the existing signage may be required to be altered or removed.
- C. On-Premise Freestanding Signs: Parcels less than ten (10) acres shall not be allowed any freestanding signs except as described in (2) above for multi-tenant centers. No freestanding signs are permitted on parcels less than five (5) acres. All freestanding signs must have pole covers approved by the Director.
- D. Ten (10) acres or more: The Director may approve one freestanding sign per street frontage. No freestanding sign shall be allowed for any planned center or parcel that has less than two hundred (200) feet of street frontage. Sign height shall be determined by using the formula of a base height of six (6) feet for the first tenant, and for each additional tenant in a multi-tenant center, an additional two (2) feet in height may be added, to a maximum height of twenty (20) feet.
- E. Distance from Corner: Signs must be at least one hundred (100) feet from any corner, unless monument (minimum sixty [60] feet from corner unless special traffic safety study).
- F. Sign Area: Sign Area shall be determined using the graph attached entitled "Sign Area".
- G. Changeable Copy: Reader boards, changeable copy areas and electronic message centers are allowed, but discouraged. No such device shall exceed fifty (50) percent of the total sign copy area of the sign.
- H. Monument Signs: The following standards shall apply:
  - 1. Sign Area. Sign Area shall be determined using the (graph attached, entitled "Sign Area") formula for determining the exact allowable sign area which is thirty two (32) square feet + (plus) one (1) square foot per one (1) lineal foot of street frontage over fifty (50) feet, to a maximum size of eighty (80) square feet;
  - 2. Minimum Street Frontage. Monument signs are allowed for any size parcel provided that the parcel has at least fifty (50) feet of street frontage;
  - 3. Two Street Frontages. Single tenant parcels with two (2) street frontages are allowed a sign on each street provided they are separated by at least one hundred (100) feet measured diagonally across the property from

center to center of both signs. It is also required that both signs be of the same size;

4. Visibility Triangle. No signs shall be located within a sixty (60) feet triangular area of each street corner (the area described on the graphic below "Visibility Triangle" chart), without a review by a traffic engineer appointed by the Town to review the issue to determine the safety of the placement of such sign. The applicant will be required to pay all costs of the hiring of the traffic engineer;

Sign Visibility Triangle  
Sixty (60) feet from edge of right-of-way



5. Monument Signs for Planned Commercial Centers.
  - a. Monument Signs shall have a logo/identification theme as part of the sign.
  - b. Planned commercial centers with two (2) or more street frontages are allowed one (1) sign on each street frontage. The signs must be separated by at least one hundred (100) feet measured diagonally across the property from the center of each sign.
  - c. The area of the sign is determined by using the "Sign Area" chart considering the length of the frontage along which the sign is to be placed, including the frontage of any freestanding buildings included within the planned commercial center.
  - d. In the case of the development of a planned commercial center on multiple parcels of property having common frontages, regardless of the number of separately owned parcels or buildings of separate occupancy within the planned commercial center, the frontage shall be considered to be the composite of the entire

commonly-used parcels or buildings and not the frontage of each individual business or occupancy. The over-all frontage shall be used to calculate allowable Sign Area for the center identification sign.

- e. Notwithstanding the center identification sign, a freestanding building within an approved planned commercial center may request a monument sign for the individual business provided the lot is contiguous to a major arterial street and has at least one hundred (100) feet of street frontage. Such sign may be approved by the Director upon a determination that the sign is not in conflict with the intent and purpose of this chapter.
  - f. Freestanding buildings with two (2) street frontages are allowed one monument sign on each frontage provided such sign shall be placed no closer than one hundred (100) feet as measured diagonally across the property from center of sign to center of sign. Additionally the sign may not be placed closer than one hundred (100) feet from any other sign located on the same side of the street.
  - g. Pedestal Required. Monument signs must have at least a one (1) foot pedestal, and the illuminated cabinet may not exceed five (5) feet in height, for a total of six (6) feet in height. The height to the top of the sign measured from the street curb may vary depending upon landscaping and berming, but the combined height of the sign and berming/landscaping may not exceed nine (9) feet. If berming is used to raise the height of the sign above six (6) feet, the entire frontage of the property must be randomly bermed. The sign base shall be landscaped.
- I. Wall Signs: Wall signs should be the primary form of identification for business uses in the Town Each business is entitled to one (1) wall sign if the following criteria are met:
- 1. Area. The sign may not occupy more than, whichever is less, of the flat wall area. If a sloping facade or roof exists, the sign may not exceed fifteen (15) percent or one hundred (100) square feet, whichever is less, of that area. A wall sign may not use a combination of both flat and sloping areas in calculating the fifteen (15) percent. On a sloping roof the vertical projection is used to calculate area, not actual length of the slope.
  - 2. Multiple Sign Area. The fifteen (15) percent area of the primary wall and five (5) percent of all secondary walls may be divided into more than one (1) sign with the approval of the Planning Commission under the following guidelines and restrictions:
    - a. The signs blend with the aesthetics of the building and surrounding natural and manmade environment;

- b. The color, style, size, scale and proportion enhances the exterior of the building and does not place too much bulk and external distraction on the exterior of the building;
    - c. The number of signs are appropriate to the scale of the building;
    - d. The maximum wall signs on any given wall, including multi-tenant buildings, shall be seven (7), unless the Planning Commission finds that an additional sign is consistent with the criteria contained in Paragraphs I,2,a through I,2,c above; and
    - e. Multiple walls signs shall utilize individual lettering and logos only. No multiple cabinet signs or combination of cabinet and individual lettering signs shall be approved.
  - 3. Painted signs applied directly to any building face must have specific approval of the Director.
  - 4. Walls signs with changeable copy, reader board or electronic message capability are not allowed.
  - 5. Businesses with exposure on two (2) sides may be allowed fifteen (15) percent on one (1) side and five (5) percent maximum on the second side. No more than two (2) sides of the building may contain signs.
  - 6. Office buildings with small offices inside must have a tenant identification center sign, rather than individual signs for each tenant.
  - 7. Signs shall be attached so that on all sides the appearance is such that they appear to be part of the building itself, with no visible support structures such as guy wires or braces.
  - 8. No part of the sign structure shall project above the highest part of the wall upon which the sign is mounted. Nor shall any part of the sign project more than eighteen (18) inches from the face of the building to which it is attached.
- J. Suspended Signs: Permitted in place of wall signs are allowed if the architecture of the building or planned center lends itself to that design and a sign theme is submitted and approved by the Planning Commission. The following shall apply:
- 1. May not exceed ten (10) percent of flat wall of the tenant space;
  - 2. May not project beyond the canopy or facade to which it is attached;
  - 3. Must have at least twenty-four (24) inch clearance above the sidewalk or landscaped area over which it hangs; and
  - 4. There must be at least five (5) feet horizontal distance on both sides between suspended signs.
- K. Awning Signs: Only allowed under the following circumstances:

1. Must fully comply with the sign standards;
2. If in a planned center or multi-tenant center, must conform to an approved sign theme;
3. Limited to the first story only;
4. Must function as awnings over a doorway, walkway, window, etc.
5. No above sloping or mansard roofs;
6. Area of sign limited to ten (10) percent of wall area on primary wall and five (5) percent if a secondary wall is also used;
7. Copy on the awning limited to forty (40) percent of awning;
8. Illuminated, translucent vinyl awnings are not permitted. Translucent accents sewn into opaque canvas or acrylic awnings are permitted;
9. Shall not project out from the wall more than eight (8) feet nor less than two (2) feet, except for awnings over an entrance walkway which leads to the main entrance, if compatible with the architecture of the building;
10. Shall not project above the highest part of the vertical wall on the first floor;
11. There shall be a minimum clearance of seven (7) feet to the bottom of the valance and eight (8) feet to the frame above the sidewalk; and
12. Must be maintained in a clean, safe and attractive condition; failure to do so will result in revocation of the Sign Permit.

L. Gas Station Canopies: Signs for canopies over gas islands are regulated as follows:

1. Maximum Sign Area. Sign copy, corporate logos, etc., may be a maximum of fifteen (15) percent of one face of the canopy;
2. No More than Three Sides. Up to three (3) sides of the canopy may be used for signs;
3. Maximum Height. The height to the top of the canopy may not exceed twenty (20) feet from grade and no canopy fascia may exceed four (4) feet in height;
4. Maximum Font Size. Individual letters, logos or symbols may not exceed four (4) feet in height and may not project out from the surface of the canopy more than eighteen (18) inches, or project above or below the canopy; and
5. Gas\_Prices. Gas prices are allowed on the monument sign or below the canopy over the pumps. They are not allowed on the canopy itself. One (1) double faced sign not over four (4) square feet for each type of fuel sold is allowed per gas island up to a maximum of four (4) sets.

