## Ordinance No. 29A AN ORDINANCE AMENDING

# AN ORDINANCE ESTABLISHING LICENSES FOR THE SALE OF ALCOHOLIC BEVERAGES

WHEREAS the Boulder Town Board passed and adopted An Ordinance Establishing Licenses for the Sale of Alcoholic Beverages and desire to amend it,

NOW THEREFORE BE IT ORDAINED by the governing body of Boulder Town that Ordinance 29 is amended to read:

Now be it ordained by the Boulder Town Council as follows:

The following is hereby adopted as an ordinance of the Town of Boulder, Utah:

Section 1. DEFINITIONS. The words and phrases used in this part shall have the meanings specified in the Utah Liquor Control Act unless a different meaning is clearly evident.

Section 2. RETAIL LICENSES. Retail licenses issued hereunder shall be of the following three kinds and shall carry the following privileges and be known as class "A", class "B", class "C", and "seasonal licenses."

- A. Class "A" retail licenses issued hereunder shall entitle the licensee to sell beer on the premises licensed in original containers for consumption off the premises in accordance with the Utah Liquor Control Act and the ordinances of this municipality.
- B. Class "B" retail licenses shall entitle the licensee to sell beer on the premises for consumption on the premises in conjunction with the sale of food in accordance with the Utah Liquor Control Act and the ordinances of this town.
- C. Class "C" licenses for retail shall entitle the licensee to sell draft beer for consumption on or off the premises and to sell beer in accordance with the Utah Liquor Control Act and the ordinances of this town.
- D. "Seasonal licenses" of any class may be issued for a period of time not to exceed one year which period shall be determined by the Town Council.

Section 3. BEER LICENSE FEES. In addition to any other business license fee which any person or place of business may be required to pay, there is hereby imposed on the business location every person engaged in the sale or dispensing of beer the following annual license fees:

Class "A" Beer License \$50.00 for the initial license

and \$50.00 per renewal

Class "B" Beer License

No Class "B" licenses are authorized in the town

Class "C" Beer License Seasonal Licenses No Class "C" licenses are authorized in the town. No seasonal licenses are authorized in the town.

Section 4. LICENSE FEES TO ACCOMPANY APPLICATION. Applications provided for in this part shall be accompanied by the fees provided in this part. The fee shall be returned to the applicant if the application is denied.

Section 5. PURCHASE OF BEER FOR RESALE. It is a class B misdemeanor for any licensee to purchase or acquire or to have or possess for the purpose of sale or distribution any beer except that which he shall have lawfully purchased from a brewer or wholesaler licensed under the provisions of the Utah Liquor Control Act.

#### Section 6. APPLICATION FOR LICENSE.

- A. All applications for licenses authorized by this part shall be verified and shall be filed with the clerk. The applications must state the applicant's name in full and that he understands and has read and complied with the requirements and possesses the qualifications specified in the Liquor Control Act and this part. If the applicant is a copartnership, the names and addresses of all partners, and if a corporation, the names and addresses of all officers and directors, must be stated.
- B. Application must be subscribed by the applicant who shall state under oath and by notarized signature that the facts therein contained are true.

Section 7. RENEWALS. All applications for renewal licenses filed by the holders of existing licenses shall be filed with the clerk at least 30 days prior to the expiration date of the then issued license. Any person who fails to file such application within the time limit shall close his licensed premises on the expiration date of the then issued license and shall keep the premises closed for any and all business for the sale of beer until the date his new license is issued by the town council.

Section 8. QUALIFICATION. No license shall be granted to any retailer to sell beer within the town unless he shall be of good moral character, over the age of twenty-one years, and a citizen of the United States, or to any one who has been convicted of a felony or of any violation of any law of the state of Utah or provision of the ordinances of this town relating to intoxicating liquors, or of keeping a gambling or disorderly house, or who has pleaded guilty to or has forfeited his bail on a charge of having committed a felony or of having violated any such law or ordinance, or to any partnership, any member of which lacks any of the qualifications set forth in this section, or to any corporation, of which any director or officer lacks any such qualifications.

### Section 9. RESERVED.

Section 10. DEPARTMENT OF HEALTH PERMIT. No license under this part shall be issued until the applicant therefor shall have first procured from the department of health a permit which shall show that the premises to be licensed are in a sanitary condition and that the equipment

used in the storage, distribution or sale of beer complies with all the health regulations of this town and the state of Utah.

