

CHAPTER 6

Business Licenses and Regulations

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ARTICLE I

Alcoholic Beverages

Sec. 6-1. Definitions.

As used in this Article, unless the context otherwise requires:

(1) *Retail license* means a grant to a licensee to sell fermented malt beverages pursuant to the Colorado Beer Code (Article 46 of Title 12, C.R.S.) or a grant to a licensee to sell malt, vinous or spirituous liquors pursuant to the Colorado Liquor Code (Article 47 of Title 12, C.R.S.).

(2) *Retail licensee* or *licensee* means the holder of a license to sell fermented malt beverages pursuant to the Colorado Beer Code (Article 46 of Title 12, C.R.S.) or the holder of a license to sell malt, vinous or spirituous liquors pursuant to the Colorado Liquor Code (Article 47 of Title 12, C.R.S.). (Prior code 5.20.010)

Sec. 6-2. Power and purpose.

The Board of Trustees finds and determines that it is empowered by Articles 46 and 47 of Title 12, C.R.S., to fix and collect certain fees in connection with the application for issuance, transfer and renewal of certain types of beer, wine and liquor licenses. The Board of Trustees further finds that the fees established in this Article are reasonable and are in amounts sufficient to cover actual and necessary expenses incurred by the Town in connection with the handling of such licenses and applications therefor. (Prior code 5.12.010; Ord. 15-1997 §1)

Sec. 6-3. Licensing application fees.

In addition to the license fee as established by state statute, each application for a license as provided for in Article 46 or 47 of Title 12, C.R.S., shall be accompanied by a local license application fee in an amount as set forth in this Section.

(1) For a new license, the sum of five hundred dollars (\$500.00).

(2) For a change of location or transfer of ownership of a license, the sum of five hundred dollars (\$500.00).

(3) For renewal of a license, the sum of fifty dollars (\$50.00); except where a license has expired prior to the licensee making application for renewal, in which case the fee shall be five hundred dollars (\$500.00).

(4) For a temporary permit, the sum of one hundred dollars (\$100.00).

(5) For each fingerprint analysis and background investigation undertaken to qualify new officers, directors, stockholders or members for corporate applicants or limited liability companies, the sum of one hundred dollars (\$100.00) per person; however, such fee shall not be collected if the applicant has already undergone a background investigation by and paid a fee to the state licensing authority. (Prior code 5.12.020; Ord. 15-1997 §1)

Sec. 6-4. Suspension or revocation; fine.

(a) Whenever a decision of the Board of Trustees, acting as the local licensing authority, suspending a retail license for fourteen (14) days or less becomes final, whether by failure of the retail licensee to appeal the decision or by exhaustion of all appeals and judicial review, the retail licensee may, before the operative date of the suspension, petition the Board of Trustees, acting as the local licensing authority, for permission to pay a fine in lieu of having his or her retail license suspended for all or part of the suspension period. Upon the receipt of the petition, the Board of Trustees, acting as the local licensing authority, may, in its sole discretion, stay the proposed suspension and cause any investigation to be made which it deems desirable and may, in its sole discretion, grant the petition if it is satisfied:

(1) That the public welfare and morals would not be impaired by permitting the retail licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purposes;

(2) That the books and records of the retail licensee are kept in such a manner that the loss of sales of alcoholic beverages which the retail licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy therefrom; and

(3) That the retail licensee has not had his or her license suspended or revoked, nor had any suspension stayed by payment of a fine, during the two (2) years immediately preceding the date of the motion or complaint which has resulted in a final decision to suspend the retail license.

(b) The fine accepted shall be equivalent to twenty percent (20%) of the retail licensee's estimated gross revenues from sales of alcoholic beverages during the period of the proposed suspension; except that the fine shall be not less than two hundred dollars (\$200.00) nor more than five thousand dollars (\$5,000.00).

(c) Payment of any fine pursuant to the provisions of this Section shall be in the form of cash, certified check or cashier's check made payable to the Town Clerk and shall be deposited in the general fund of the Town.

(d) Upon payment of the fine pursuant to this Section, the Board of Trustees, acting as the local licensing authority, shall enter its further order permanently staying the imposition of the suspension.