- M. Temporary On-Premise Signs (located on a single lot during a building phase): Individual lots may have one (1) sign, not exceeding sixteen (16) square feet nor six (6) feet in height, announcing the name of the construction company, lender, landscaper company, architect, etc. that is contributing to the building effort for that lot. The sign may not be placed more than five (5) days prior to beginning construction for which a valid building permit has been issued. The sign must be removed prior to occupancy of any portion of the building.
- N. On-Premise Real Estate Signs: Individual properties (not developments), advertising the sale, rent or lease of property may be placed as follows:
1. For frontages exceeding one hundred (100) feet but less than three hundred (300) feet, one (1) sign of up to twelve (12) square feet and no more than six (6) feet tall may be placed.
  2. For frontages exceeding three hundred (300) feet one (1) sign up to sixteen (16) square feet and no taller than six (6) square feet may be placed.
  3. Signs must have multi-colored backgrounds that are in harmony with the natural/native surroundings, use black letter, 4"x4" minimum perimeter trim. Trim and post shall be stained using brown-toned stains.
  4. Signs must comply with approved CC&R's and HOA requirements.
- O. Development Promotional Signs: May be placed on the premises of each development or approved unit sites in any residential or mixed-use zone. The total size allowed for the signs depends upon the acreage contained in the development, or the phase of the development, as described below:
1. One to ten (1-10) acres of land in the phase being advertised, may have one (1) sign not over thirty-two (32) square feet or two (2) signs of not over sixteen (16) square feet, and not higher than seven (7) feet tall;
  2. Eleven to forty (11-40) acres of land in the phase being advertised may have one sign not over sixty four (64) square feet or two (2) signs not over thirty two (32) square feet and not higher than seven (7) feet tall;
  3. Forty-one to sixty (41-60) acres of land in the phase being advertised may have one (1) sign not over ninety-six (96) square feet or two (2) signs not over forty-eight (48) square feet and not higher than eleven (11) feet tall;
  4. Sixty-one (61) and over acres of land in the phase being advertised may have one (1) sign not over one hundred twenty- eight (128) square feet or two (2) signs of not over sixty- four (64) square feet, and not higher than fifteen (15) feet tall;
  5. No such signs may be placed until such time as the Town has granted Preliminary Approval for the phase to be advertised, and such signs must be removed upon the sale of the last unit in the phase being advertised or two (2) years, whichever is shorter. Two (2) additional two (2) year



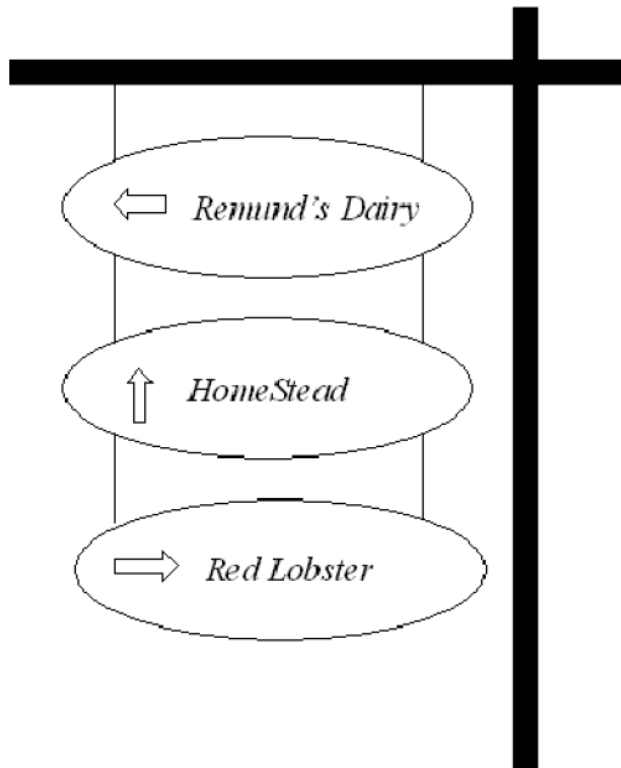
extensions may be granted by the Director after reviewing the appearance of the sign as to maintenance and the conformance with the chapter.

6. Must comply with any requirements of the building code adopted by Hideout Town.
  7. Signs must have multi-colored backgrounds that are in harmony with the natural/native surroundings, use black letter, 4"x4" minimum perimeter trim. Trim and post shall be stained using brown-toned stains.
  8. Signs must comply with approved CC&R's and HOA requirements.
- P. Window Signs: Signs which are painted on or temporarily affixed to a window surface and cover no more than twenty (20) percent of the total window area on the face of the building unit to which the sign is affixed. Window signs may only be used on one (1) side of the unit. These signs are allowed only in a Commercial, Industrial, or Mixed Use Zone.
- Q. Off-Premise Directional Signs: No off-premise signs are permitted except for sign ladders (example shown on graphic below entitled "Sign Ladders"), which have been created by the Town and placed on strategic corners on public property, to point the way to businesses that are not located on the premises of the sign. These signs can be placed in any zone upon approval of the Planning Commission:
1. Number of Sign Ladders. The Town shall place no more sign ladders than deemed appropriate by the Planning Commission at the intersection of arterial and major collector roads, and no more than one (1) sign ladder shall be placed on any corner at any intersection;
  2. Pole Height and Attachments. The height of the base pole for each sign shall not exceed twelve (12) feet and may not contain more than eight (8) attachment signs, which shall be uniform in size measuring no more than twelve (12) inches by thirty (30) inches.
  3. Priority for Placement. The attachment signs shall be placed on the basis of first application has first priority for a choice of placement in one location. If there are insufficient spaces available at any location, the later applicants will be offered placement in other locations before any business is permitted a second location, provided however if an application is accepted after placements have been awarded for that cycle, the late application will either be offered a site that has not been reserved and is still available, or must wait until the next cycle.
  4. Review of Placement. The signs will be reviewed for placement of attachment signs once every six (6) months, in March and September of each year. Applications must be submitted before March 1st and September 1st of each year to ensure consideration for placement during that cycle. Applications will be date and time stamped to establish priority, and may be filed at any time during the year. Once placement

has been obtained the applicant may retain placement until the placement is again reviewed, regardless of new applicants who apply after the site has been awarded to an applicant. If any business advertised on such attachment sign closes business, the attachment sign will be removed and will not be replaced by another sign until the next review cycle.

5. **Payment of Fees.** The applicant must pay the appropriate sign fee adopted by the Town Legislative Body at the time of submission of the application. This fee will include a fee for the creation of the sign extension or the replacement of faded or damaged sign extensions previously used. The determination of whether a new extension sign is needed or not will be at the sole discretion of the Director. In addition to any fee that might be necessary for the creation of a sign extension, there shall be charged a fee, as established by the Town Legislative Body, for the administration of the sign program.
6. **Drawings Required.** The applicant will be required to provide a drawing of the requested attachment sign. The size, color and type of style will be considered by the Director while considering a uniform, attractive, readable sign theme that will not create a traffic hazard or any greater advertising advantage for one (1) sign than the other. Any business wishing to include a logo on their sign shall submit a drawing of the desired logo and its proposed location on the sign attachment, along with their application. All colors and type sizes of letters will be uniform. Type styles may vary to allow for recognition of typestyles normally used for that particular business. Logos may be colored in a color consistent with the normal color of the logo. Other than the logo and/or the name of the business and a directional arrow, there shall be no other advertising copy allowed on the sign.
7. **Effect of Existing Illegal Signs.** No applicant will be considered for placement on a sign ladder if they are exhibiting illegal signs under this chapter.

## “Sign Ladder”



### R. Temporary Signs Requiring a Permit:

1. Type and Placement. Shall not be placed in, on or over a public right-of way, may not contain any blinking or flashing or moving parts, may not block visibility or create a safety hazard or nuisance of any kind. They may not be attached to telephone poles, fences or trees, but may be firmly secured to the building, an existing sign or the ground. No off-premise temporary signs are allowed except those specifically noted and regulated for real estate purposes for a single lot or during the hours of an open house.
  - a. Grand Opening Signs. May not continue more than sixty (60) days during the first year of operation of the business. A combination banner and portable sign may be approved. The size and location must comply with permanent signage requirements for that zone.
  - b. Special Promotion Periods. A business may apply for three (3) special promotion periods during the calendar year, not to exceed seven (7) days each, unless periods are combined to run consecutively.

- c. Going Out of Business. For a period not to exceed ninety (90) days, only once for any business license.
- d. Inflatables. Hot or cold advertising air balloons or inflatables.

### **12.22.100 PERMIT PROCESS**

- A. Sign Permit Required: No person shall erect, install, or paint any sign, or change the face of any sign whether it be temporary or permanent in nature, without obtaining a sign permit from the Planning Department, except as outlined in this ordinance. This includes new signs, signs to be added to existing buildings or uses, and existing signs that are to be enlarged, changed or modified.
- B. Permit Issuance Before Sign Placement: Any new or existing signs installed or maintained without a permit except as allowed under this ordinance, will be required to be removed or will be charged a penalty fee of one hundred dollars (\$100.00) or double the applicable sign permit fee, whichever is greater, at the time the owner/operator of the sign makes application for a sign permit with the Planning Department. This paragraph does not limit the ability of the Town to require the signs to be removed or to prosecute any criminal penalties for placement of the illegal sign.
- C. Permits For Prior Non-Conforming Signs: All existing signs that do not conform to this ordinance, but are allowed as prior non-conforming signs, must obtain a sign sticker from the Planning Department prior to September 1, 2011. The obtaining of this sticker will create a record of eligible non-conforming signs and confirm the non-conforming use until such time as the sign must be updated under this ordinance. Any non-conforming sign that does not display a sticker confirming the non-conforming eligibility prior to September 1, 2011 shall lose its eligibility as a non-conforming sign and will be required to be updated to conform with this ordinance. There will be no application fee required to obtain a non-conforming eligibility sticker except for the actual cost of the manufacturing of the sticker itself. Such stickers must be displayed in the lower left-hand corner of each sign.

### **12.22.110 SITE PLAN DESIGN AND REVIEW**

- A. Signs to be reviewed as Part of Development Review Process: When new buildings or developments are presented for Site Plan Review, signs proposed for the development shall be reviewed concurrently by Staff. All planned centers and multi-tenant buildings must submit a sign theme for approval by the Planning Commission. The center must have an approved sign theme before any sign permits will be issued. If a plan for a sign package is not submitted at site plan review, which is encouraged, the developer will be notified of sign ordinance standards and expected to submit plans that will adhere to the code.
- B. Sign Design: Applicants for sign permits should give serious consideration to the following elements when submitting plans for signs:

1. Architectural compatibility;
2. Color and style;
3. Size, scale, proportion and balance;
4. Location;
5. Landscaping; and
6. If the Planning Staff believes that the application for a sign permit has not considered the above listed criteria and shown such consideration in the submitted plans, the application may be submitted to the Planning Commission for further approval/denial.