Section 11. TRANSFER OF LICENSE. Licenses issued pursuant to this part shall not be transferrable, and if revoked by the town council, the fee paid by the licensee to the town for the license shall be forfeited to the town.

## Section 12. RESTRICTIONS.

- A. It is unlawful for any person to sell beer at any public dance or to any person intoxicated, or under the influence of any intoxicating beverage. It is unlawful for any person to sell beer in any dance hall or theater.
- B. It shall be unlawful to sell beer to any person under the age of 21.
- C. It shall be unlawful for any person to sell beer except in the manner for which he has been so licensed pursuant to the provisions of this part.
- D. Boulder Town shall not issue licenses to any individual or business to serve alcoholic beverages which contain more than 3.2% alcohol by weight to consume either on or off premises.
- E. It shall be unlawful to keep or maintain a nuisance as defined in this part.
- F. The total number of businesses licensed to sell beer in this municipality shall not exceed two class A licenses, 0 class B licenses, and 0 class C licenses, provided that this ordinance shall not operate to reduce the number of businesses now licensed to sell beer whether issued by this town or by the county if such business is annexed, nor shall it affect reapplication for such licenses.

#### Section 13. REVOCATION OR SUSPENSION.

- A. The town council may, after a hearing, revoke or suspend any beer license on a finding by it that the licensee or his officers, agents or employees have violated any provision of this part or any ordinance of this town whether now or hereafter enacted which is in any way related to the operation of the business or the safety of the public.
- B. A hearing may be requested by any person:
  - 1. That is denied or refused a beer license by any officer, agent or employee of this town.
  - 2. Whose beer license is revoked, restricted, qualified, or limited from that for which it was first issued.

- Section 14. APPLICATION FOR LICENSE. Applicants for permits and licenses under this part shall file a sworn application in writing signed by the applicant, if an individual, by all partners, if a partnership, and by the president if a corporation, or by an agent, including a state or regional agent, with the clerk which shall give the following information:
  - A. The name of the applicant, and if the applicant is an employee or agent of a corporation, the name of the corporation.
  - B. The address of the applicant, and if the applicant is an agent or employee of a corporation, the address of the corporation.
  - C. A brief description of the nature of the business and the goods to be sold and from whom and where the applicant obtains the goods to be sold.
  - D. If the applicant is employed by or an agent of another person, the name and permanent address of such other person or persons.
  - E. The length of time for which the applicant desires to engage in business within the town.
- Section 15. ISSUANCE OF LICENSE. If the character and business responsibility of the applicant is found to be satisfactory, the clerk shall, upon payment of the prescribed license fee, deliver to the applicant his permit and issue a license. The license shall contain the signature of the issuing officer and shall show the name and address of the licensee and the kind of goods to be sold pursuant to the application together with an expiration date.
- Section 16. BUSINESS LICENSE REQUIRED. It shall be a class B misdemeanor for any person to sell alcoholic beverages without first receiving the type of license required by the town.
- Section 17. LICENSE ASSESSOR AND COLLECTOR. The clerk is designated and appointed as ex officio assessor of license fees for this town. On receipt of any application for a license, the 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 title, and shall cause to be filed complaints against all persons violating any of the provisions of this title.
- Section 18. PAYMENTS DATES. All license fees shall be due and payable as follows, except as may be otherwise provided in the applicable ordinance:
  - A. Annual fees shall be payable before each fiscal year in advance. The annual license shall date from the first day of July of each year and shall expire on June 30 of the following year.
  - B. Annual fees shall be due on the first day of each fiscal year and shall become delinquent if not paid by August 1 each year.

C. One-half of annual fee shall be payable for all licenses issued by the town pursuant to applications made after January 1 of each year and licenses issued after January 1 shall expire on the first day of the following July. Payment shall be due upon the date of application.

Section 19. PENALTY FOR LATE PAYMENT. If any license fee is not paid within thirty days of the due date, a penalty of 25% 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.

Section 20. CERTIFICATE. All certificates of license shall be signed by the mayor, attested by the clerk, and shall contain the following information:

- A. The name of the person to whom such certificate has been issued.
- B. The amount paid.
- C. The type of license and the class of such license if licenses are divided into classes.
- D. The term of the license with the commencing date and the date of its expiration.
- E. The place where such business, calling, trade or profession is to be conducted.
- F. The place or places within the town where the applicant proposes to carry on his or her business.

Section 21. DISPLAY. 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.

This ordinance shall take effect on passage.

Dated this 24th day of August, 1995.

/s/ Julee C. Lyman

Mayor

Attest:

/s/ Judith Davis

Clerk