(e) In connection with any petition pursuant to this Section, the authority of the Board of Trustees, acting as the local licensing authority, is limited to the granting of such stays as are necessary for it to complete its investigation and make its findings and, if it makes such findings, to the granting of an order permanently staying the imposition of the entire suspension or that portion of the suspension not otherwise conditionally stayed.

(f) If the Board of Trustees, acting as the local licensing authority, does not make the findings required in Subsection (a) above and does not order the suspension permanently stayed, the suspension shall go into effect on the operative date finally set by the Board of Trustees, acting as the local licensing authority. (Prior code 5.20.020)

Sec. 6-5. Delegation of authority to Town Clerk to issue licenses.

The Town Clerk is vested with authority to review and approve applications for liquor license renewals and transfers, special event licenses and temporary permits pursuant to the following criteria:

(1) Renewals and transfers.

a. The timely submission of a complete application and the payment of all fees by the applicant.

b. The referral of the application by the Town Clerk to the Police Department and other appropriate Town departments for review and comment.

c. For license transfers, whether the applicant satisfies the eligibility criteria set forth in Section 12-47-307, C.R.S.

d. Whether there exists facts or information on the application, or as provided in referral comments, illustrating reasonable grounds or good cause to deny the application.

(2) Special event licenses.

a. The timely submission of a complete application and the payment of all fees by the applicant.

b. The referral of the application by the Town Clerk to the Police Department and other appropriate Town departments for review and comment.

c. The timely and proper posting of a conspicuous public notice of the proposed license and protest procedures at the location sought to be licensed.

d. Whether the application and applicant satisfy the eligibility criteria set forth in Sections 12-48-102 and 12-48-103, C.R.S.

e. Whether there exists facts or information on the application, or as provided in referral comments or a protest against the license filed by affected persons, illustrating grounds or good cause to deny the application.

(3) Temporary permits.

a. The timely submission of a complete application and the payment of all fees by the applicant.

b. The timely filing of an application for the transfer of the liquor license corresponding to the application for a temporary permit.

c. Whether the premises subject to the proposed temporary permit is currently subject to a valid liquor license.

(4) In the event the Town Clerk cannot or will not approve a transfer or renewal of a license, or the issuance of a special event license or temporary permit, then the Clerk shall automatically and promptly agendize the application for public hearing before the Board of Trustees acting as the local liquor licensing authority. Written notice of the time and place of the hearing shall be mailed to the applicant by regular mail at least ten (10) days in advance thereof and shall contain such facts or reasons relied upon by the Clerk to initially deny the license or permit. Notice of the hearing shall also be timely published and posted on the subject premises in accordance with the requirements set forth in Section 12-47-311, C.R.S, and timely provided to any person who may have filed a protest against

the issuance of the license with the Town Clerk. Additionally, any license or permit applicant dissatisfied with a decision of the Town Clerk under this Section may appeal the same to the Board of Trustees by filing a written protest with the Town Clerk not less than ten (10) days after the date of the decision appealed from. The Town Clerk shall promptly set the appeal for hearing before the Board of Trustees in accordance with the notice and hearing procedures described above.

(5) The Town Clerk shall not approve an application for the renewal or transfer of a license, nor issue a special event permit, where the Police Department has timely submitted written objections to the Clerk concerning such action. Whenever such an objection is received, the Clerk shall set the application for hearing before the Board of Trustees in accordance with the procedures set forth in Subsection (4) above.

(6) The Town Clerk, for good cause, may waive the forty-five-day time requirement for filing a license renewal application. (Ord. 12-2000 §1)

Sec. 6-6. Alcoholic beverage tastings authorized.

Pursuant to Section 12-47-301(10)(a), C.R.S., the Town authorizes alcoholic beverage tastings for licensed retail liquor stores and liquor-licensed drugstores within the Town. The Town shall not require a further application prior to allowing retail liquor licensees to conduct alcoholic beverage tastings and elects not to impose additional limitations on such tastings beyond those limitations set forth in Title 12, Chapter 47, C.R.S. (Ord. 7-2004)

Sec. 6-7. Elimination of distance restriction from schools.