### **12.22.120 REQUIRED INFORMATION**

#### **A. Monument and Freestanding Signs:**

1. Plot plan showing the relationship of the sign to buildings, property lines, existing signs, setback from public rights-of-way, intersections, easements and driveways;
2. Two (2) accurately dimensioned, scaled drawings showing height, color, square foot dimensions, landscaping, sign composition, type of illumination, and how the sign will appear from the street;
3. Details of sign construction including electrical plan, foundation scheme, and value of the sign; and
4. Number of acres and length of lineal frontage of the property.

#### **B. Wall Signs:**

1. Two (2) scaled drawings showing square foot dimensions of the building and the sign, sign composition, and type of illumination;
2. A profile drawing of how the sign will appear from the street/parking area and on the building; and
3. Details of sign construction and attachment including electrical plan.

#### **C. Temporary Signs:**

1. Plot plan showing the relationship of the sign(s) to buildings , property lines, setbacks from public rights-of-way, intersections, easements and driveways; and
2. Length of period for display, type of request.

#### **D. Additional Information Required:**

1. Proof of current Town Business License;
2. Business address and phone number;
3. Address of property owner and phone number;
4. General or electrical contractor name, address , phone and license number;
5. Value of sign;
6. A statement by building department indicating whether a building permit is required for the erection of the proposed sign; and
7. Any other information which is requested in the approved application form.

#### **12.22.130 PERMIT TAG**

- A. Sign Permit Required: No person shall erect, install, or paint any sign, or change the face of any sign whether it be temporary or permanent in nature, without obtaining a sign permit from the Planning Department, except as outlined in this ordinance. This includes new signs, signs to be added to existing buildings or uses, and existing signs that are to be enlarged, changed or modified. Failure to comply renders each such sign illegal and subject to criminal penalties.
- B. Erection of Sign Without a Permit: Any new or existing signs installed or maintained without a permit except as allowed under this ordinance, will be required to be removed or if allowed to remain and obtain a permit, will be charged a penalty fee of one hundred dollars (\$100.00) or double the applicable sign permit fee, whichever is greater, at the time the owner/operator of the sign makes application for a sign permit with the Planning Department.
- C. Permit Required for Prior Non-Conforming Signs: All existing signs, which do not conform to this ordinance, but are allowed as prior non-conforming signs, must obtain a sign sticker from the Planning Department prior to September 1, 2011. The obtaining of this sticker will create a record of eligible nonconforming signs and confirm the non-conforming use until such time as the sign must be updated under this ordinance. Any non-conforming sign that does not display a sticker confirming the non-conforming eligibility prior to September 1, 2011 shall lose its eligibility as a non-conforming sign and will be required to be updated to conform to this ordinance. There will be no application fee required to obtain a non-conforming eligibility sticker except for the actual cost of the manufacturing of the sticker itself. Such stickers must be displayed in the lower left-hand corner of each sign.

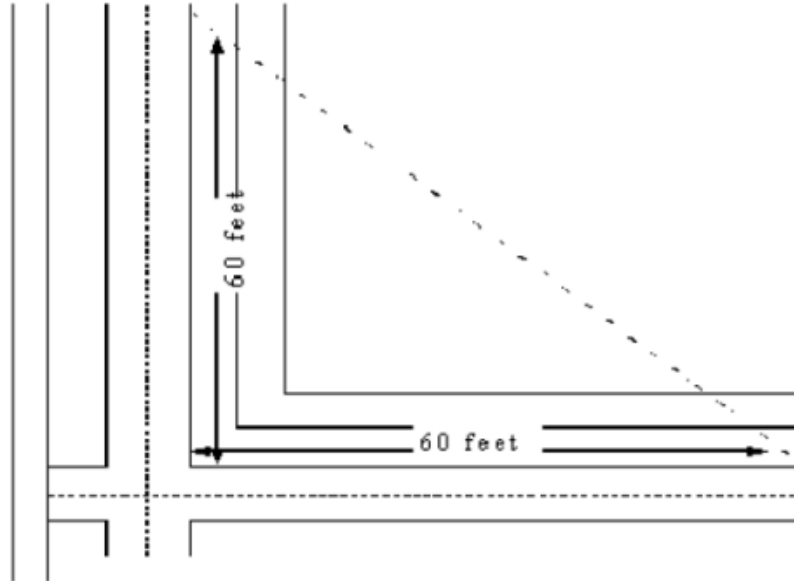
#### **12.22.140 SAFETY AND LOCATION STANDARDS**

- A. Standards of Construction:

1. Must Comply with Codes. All signs erected in Hideout Town shall comply with the Building Code adopted by Hideout Town and the Hideout Town Sign Standard effective at the time the permit is issued;
  2. Licensed Contractor for Electrical. No sign, fixture or device involving electrical wiring or connections shall be erected or installed in Hideout Town except by a licensed and bonded contractor;
  3. Engineering. All signs shall be engineered to demonstrate conformance with the applicable provisions of the Building Code adopted by Hideout Town;
  4. Materials. All signs must be built of durable and permanent materials; and
  5. Underground Power. Permanent power sources for signs must be concealed underground away from public view.
- B. Traffic Safety: No sign or other advertising structure shall be erected which in any manner may be confused with an official traffic sign or signal, or which bears words normally used in such signs, (i.e., stop, go, slow, caution, danger, warning, etc). No sign or any advertising structure shall be erected when by reason of its size, location, shape, content, coloring, or manner of illumination might be confused as a traffic control device. No sign shall have lighting, which impairs the vision of anyone traveling upon a public street or distracts any driver so as to create a public nuisance or safety hazard. Specifically, no sign or group of signs may exceed one (1) foot candle in brightness as measured at the property line.
- C. Clear View of Intersecting Streets: No sign more than three (3) feet in height above the top of the curb (or the centerline of the street if there is no curb) shall be erected at any intersection for vehicular traffic within a triangular area formed by the intersection of straight lines extended from the back of the curb (or future curb) and a line connecting them at points sixty (60) feet from the intersection of the lines. Monument signs may be erected in the above-mentioned area if they are less than three (3) feet above the curb grade to the top of the sign. The Planning Commission must approve any removal of landscaping in order to accomplish that objective. See below "Visibility Triangle" graphic. Any deviations from these requirements must be reviewed and approved by the Planning Department after conferring with other departments of the Town. Decisions of the Planning Department may be appealed to the Board of Adjustment.



Sign Visibility Triangle  
Sixty (60) feet from edge of right-of-way



D. Specific Clearance and Location Requirements: The following rules apply for all signs:

1. Freestanding signs shall not extend over any pedestrian or vehicular access area unless specifically approved by the Planning Department;
2. No part of any sign shall interfere with the use of any fire escape, exit, required stairway, door ventilator, or window;
3. No sign shall be erected or maintained which has less horizontal or vertical clearance from communication lines and energized electrical power lines than that prescribed by the laws of the State of Utah or its agencies;
4. No sign shall be located on publicly owned land or inside street rights-of-way, except signs owned and erected by permission of an authorized public agency or specifically authorized herein;
5. High profile (freestanding) and low profile signs shall be located at least their height in distance from side property lines in order to prevent damage to adjacent land in case a sign is toppled by accident or an act of God; and
6. Low profile (monument) signs shall be set back at least three (3) feet from the front sidewalk or right-of-way reserved for any future sidewalk, and from all driveways.

E. Maintenance: Every sign shall be kept in complete operating condition. The

landscaped area in which any sign is placed shall be kept free from weeds, garbage and debris. Landscaping shall also be maintained. "Maintenance" includes the repair of facades where signs have been removed, the painting, cleaning, repairing of the sign. "Maintenance" does not include structural alterations, cosmetic or style changes or enlargements of face changes.

- F. Landscaping: All freestanding or monument detached signs installed in Hideout Town must be incorporated into a landscape design or planter box. Exceptions to this rule must be approved by the Planning Commission. The Planning Commission must also approve any permanent removal of landscaping for the purpose of situating a sign.
- G. Pole Covers: All on-premise freestanding signs must have the structural supports covered or concealed with pole covers (pylon covers) at least twenty four (24) inches wide. The actual structural supports shall not be exposed, and the covers must be architecturally and aesthetically designed to match the building.
- H. Foundations: All signs must be permanently mounted on foundations and footings that conform to the building code adopted by Hideout Town.
- I. Pedestal Required: All monument signs must have at least a one (1) foot opaque pedestal designed as part of the foundation, which conceals any pole support. The pedestal should run at least fifty (50) percent of the horizontal length of the sign, and there may not be any exposed space between the pedestal and the ground or landscaped area. The Planning Director may review and approve/deny any variation to the pedestal base requirement.
- J. Lighting: The light from the illumination of signs shall be carefully directed so that the light is not obtrusive or a nuisance to adjacent properties particularly residential areas.
- K. Building Identification: All buildings shall be identified with a numbered or lettered street address in addition to optional business identification. The letters or numbers shall be at least four (4) inches in height and shall be placed in a location where they are readily located and readable from the street.

#### **12.22.150 MEASUREMENT OF REGULATED SIGN AREA**

- A. Wall Signs: Sign copy mounted or painted on a background panel or area painted, textured or constructed as a background for the sign copy shall be measured as that area contained within the outside dimensions of the background panel or surface which contains sign copy, logos, etc. They are by definition wall signs in their entirety and as such may not exceed ten (10) percent of the wall area. For sign copy mounted as individual letters and/or graphics against a wall or fascia of a building or other structure that has not been painted, textured or otherwise altered to provide a distinctive background for the sign copy the area shall be defined as the area included within the smallest six (6) sided polygon that will enclose all Sign Area. For Sign Area on an illuminated sign or illuminated architectural element of a building, the entire illuminated

surface or illuminated architectural element that contains sign copy shall be counted as Sign Area.

- B. Monument Signs: The regulated area of a monument sign shall include all parts of the sign or structure that contains identification and information, or if illuminated, the entire illuminated area.
- C. Multiple Face Signs:
  - 1. Single Panel. Measure the area of the single face only.
  - 2. Double Panel. If the interior angle between the two (2) faces is forty five (45) degrees or less, the area to be measured will be the area of one (1) face only (the largest). If the angle between the two (2) sign faces is greater than forty five (45) degrees, the Sign Area to be measured will be the sum of the area of the two (2) faces.
  - 3. Three or More. The Sign Area shall be the sum of the areas of the three (3) or more faces.
- D. Freestanding Signs: The regulated area of a freestanding sign shall include all parts of the sign or structure that contains words or symbols and information. The height of a freestanding sign shall be the distance from the highest point of the sign to the top of the curb or sidewalk or crown of the street when there is no curb or sidewalk.
- E. Other Sign Shapes: Allowed but not encouraged. For spherical, free-form, sculptural or other non-planer signs, special approval must be granted by the Planning Commission and the area shall be the sum of the areas of the four (4) vertical sides of the smallest polyhedron that will encompass the sign structure.

## **12.24 SENSITIVE LANDS (RESERVED)**

## **13 ADMINISTRATIVE CODE ENFORCEMENT HEARING PROGRAM**

### **13.02 GENERAL PROVISIONS AND DEFINITIONS**

#### **13.04 ADMINISTRATIVE CODE ENFORCEMENT PROCEDURES**

#### **13.06 ADMINISTRATIVE AND JUDICIAL REMEDIES**

#### **13.08 RECOVERY OF CODE ENFORCEMENT PENALTIES AND COSTS**

### **13.02 GENERAL PROVISIONS AND DEFINITIONS**

#### **13.02.010 SHORT TITLE**

#### **13.02.020 DECLARATION OF PURPOSE**

#### **13.02.030 SCOPE**

#### **13.02.040 EXISTING LAW CONTINUED**

#### **13.02.050 CRIMINAL PROSECUTION RIGHT**

#### **13.02.060 EFFECT OF HEADING**

#### **13.02.070 VALIDITY OF TITLE - SEVERABILITY**

#### **13.02.080 NO MANDATORY DUTY - CIVIL LIABILITY**

#### **13.02.090 GENERAL RULES OF INTERPRETATION OF ORDINANCES**

#### **13.02.100 DEFINITIONS APPLICABLE TO TITLE GENERALLY**

#### **13.02.110 ACTS INCLUDE CAUSING, AIDING, AND ABETTING**

#### **13.02.120 SERVICE REQUIREMENTS**

#### **13.02.130 GENERAL AUTHORITY AND OFFENSES**

#### **13.02.010 SHORT TITLE**

This Title shall be known as the "Administrative Code Enforcement Hearing Program (A.C.E. Hearing Program)." This Title shall also be known as Title 12, Hideout Town Municipal Code. It may be cited and pleaded under either designation.

#### **13.02.020 DECLARATION OF PURPOSE**

The Town Council of Hideout Town finds that the enforcement of the Hideout Town Municipal Code and applicable State Codes throughout the Town is an important public service. Code enforcement is vital to the protection of the public's health, safety, and quality of life. The Town Council recognizes that enforcement starts with the drafting of precise regulations that can be effectively applied in administrative code enforcement hearings and judicial proceedings. The Town Council further finds that a comprehensive code enforcement system that uses a combination of judicial and administrative remedies is critical to gain compliance with these regulations. Failure to comply with an administrative code enforcement action may require the Town Attorney to file a judicial action to gain compliance.

#### **13.02.030 SCOPE**

The provisions of this Title may be applied to all violations of the Town Code. It has been designed as an additional remedy for the Town to use in achieving compliance of its ordinances.

#### **13.02.040 EXISTING LAW CONTINUED**

The provisions of this Title do not invalidate any other title or ordinance, but shall be read in conjunction with those titles and ordinances as an additional remedy available for enforcement of those ordinances.

#### **13.02.050 CRIMINAL PROSECUTION RIGHT**

The Town has sole discretion in deciding whether to file a civil or criminal case for the violation of any of its ordinances. The Town may choose to file both, or one or the other. The enactment of this administrative remedy shall in no way interfere with the Town's right to prosecute Town ordinance violations as criminal offenses. The Town may use any of the remedies available under the law in both civil and criminal prosecution. If the Town chooses to file both civil and criminal charges for the same day of violation, no civil penalties may be assessed, but all other remedies are available.

#### **13.02.060 EFFECT OF HEADING**

Title, chapter, part and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any title, chapter, part, or section hereof.

#### **13.02.070 VALIDITY OF TITLE - SEVERABILITY**

If any section, subsection, sentence, clause, phrase, portion, or provision of this Title is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Title. The Town Council of this Town hereby declares that it would have adopted this Title and each section, subsection, sentence, clause, phrase, portion, or provision thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases, portions, or provisions be declared invalid or unconstitutional. This Section shall apply to all amendments heretofore or hereafter made to this Title.

#### **13.02.080 NO MANDATORY DUTY - CIVIL LIABILITY**

It is the intent of the Town Council that in establishing performance standards or establishing an obligation to act by a Town officer or employee, these standards shall not be construed as creating a mandatory duty for purposes of tort liability if the officer or employee fails to perform his or her directed duty or duties.

#### **13.02.090 GENERAL RULES OF INTERPRETATION OF ORDINANCES**

- A. For purposes of this Title:
- B. Any gender includes the other gender.
- C. "Shall" is mandatory; "may" is permissive.
- D. The singular number includes the plural, and the plural the singular.

- E. Words used in the present tense include the past and future tense, and vice versa.
- F. Words and phrases used in this Title and not specifically defined shall be construed according to the context and approved usage of the language.

### **13.02.100 DEFINITIONS APPLICABLE TO TITLE GENERALLY**

The following words and phrases, whenever used in this Title, shall be constructed as defined in this section, unless a different meaning is specifically defined elsewhere in this Title and specifically stated to apply:

**ABATEMENT:** Any action the Town may take on public or private property and any adjacent property as may be necessary to remove or alleviate a violation, including, but not limited to, demolition, removal, repair, boarding, and securing or replacement of property.

**ADMINISTRATIVE CODE ENFORCEMENT ORDER:** An order issued by a hearing officer. The order may include an order to abate the violation, pay civil penalties and administrative costs, or take any other action as authorized or required by this Title and applicable state codes.

**ADMINISTRATIVE LAW JUDGE:** A qualified disinterested person appointed by the Mayor with the advice and consent of the Council who will hear appeals and perform other functions as required.

**TOWN:** The area within the territorial Town limits of Hideout Town, and such territory outside of this Town over which the Town has jurisdiction or control by virtue of any constitutional or incorporation provisions or any law.

**TOWN COUNCIL:** The Town Council of Hideout Town.

**CODE ENFORCEMENT LIEN:** A lien recorded to collect outstanding civil penalties, administrative fees, and costs.

**CODE ENFORCEMENT PERFORMANCE BOND:** A bond posted by a responsible person to ensure compliance with the Town Code, applicable state titles, a judicial action, or an administrative code enforcement order.

**ENFORCEMENT OFFICIAL:** Any person authorized to enforce violations of the Town Code or applicable state codes.

**FINANCIAL INSTITUTION:** Any person that holds a recorded mortgage or deed of trust on a property.

**GOOD CAUSE:** Incapacitating illness; death; lack of proper notice; unavailability due to unavoidable, unpreventable, or extenuating emergency or circumstance; if a required act causes an imminent and irreparable injury; and acts of nature adverse to performing required acts.

**IMMINENT LIFE SAFETY HAZARD:** Any condition that creates a present, extreme, and immediate danger to life, property, health, or public safety.

**LEGAL INTEREST:** Any interest that is represented by a document, such as a deed of trust, quitclaim deed, mortgage, judgment lien, tax or assessment lien, mechanic's lien, or other similar instrument that is recorded with the County Recorder.

**NOTICE OF COMPLIANCE:** A document issued by the Town, representing that a property complies with the requirements outlined in the notice of violation.

**NOTICE OF SATISFACTION:** A document or form approved by the Administrative Law Judge or his or her designee, which indicates that all outstanding civil penalties and costs have been either paid in full, or that the Town has negotiated an agreed amount, or that a subsequent administrative or judicial decision has resolved the outstanding debt. In addition to the satisfaction of the financial debt, the property must also be in compliance with the requirements outlined in the notice of violation.

**NOTICE OF VIOLATION:** A written notice prepared by an enforcement official that informs a responsible person of code violations and orders them to take certain steps to correct the violations.

**OATH:** Includes affirmations and oaths.

**ANIMAL CONTROL ORDINANCE ENFORCEMENT OFFICER:** The appointed Animal Control Officer of the Wasatch County.

**ORDINANCE ENFORCEMENT OFFICER:** The person appointed by the Town Mayor of Hideout Town to enforce the provisions of Town Code.

**PERSON:** Any natural person, firm, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, or the manager, lessee, agent, sergeant, officer, or employee of any of them, or any other entity that is recognized by law as the subject of rights or duties.

**PROPERTY OWNER:** The record owner of real property based on the county assessor's records.

**PUBLIC NUISANCE:** Any condition caused, maintained, or permitted to exist that constitutes a threat to the public's health, safety, and welfare, or that significantly obstructs, injures, or interferes with the reasonable or free use of property in a neighborhood or community or by any considerable number of persons. A public nuisance also has the same meaning as set forth in the Utah Code Annotated.

**RESPONSIBLE PERSON:** A person who is responsible for causing or maintaining a violation of the Town Code or applicable state codes. The property owner, tenant, person with a legal interest in the real property, or person in possession of the real property shall be liable for any violation maintained on the property. In all cases, the property owner shall be considered a Responsible Person.



WRITTEN: Includes handwritten, typewritten, photocopied, computer printed, or facsimile.

### **13.02.110 ACTS INCLUDE CAUSING, AIDING, AND ABETTING**

Whenever any act or omission is made unlawful in this Title, it shall include causing, permitting, aiding, or abetting such act or omission.

### **13.02.120 SERVICE REQUIREMENTS**

#### **A. Service of Process:**

1. Whenever service is required to be given under this Title for enforcement purposes, the document shall be served by any of the following methods, unless different provisions are otherwise specifically stated to apply:
  - a. Regular mail, postage prepaid, to the last known address of the owner(s) or other responsible person(s);
  - b. Posting the notice conspicuously on or in front of the property. If not inhabited, the notice must also be mailed as in Paragraph A,1,a above. The form of the posted notice shall be approved by the Town Ordinance Enforcement Officer or his or her designee;
  - c. Personal service pursuant to Utah Rules of Civil Procedure Rule 4(e)(1) or rule 4(e)(5); or
  - d. Published in a newspaper of general circulation where the identity or whereabouts of the person to be served are unknown and cannot be ascertained through reasonable diligence, where service is impracticable under the circumstances, or where there exists good cause to believe that the person to be served is avoiding service of process.
2. Service by regular mail in the manner described above shall be deemed served on the third day after the date of mailing.
3. If service complies with the requirements of this Section, it shall be deemed a valid service even if a party claims not to have received the service and it shall not affect the validity of any proceedings taken under this Title.
4. The failure to serve all responsible person(s) shall not affect the validity of any proceedings.

- #### **B. Constructive Notice of Recorded Documents:**
- Whenever a document is recorded with the county recorder as authorized or required by this Title or applicable state codes, recordation shall provide constructive notice of the information contained in the recorded documents.

### **13.02.130 GENERAL AUTHORITY AND OFFENSES**

- A. General Enforcement Authority: Whenever the Town Ordinance Enforcement Officer or enforcement official finds that a violation of the Town Code or applicable state codes has occurred or continues to exist, the appropriate administrative enforcement procedure may be used as outlined in this Title. The Town Ordinance Enforcement Officer or any designated enforcement official has the authority and power necessary to gain compliance with the provisions of the Town Code and applicable state codes. These powers include the power to issue notices of violation and administrative citations, inspect public and private property, abate nuisances and violations occurring on public and private property, and use whatever judicial and administrative remedies are available under the Town Code or applicable State codes.
- B. Adoption of Policy and Procedures: The Administrative Law Judge is authorized to develop policies and procedures relating to the hearing procedures, scope of hearings, subpoena powers, and other matters relating to the Administrative Code Enforcement Hearing Program.
- C. Authority to Inspect: The Ordinance Enforcement Officer or any designated enforcement official is authorized to enter upon any property or premises to ascertain whether the provisions of the Town Code or applicable state codes are being obeyed and to make any examinations and surveys as may be necessary in the performance of the enforcement duties. This may include the taking of photographs, samples, or other physical evidence. All inspections, entries, examinations, and surveys shall be done in a reasonable manner based upon cause. If the responsible person refuses to allow the enforcement official to enter the property, the enforcement official shall obtain a search warrant.
- D. Power to Arrest: The Ordinance Enforcement Officer or any designated enforcement official is authorized to issue an infraction citation, misdemeanor citation or administrative citation whenever there is reasonable cause to believe that the person has committed a violation of the Town Code or applicable state codes in the enforcement official's presence.
- E. False Information or Refusal Prohibited: It shall be unlawful for any person to willfully make a false statement or refuse to give his or her name or address with intent to deceive or interfere with a Town employee when in the performance of his or her official duties under the provisions of this Title. A violation of this Section is a class B misdemeanor.
- F. Failure to Obey a Subpoena: It is unlawful for any person to refuse or fail to obey a subpoena issued for an administrative code enforcement hearing. Failure to obey a subpoena constitutes contempt and may be prosecuted as a class B misdemeanor.

### **13.04 ADMINISTRATIVE CODE ENFORCEMENT PROCEDURES**

#### **13.04.010 AUTHORITY**

#### **13.04.020 NOTICE OF VIOLATION**

[13.04.030 FAILURE TO BRING PROPERTY INTO COMPLIANCE](#)

[13.04.040 INSPECTIONS](#)

[13.04.050 EMERGENCY ABATEMENT](#)

[13.04.060 DEMOLITIONS](#)

[13.04.070 ADMINISTRATIVE CITATIONS](#)

[13.04.080 ADMINISTRATIVE CODE ENFORCEMENT HEARING PROCEDURES](#)

[13.04.090 ADMINISTRATIVE ENFORCEMENT APPEALS](#)

**13.04.010 AUTHORITY**

Any condition caused, maintained, or permitted to exist in violation of any provisions of the Town Code or applicable state codes that constitutes a violation may be abated by the Town pursuant to the procedures set forth in this Section.

**13.04.020 NOTICE OF VIOLATION**

A. Whenever the Ordinance Enforcement Officer or any designated enforcement official determines that a violation of the Town Code or applicable state codes has occurred or continues to exist, the Ordinance Enforcement Officer or enforcement official may choose to proceed under the administrative abatement procedures. If this procedure is used, a notice of violation shall be issued to a responsible person. The notice of violation shall include the following information:

1. Name of property owner;
2. Street address of violation;
3. Date violation observed;
4. All code sections violated and description of condition of the property that violates the applicable codes;
5. A statement explaining the type of remedial action required to permanently correct outstanding violations, which may include corrections, repairs, demolition, removal, or other appropriate action;
6. Specific date to correct the violations listed in the notice of violation, which date shall be at least ten days from the date of service;
7. Explanation of the consequences should the responsible person fail to comply with the terms and deadlines as prescribed in the notice of violation, which may include, but is not limited to, criminal prosecution; civil penalties; revocation of permits; recordation of the notice of violation; withholding of future municipal permits; abatement of the violation; costs; administrative fees; and any other legal remedies;
8. That civil penalties will begin to accrue immediately on expiration of the date to correct violations;
9. The amount of the civil penalty on each violation and that the penalty will accrue daily until the property is brought into compliance;

10. That only one notice of violation is required for any 12-month period, and that civil penalties begin immediately upon any subsequent violations of the notice. The responsible person may request a hearing on the renewed violations by following the same procedure as provided for the original notice.
  11. Procedures to request a hearing as provided in HMC 13.04.080 Paragraph C, and consequences for failure to request one.
- B. The notice of violation shall be served by one of the methods of service listed in HMC 13.02.140 Paragraph A.
- C. More than one notice of violation may be issued against the same responsible person, if it encompasses different dates, or different violations.

#### **13.04.030 FAILURE TO BRING PROPERTY INTO COMPLIANCE**

- A. If a responsible person fails to bring a violation into compliance within ten days of service of the notice of violation, civil penalties shall be owed to the Town for each and every subsequent day of violation.
- B. Failure to comply with the notice of violation is a class B misdemeanor.

#### **13.04.040 INSPECTIONS**

It shall be the duty of the responsible person served with a Notice of Violation to request an inspection when his or her property has been brought into compliance. It is prima facie evidence that the violation remains on the property if no inspection is requested. Civil penalties accumulate daily until the property has been inspected and a notice of compliance is issued. Reinspection fees shall be assessed if more than one inspection is necessary.

#### **13.04.050 EMERGENCY ABATEMENT**

A. Authority:

1. Whenever the Ordinance Enforcement Officer determines that an imminent life safety hazard exists that requires immediate correction or elimination, the Officer may exercise the following powers without prior notice to the responsible person:
  - a. Order the immediate vacation of any tenants, and prohibit occupancy until all repairs are completed;
  - b. Post the premises as unsafe, substandard, or dangerous;
  - c. Board, fence, or secure the building or site;
  - d. Raze and grade that portion of the building or site to prevent further collapse, and remove any hazard to the general public;

- e. Make any minimal emergency repairs as necessary to eliminate any imminent life safety hazard; or
  - f. Take any other action appropriate to eliminate the emergency.
- 2. The Ordinance Enforcement Officer has the authority, based on cause, to enter the property without a search warrant or court order to accomplish the above listed acts to abate the safety hazard.
  - 3. The responsible person shall be liable for all costs associated with the abatement of the life safety hazard. Costs may be recovered pursuant to this Title.

B. Procedures:

- 1. The Town Ordinance Enforcement Officer shall pursue only the minimum level of correction or abatement as necessary to eliminate the immediacy of the hazard. Costs incurred by the Town during the emergency abatement process shall be assessed and recovered against the responsible person through the procedures outlined in the "Remedies" section of this Title.
- 2. The Town Ordinance Enforcement Officer may also pursue any other administrative or judicial remedy to abate any remaining violations.

- C. Notice of Emergency Abatement: After an emergency abatement, the Town shall notify the owner or responsible person of the abatement action taken. This notice shall be served within ten days of completion of the abatement.

#### **13.04.060 DEMOLITIONS**

- A. Authority: Whenever the Ordinance Enforcement Officer, Chief Building Officer, or Fire Inspector determines that a property or building requires demolition, any one of them may demolish or remove the offending structure, or exercise any or all of the powers listed in HMC 13.04.050 Paragraph A once appropriate notice has been given to a responsible person pursuant to the Uniform Abatement of Dangerous Buildings Code or Uniform Fire Codes as required under state law. The responsible person shall be liable for all costs associated with the demolition. Costs may be recovered pursuant to this Title.
- B. Procedures: Once the Town Ordinance Enforcement Officer has determined that the Town Chief Building Inspector or the Fire Marshal has complied with all of the notice requirements of the applicable laws, the property will be abated pursuant to the abatement remedy. Other applicable remedies may also be pursued.

#### **13.04.070 ADMINISTRATIVE CITATIONS**

- A. Declaration of Purpose: The Town Council finds that there is a need for an

alternative method of enforcement for minor violations of the Town Code and applicable state codes. The Town Council further finds that an appropriate method of enforcement is an administrative citation program. The procedures established in this Section shall be in addition to criminal, civil, or any other legal remedy established by law that may be pursued to address violations of the Town Code or applicable State codes.

B. Authority:

1. Any person violating any minor provision of the Town Code or applicable state codes may be issued an administrative citation by an enforcement official as provided in this Section.
2. A civil penalty shall be assessed by means of an administrative citation issued by the enforcement official, and shall be payable directly to the Town Treasurer's Office.
3. Penalties assessed by means of an administrative citation shall be collected in accordance with the procedures specified in the remedies section of this Title.

C. Procedures:

1. Upon discovering any violation of the Town Code or applicable state codes an enforcement official may issue an administrative citation to a responsible person in the manner prescribed in this Section or as prescribed in HMC 13.02.140 Paragraph A. The administrative citation shall be issued on a form approved by the Administrative Law Judge.
2. If the responsible person is a business, the enforcement official shall attempt to locate the business owner and issue an administrative citation to the business owner. If the enforcement official can only locate the manager of the business, the administrative citation may be given to the manager of the business. A copy of the administrative citation may also be mailed to the business owner or any other responsible person in the manner prescribed in HMC 13.02.140 Paragraph A.
3. Once the responsible person has been located, the enforcement official shall attempt to obtain the signature of that person on the administrative citation. If the responsible person refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the citation and subsequent proceedings.
4. If the enforcement official is unable to locate the responsible person for the violation, then the administrative citation shall be mailed to the responsible person in the manner prescribed in HMC 13.02.140 Paragraph A.
5. If no one can be located at the property, then the administrative citation may be posted in a conspicuous place on or near the property and a

copy subsequently mailed to the responsible person in the manner prescribed by HMC 13.02.140 Paragraph A.

6. The administrative citation shall also contain the signature of the enforcement official.
7. The failure of any person with an interest in the property to receive notice shall not affect the validity of any proceedings taken under this Section.

D. Contents of Administrative Citation:

1. The administrative citation shall refer to the date and location of the violations and the approximate time the violations were observed.
2. The administrative citation shall refer to the Code sections violated and the titles of those sections.
3. The administrative citation shall state the amount of penalty imposed for the violations.
4. The administrative citation shall explain how the penalty shall be paid, the time period by which the penalty shall be paid, and the consequences of failure to pay the penalty.
5. The administrative citation shall identify the right and the procedures to request a hearing.
6. The citation shall contain the signature of the enforcement official and the signature of the responsible person, if he or she can be located, as outlined in HMC 13.04.070 Paragraph C.

E. Civil Penalties Assessed:

1. The Administrative Law Judge shall establish policies to assist in the assessment of civil penalties for administrative citations.
2. Civil penalties shall be assessed immediately for each violation listed on the administrative citation. The penalties shall be those established in the Hideout Town Consolidated Fee Schedule.
3. Payment of the penalty shall not excuse the failure to correct the violations, nor shall it bar further enforcement action by the Town.

**13.04.080 ADMINISTRATIVE CODE ENFORCEMENT HEARING PROCEDURES**

- A. Declaration of Purpose: The Town Council finds that there is a need to establish uniform procedures for administrative Code enforcement hearings conducted pursuant to the Town Code. It is the purpose and intent of the Town Council to afford due process of law to any person who is directly affected by an administrative action. Due process of law includes notice, an opportunity to participate in the administrative hearing, and an explanation of the reasons



justifying the administrative action. These procedures are also intended to establish a forum to efficiently, expeditiously, and fairly resolve issues raised in any administrative code enforcement action.

B. Authority and Scope of Hearing: Enforcement of Town Code violations may be conducted through this Civil Code Program, presided over by the Administrative Law Judge. The Administrative Law Judge shall develop policies and procedures to regulate the hearing process for any violation of the Town Code and applicable State codes that are handled pursuant to the administrative abatement procedures, the emergency abatement procedures, the demolition procedures, or the administrative citation procedures.

C. Request for Administrative Code Enforcement Hearing:

1. A person served with one of the following documents or notices has the right to request an administrative code enforcement hearing, if the request is filed within ten calendar days from the date of service of one of the following notices:
  - a. Notice of violation;
  - b. Notice of itemized bill for costs;
  - c. Administrative citation;
  - d. Notice of emergency abatement;
2. The request for hearing shall be made in writing and filed with the Administrative Law Judge. The request shall contain the case number, the address of the violation, and the signature of the responsible party.
3. As soon as practicable after receiving the written notice of the request for hearing, the Administrative Law Judge shall schedule a date, time, and place for the hearing.
4. Failure to request a hearing as provided shall constitute a waiver of the right to a hearing and a waiver of the right to challenge the action.

D. Default Hearings and Orders:

1. If the responsible person fails to request a hearing before the expiration of the ten day deadline the case shall be set for a default hearing. The Administrative Law Judge shall schedule a default hearing. The responsible person shall be notified of the date, time, and place of the hearing by one of the methods listed in HMC 13.02.140 Paragraph A.
2. A default hearing shall be scheduled for all cases that have outstanding or unpaid civil penalties, fines, fees and/or costs due to the Town before collection, if a hearing on that case has not already been held.
3. At the default hearing, the responsible person shall have the opportunity to present evidence to show that good cause exists, as defined in the Title, to do one or more of the following:

- a. waive or reduce the fines which have accumulated;
  - b. postpone an abatement action by the Town; or
  - c. excuse the responsible person's failure to request a hearing within the ten day period.
4. If the responsible person fails to establish good cause to take one or more of the actions set forth in Paragraph D,3, the Administrative Law Judge shall review the notice of violation and any other relevant information included in the case file. The Administrative Law Judge shall not accept any other evidence.
  - a. If the evidence shows that the violations existed, the Administrative Law Judge shall enter an order requiring abatement of the violations, and the payment of all fines and fees. Fines shall run until the Town issues a Notice of Compliance stating when the violations were actually abated.

E. Notification of Administration Code Enforcement Hearing:

1. Written notice of the day, time, and place of the hearing shall be served to a Responsible Person as soon as practicable prior to the date of the hearing.
2. The format and contents of the hearing notice shall be in accordance with rules and policies promulgated by the Administrative Law Judge.
3. The notice of hearing shall be served by any of the methods of service listed in HMC 13.02.140 Paragraph A.

F. Disqualification of Code Enforcement Hearing Officer: The Administrative Law Judge is subject to disqualification for bias, prejudice, interest, or any other reason for which a judge may be disqualified in a court of law. Rules and procedures for disqualification and replacement shall be promulgated by the Administrative Law Judge.

G. Powers of the Administrative Law Judge:

1. The Administrative Law Judge has the authority to hold hearings, determine if violations of Town ordinances exist, order compliance with Town ordinances, and enforce compliance as provided in this Title on any matter subject to the provisions of the Title.
2. The Administrative Law Judge may continue a hearing based on good cause shown by one of the parties to the hearing. The Administrative Law Judge must enter on the record the good cause on which a continuance is granted.
3. The Administrative Law Judge, at the request of any party to the hearing, may sign subpoenas for witnesses, documents, and other evidence

where the attendance of the witness for the admission of evidence is deemed necessary to decide the issues at the hearing. All costs related to the subpoena, including witness and mileage fees, shall be borne by the party requesting the subpoena. The Administrative Law Judge shall develop policies and procedures relating to the issuance of subpoenas in administrative code enforcement hearings, including the form of the subpoena and related costs.

4. The Administrative Law Judge has continuing jurisdiction over the subject matter of an administrative code enforcement hearing for the purposes of granting a continuance; ordering compliance by issuing an administrative code enforcement order using any remedies available under the law; ensuring compliance of that order, which includes the right to authorize the Town to enter and abate a violation; modifying an administrative code enforcement order; or, where extraordinary circumstances exist, granting a new hearing.
5. The Administrative Law Judge has the authority to require a responsible person to post a code enforcement performance bond to ensure compliance with an administrative code enforcement order.

#### H. Procedures at Administrative Code Enforcement Hearing:

1. Administrative code enforcement hearings are intended to be informal in nature. Formal rules of evidence and discovery do not apply; however, an informal exchange of discovery may be required. The request must be in writing. Failure to request discovery shall not be a basis for a continuance. Complainant information is protected and shall not be released unless the complainant is a witness at the hearing. The procedure and format of the administrative hearing shall follow the procedures promulgated by the Administrative Law Judge.
2. The Town bears the burden of proof at an administrative code enforcement hearing to establish the existence of a violation of the Town Code or applicable state codes.
3. The standard of proof to be used by the Administrative Law Judge in deciding the issues at an administrative hearing is whether the preponderance of the evidence shows that the violations exist.
4. Each party shall have the opportunity to cross-examine witnesses and present evidence in support of his or her case. A written declaration signed under penalty of perjury may be accepted in lieu of a personal appearance. Testimony may be given by telephone or other electronic means.
5. All hearings are open to the public. They shall be recorded by audio tape. Hearings may be held at the location of the violation.
6. The responsible person has a right to be represented by an attorney. If

an attorney will be representing the responsible person at the hearing, notice of the attorney's name, address, and telephone number must be given to the Town at least one day prior to the hearing. If notice is not given, the hearing may be continued at the Town's request, and all costs of the continuance assessed to the responsible person.

7. No new hearing shall be granted, unless the Administrative Law Judge determines that extraordinary circumstances exist which justify a new hearing.

I. Failure to Attend Administrative Code Enforcement Hearing: Any party whose property or actions are the subject of any administrative code enforcement hearing and who fails to appear at the hearing is deemed to waive the right to a hearing, and will result in a default judgment for the Town, provided that proper notice of the hearing has been provided.

J. Administrative Code Enforcement Order:

1. The parties may enter into a stipulated agreement, which must be signed by both parties. This agreement shall be entered as the administrative code enforcement order. Entry of this agreement shall constitute a waiver of the right to a hearing and the right to appeal.
2. Once all evidence and testimony are completed, the Administrative Law Judge shall issue an administrative code enforcement order that affirms, modifies or rejects the notice or citation. The Administrative Law Judge may increase or decrease the total amount of civil penalties and costs that are due pursuant to the Town's fee schedule and the procedures in this Title.
3. The Administrative Law Judge may order the Town to enter the property and abate all violations, which may include removing animals kept in violation of the Town Code.
4. The Administrative Law Judge may revoke a permit, an animal license, or the right to possess animals as provided in the Town Code.
5. As part of the administrative code enforcement order, the Administrative Law Judge may condition the total or partial assessment of civil penalties on the responsible person's ability to complete compliance by specified deadlines.
6. The Administrative Law Judge may schedule subsequent review hearings as may be necessary or as requested by a party to the hearing to ensure compliance with the administrative code enforcement order.
7. The Administrative Law Judge may order the responsible person to post a performance bond to ensure compliance with the order.
8. The administrative code enforcement order shall become final on the date of the signing of the order.

9. The administrative code enforcement order shall be served on all parties by any one of the methods listed in HMC 13.02.140 Paragraph A.

K. Failure To Comply with Order:

1. Upon the failure of the responsible person to comply with the terms and deadlines set forth in the administrative code enforcement order, the Town may use all appropriate legal means to recover the civil penalties and administrative costs to obtain compliance.
2. After the Administrative Law Judge issues an administrative code enforcement order, the Administrative Law Judge shall monitor the violations and determine compliance.

**13.04.090 ADMINISTRATIVE ENFORCEMENT APPEALS**

A. Appeal of Administrative Code Enforcement Hearing Decision:

1. Any person adversely affected by any decision made in the exercise of the provisions of this Chapter may file a petition for review of the decision or order by the district court within 30 days after the decision is rendered.
2. No person may challenge in district court an administrative code enforcement hearing officer's decision until that person has exhausted his or her administrative remedies.
3. Within 120 days after submitting the petition, the party petitioning for appeal shall request a copy of the record of the proceedings, including transcripts of hearings when necessary. The Administrative Law Division shall not submit copies of files or transcripts to the reviewing court until the party petitioning for appeal has paid all required costs. The petitioning party's failure to properly arrange for copies of the record, or to pay the full costs for the record, within 180 days after the petition for review was filed shall be grounds for dismissal of the petition. a. If a transcript of a hearing cannot be prepared because the tape recording is incomplete or unintelligible, the district court may, in its discretion, remand the matter to the Administrative Law Judge for a supplemental proceeding to complete the record. The district court may limit the scope of the supplemental proceeding to issues that, in the court's opinion, need to be clarified.
4. The district court's review is limited to the record of the administrative decision that is being appealed. The court shall not accept nor consider any evidence that is not part of the record of that decision.
5. The courts shall:
  - a. Presume that the administrative code enforcement hearing officer's decision and orders are valid; and
  - b. Review the record to determine whether or not the decision was arbitrary, capricious, or illegal.

### **13.06 ADMINISTRATIVE AND JUDICIAL REMEDIES**

#### **13.06.010 RECORDATION OF NOTICES OF VIOLATION**

#### **13.06.020 ADMINISTRATIVE CIVIL PENALTIES**

#### **13.06.030 ABATEMENT OF VIOLATION**

#### **13.06.040 COSTS**

#### **13.06.050 ADMINISTRATIVE FEES**

#### **13.06.060 INJUNCTIONS**

#### **13.06.070 PERFORMANCE BONDS**

### **13.06.010 RECORDATION OF NOTICES OF VIOLATION**

- A. Declaration of Purpose: The Town Council finds that there is a need for alternative methods of enforcement for violations of the Town Code and applicable state codes that are found to exist on real property. The Town Council further finds that an appropriate method of enforcement for these types of violations is the issuance and recordation of notices of violation. The procedures established in this Section shall be in addition to criminal, civil, or any other remedy established by law that may be pursued to address the violation of the Town Code or applicable state codes.
- B. Authority: Whenever the Town Ordinance Enforcement Officer determines that a property or violation has not been brought into compliance as required in this Title, the Town Ordinance Enforcement Officer has the authority to record the notice of violation or administrative code enforcement order with the Recorder's Office of Wasatch County.
- C. Procedures for Recordation:
1. Once the Town Ordinance Enforcement Officer has issued a notice of violation to a responsible person, and the property remains in violation after the deadline established in the notice of violation, and no request for an administrative hearing has been filed, the Town Ordinance Enforcement Officer shall record a notice of violation with the Recorder's Office of Wasatch County.
  2. If an administrative hearing is held, and an order is issued in the Town's favor, the Town Ordinance Enforcement Officer shall record the administrative code enforcement order with the Recorder's Office of Wasatch County.
  3. The recordation shall include the name of the property owner, the parcel number, the legal description of the parcel, and a copy of the notice of violation or order.
  4. The recordation does not encumber the property, but merely places future interested parties on notice of any continuing violation found upon the property.

- D. Service of Notice of Recordation: A notice of the recordation shall be served on the responsible person and the property owner pursuant to any of the methods of service set forth in HMC 13.02.140 Paragraph A.
- E. Failure to Request: The failure of any person to file a request for an administrative code enforcement hearing when served with a notice of violation shall constitute a waiver of the right to an administrative hearing and shall not affect the validity of the recorded notice of violation.
- F. Notice of Compliance - Procedures:
1. When the violations have been corrected, the responsible person or property owner may request an inspection of the property from the Ordinance Enforcement Officer.
  2. Upon receipt of a request for inspection, the Ordinance Enforcement Officer shall reinspect the property as soon as practicable to determine whether the violations listed in the notice of violation or the order have been corrected, and whether all necessary permits have been issued and final inspections have been performed.
  3. The Ordinance Enforcement Officer shall serve a notice of satisfaction to the responsible person or property owner in the manner provided in HMC 13.02.140 Paragraph A, if the Ordinance Enforcement Officer determines that:
    - a. All violations listed in the recorded notice of violation or order has been corrected;
    - b. All necessary permits have been issued and finalized;
    - c. All civil penalties assessed against the property have been paid or satisfied; and
    - d. The party requesting the notice of satisfaction has paid all administrative fees and costs.
  4. If the Ordinance Enforcement Officer denies a request to issue a notice of satisfaction, upon request the Ordinance Enforcement Officer shall serve the responsible person with a written explanation setting forth the reasons for the denial. The written explanation shall be served by any of the methods of service listed in HMC 13.02.140 Paragraph A.
- G. Prohibition Against Issuance of Municipal Permits: The Town may withhold business licenses; or permits for any alteration, repair, or construction pertaining to any existing or new structures or signs on the property, or any permits pertaining to the use and development of the real property or the structure. The Town may withhold permits until a notice of satisfaction has been issued by the Ordinance Enforcement Officer. The Town may not withhold permits that are necessary to obtain a notice of satisfaction or that are necessary to correct serious health and safety violations.



- H. Cancellation of Recorded Notice of Violation: The Ordinance Enforcement Officer or responsible person shall record the notice of satisfaction with the County Recorder's Office. Recordation of the notice of satisfaction shall have the effect of canceling the recorded notice of violation.

### **13.06.020 ADMINISTRATIVE CIVIL PENALTIES**

A. Authority:

1. Any person violating any provision of the Town Code or applicable state codes may be subject to the assessment of civil penalties for each violation.
2. Each and every day a violation of any provision of the Town Code or applicable state codes exists is a separate violation subject to the assessment of civil penalties.
3. Civil penalties cannot be assessed when a criminal case has been filed for the same date and violation, because fines will be assessed with the criminal case.
4. Interest shall be assessed per Town policy on all outstanding civil penalties balances until the case has been paid in full.
5. Civil penalties for violations of any provision of the Town Code or applicable state codes shall be assessed pursuant to the Hideout Town Consolidated Fee Schedule.

B. Procedures for Assessing Civil Penalties:

1. If a responsible person fails to bring a violation into compliance within ten days of service of the notice of violation, civil penalties shall be owed to the Town for each and every subsequent day of violation.
2. Civil penalties are assessed and owing immediately for any violation of the Town Code or applicable state codes for an administrative citation.

C. Determination of Civil Penalties:

1. Civil penalties shall be assessed per violation per day pursuant to the Town fee schedule for a notice of violation.
2. Civil penalties shall continue to accrue until the violation(s) has/have been brought into compliance with the Town Code or applicable state codes.

D. Modification of Civil Penalties:

1. Upon completion of the notice of violation or administrative enforcement order, the administrative code enforcement hearing officer may modify the civil penalties on a finding of good cause.

2. Civil penalties may be waived or modified by the hearing officer if there is a finding of good cause based on the responsible person's claim of nonconforming use or conditional use and:

- a. The Town's need to verify the claim; or
- b. The responsible person's filing of an application for either use before expiration of the date to correct.

E. Failure to Pay Penalties: The failure of any person to pay civil penalties assessed within the specified time may result in the Town Ordinance Enforcement Officer's pursuing any legal remedy to collect the civil penalties as provided in the law.

### **13.06.030 ABATEMENT OF VIOLATION**

A. Authority to abate: The Town Ordinance Enforcement Officer is authorized to enter upon any property or premises to abate the violation of the Town Code and applicable state codes. The Town Ordinance Enforcement Officer is authorized to assess all costs for the abatement to the responsible person and use any remedy available under the law to collect the costs. If additional abatements are necessary within two years, treble costs may be assessed against the responsible person(s) for the actual abatement.

B. Procedures for Abatement:

1. Once the procedures set forth in this Title have been completed, the violation may be abated by Town personnel or by a private contractor acting under the direction of the Town.
2. Town personnel or a private contractor may enter upon private property in a reasonable manner to abate the ordinance violation as specified in the notice of violation or administrative code enforcement order.
3. If the responsible person abates the violation before the Town performs the actual abatement pursuant to a notice of violation or administrative code enforcement order, the Ordinance Enforcement Officer may still assess all costs incurred by the Town against the responsible person.
4. When the abatement is completed, a report describing the work performed and an itemized account of the total abatement costs shall be prepared by the Ordinance Enforcement Officer. The report shall contain the names and addresses of the responsible persons of each parcel, and the tax parcel number.
5. The Ordinance Enforcement Officer shall serve the notice of costs and the itemized bill of costs by registered mail to the last known address of the responsible person(s). The notice shall demand full payment within 20 days to the Town Treasurer.
6. The Ordinance Enforcement Officer shall schedule an itemized bill for

costs hearing, if requested in writing by any or all responsible persons.

### **13.06.040 COSTS**

#### **A. Declaration of Purpose:**

1. The Town Council finds that there is a need to recover costs incurred by enforcement officials and other Town personnel who spend considerable time inspecting and re-inspecting properties throughout the Town in an effort to ensure compliance with the Town Code or applicable state codes.
2. The Town Council further finds that the assessment of costs is an appropriate method to recover expenses incurred for actual costs of abating violations, re-inspection fees, filing fees, attorney fees, hearing officer fees, title search, and any additional actual costs incurred by the Town for each individual case. The assessment and collection of costs shall not preclude the imposition of any administrative or judicial civil penalties or fines for violations of the Town Code or applicable state codes.

#### **B. Authority:**

1. Whenever actual costs are incurred by the Town on a property to obtain compliance with provisions of the Town Code and applicable state codes, the Town Ordinance Enforcement Officer may assess costs against the responsible person.
2. Once a notice of violation has been issued, the property will be inspected one time. Any additional inspections shall be subject to reinspection fees pursuant to the Town fee schedule.

#### **C. Notification of Assessment of Reinspection Fees:**

1. Notification of re-inspection fees shall be provided on the notice of violation served to the responsible person(s).
2. Re-inspection fees assessed or collected pursuant to this Section shall not be included in any other costs assessed.
3. The failure of any responsible person to receive notice of the reinspection fees shall not affect the validity of any other fees imposed under this Section.

D. Failure to Timely Pay Costs: The failure of any person to pay assessed costs by the deadline specified in the invoice shall result in a late fee pursuant to Town policy.

### **13.06.050 ADMINISTRATIVE FEES**

The Ordinance Enforcement Officer or code enforcement hearing officer is authorized to assess administrative fees for costs incurred in the administration of this program, such as investigation of violations, preparation for hearings, hearings, and the collection process. The fee assessed shall be the amount set in the Town fee schedule.

### **13.06.060 INJUNCTIONS**

In addition to any other remedy provided under the Town Code or state codes, including criminal prosecution or administrative remedies, any provision of the Town Code may be enforced by injunction issued in the Fourth District Court upon a suit brought by the Town.

### **13.06.070 PERFORMANCE BONDS**

#### **A. Performance Bond:**

1. As part of any notice, order, or action, the administrative code enforcement hearing officer has the authority to require responsible persons to post a performance bond to ensure compliance with the Town Code, applicable state codes, or any judicial action.
2. If the responsible person fails to comply with the notice, order, or action, the bond will be forfeited to the Town. The bond will not be used to offset the other outstanding costs and fees associated with the case.

### **13.08 RECOVERY OF CODE ENFORCEMENT PENALTIES AND COSTS**

#### **13.08.010 CODE ENFORCEMENT TAX LIENS**

#### **13.08.020 WRIT OF EXECUTION**

#### **13.08.030 WRIT OF GARNISHMENT**

#### **13.08.040 ALLOCATION OF FUNDS COLLECTED UNDER ADMINISTRATIVE CODE ENFORCEMENT HEARING PROGRAM**

### **13.08.010 CODE ENFORCEMENT TAX LIENS**

A. Declaration of Purpose: The Town Council finds that recordation of code enforcement tax liens will assist in the collection of civil penalties, administrative costs, and administrative fees assessed by the administrative code enforcement hearing program or judicial orders. The Town Council further finds that collection of civil penalties, costs, and fees assessed for code enforcement violations is important in deterring future violations and maintaining the integrity of the Town's code enforcement system. The procedures established in this Section shall be used to complement existing administrative or judicial remedies that may be pursued to address violations of the Town Code or applicable state codes.

#### **B. Procedures for Tax Liens Without a Judgement:**

1. Once the Town has abated a property for weeds, garbage, refuse, or unsightly or deleterious objects or structures, the Ordinance Enforcement Officer shall prepare three copies of the Itemized Statement of Costs

incurred in the removal and destruction of the violations and deliver it to the Town Treasurer within 10 days after completion of the work of removing the violations.

2. The Ordinance Enforcement Officer shall send, by registered mail to the property owner's last known address, a copy of the Itemized Statement of Costs informing him or her that a code enforcement tax lien is being recorded for the amount of actual costs of abatement. Payment shall be due within 20 calendar days from the date of mailing.
  3. Upon receipt of the Itemized Statement of costs, the Town Treasurer shall record a Code Enforcement Tax Lien against the property with the county treasurer's office.
  4. The failure of any person with a financial interest in the property to actually receive the notice of the lien shall not affect the validity of the lien or any proceedings taken to collect the outstanding costs of abatement.
- C. Procedures for Tax Liens With a Judgement: Once a judgment has been obtained from the appropriate court assessing costs against the responsible person(s), the Town Ordinance Enforcement Officer may record a code enforcement tax lien against any real property owned by the responsible person(s).
- D. Cancellation of Code Enforcement Tax Lien: Once payment in full is received for the outstanding civil penalties and costs, or the amount is deemed satisfied pursuant to a subsequent administrative or judicial order, the Town Ordinance Enforcement Officer shall either record a notice of satisfaction of judgment, or provide the property owner or financial institution with the notice of satisfaction of judgment so that it can record this notice with the county recorder's office. The notice of satisfaction of judgment shall include the same information as provided for in the original code enforcement tax lien. Such notice of satisfaction of judgment shall cancel the code enforcement tax lien.

#### **13.08.020 WRIT OF EXECUTION**

- A. Recovery of Costs by Writ of Execution: After obtaining a judgment, the Town Ordinance Enforcement Officer may collect the obligation by use of all appropriate legal means. This may include the execution on personal property owned by the responsible person by filing a writ with the applicable court.

#### **13.08.030 WRIT OF GARNISHMENT**

- A. Recovery of Costs by Writ of Garnishment: After obtaining a judgment, the Town Ordinance Enforcement Officer may collect the obligation by use of all appropriate legal means. This may include the garnishment of paychecks, financial accounts, and other income or financial assets by filing a writ with the applicable court.

**13.08.040 ALLOCATION OF FUNDS COLLECTED UNDER ADMINISTRATIVE CODE ENFORCEMENT HEARING PROGRAM**

- A. Abatement Fund: There is hereby established a revolving fund to be known as the "Abatement fund" to defray costs of administrative and judicial abatements. The fund shall be reimbursed by collection from the property or property owner as specified in this Title and by the courts. The Town Ordinance Enforcement Officer shall establish accounting procedures to ensure proper account identification, credit, and collection. This fund may be operated and used in conjunction with procedures ordered or authorized under the abatement provision of this Title.
- B. Repayment to Abatement Fund: All monies recovered from the sale or transfer of property or by payment for the actual abatement costs shall be paid to the Town Treasurer, who shall credit the appropriate amount to the Abatement Superfund.
- C. Civil Penalties Code Enforcement Administrative Fees and Cost Fund: Civil Penalties, Administrative fees and administrative costs, except for actual abatement costs, collected pursuant to this Section shall be deposited in the General Fund of the Town and shall be appropriated and allocated in a manner determined by the Town Council. The Town Mayor shall establish accounting procedures to ensure proper account identification, credit, and collection.