Pursuant to Section 12-47-313(1)(d)(III) C.R.S., as amended, the distance restriction imposed by Section 12-47-313(1)(d)(I) C.R.S., as amended, is hereby reduced to one hundred fifty (150) feet from the Avery Parsons Elementary School and Chaffee County High School for hotel and restaurant classes of liquor licenses. (Ord. 5-2006 §1)

Secs. 6-8—6-20. Reserved.

ARTICLE II

Business Licenses

Sec. 6-21. Business license requirement.

It shall be unlawful for any person or entity to conduct, engage in or establish a business or place of business in the Town, including a home occupation, without having first obtained a business license. Additionally, certain businesses or business activities defined in this Article shall be subject to special supplemental licensing requirements. A separate business license shall be required for each place of business and, unless otherwise specifically provided on the license, a business license shall expire on December 31 of the year in which it was issued, unless sooner revoked. (Ord. 14-2002 §2)

Sec. 6-22. Definitions.

(a) *Business* means any activity engaged in with the object of financial or other gain, benefit, advantage or profit, either direct or indirect, including, by way of example, the sale, supply or delivery of

goods or services, and including such activities conducted by home occupations and professions and nonprofit organizations.

(b) *Business license* means a license issued pursuant to the terms of this Article and includes peddler, solicitor and transient merchant licenses, general business licenses, special event business licenses, and tree service and massage parlor licenses.

(c) *General business license* means a license issued to engage in a business not subject to the special licensing requirements applicable to specific businesses or business activities identified in this Article.

(d) *Home occupation* means an occupation, vocation or business engaged in business from a residence in accordance with the regulations governing home occupations in Chapter 16 of this Code.

(e) *Massage parlor* shall have that meaning as provided under the Colorado Massage Parlor Code, Section 12-48.5-103, C.R.S.

(f) *Nonprofit business or organization* means a business or organization that has been lawfully established in accordance with the Colorado Revised Nonprofit Corporation Act and/or which has received nonprofit tax exempt status under the Internal Revenue Code by the Internal Revenue Service, U.S. Department of the Treasury.

(g) *Peddler* means any person, whether a resident of the Town or not, who goes from house to house, from place to place, or from street to street by foot or by vehicle, conveying or transporting goods, wares or merchandise and offering or exposing the same for sale, or making sales and delivering articles or services to purchasers.

(h) *Retailer or retail business* means a person or business engaged in the sale of tangible personal property, goods or services to a consumer or user, and not for resale.

(i) *Sales tax license* means the license required by the Colorado Department of Revenue for persons or businesses conducting retail sales or a retail sales business.

(j) *Solicitor* means any person, whether a resident of the Town or not, traveling either by foot or vehicle from place to place, from house to house, or from street to street, taking or attempting to take orders for the sale of goods, wares, merchandise or personal property of any nature whatsoever for future delivery, or for services to be performed or furnished in the future, whether or not such person has, carries or exposes for sale a sample of the subject of such sale, or whether he or she is collecting advance payments on such sales or not.

(k) *Special business event or fund-raising event* means a special event occurring at one (1) or more locations and at which more than one (1) business, transient merchant or individual engages in the sale of tangible personal property, goods or services, whether conducted for profit or to raise funds for a nonprofit organization, e.g., craft shows and swap meets.

(l) *Transient merchant* means any person, whether as owner, agent, consignee or employee, and whether a resident of the Town or not, who engages in a temporary business of selling and delivering goods, wares, services or merchandise within the Town and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, trailer, tent, hotel room, lodging house, apartment, shop or storefront, or any street, alley or other place within the Town for the exhibition and sale of such goods, wares, services and merchandise.

(m) *Tree service* means a business engaged in the trimming, cutting or spraying of trees. (Ord. 14-2002 §2)

Sec. 6-23. License application; denials.

(a) An application for a general or other business license shall be made to the Town Clerk on forms provided therefor. Every applicant shall state under oath or affirmation such facts as may be required for the granting of such license, and it shall be unlawful for any person to make any false statement or misrepresentation in connection with any license application.

(b) Except as otherwise provided for in this Article, the Town Clerk shall have the power to grant or deny a license and to impose reasonable limitations and restrictions on any license so granted consistent with the provisions in this Article. Denials shall be for cause. Written notice of the denial shall be provided the applicant, which notice shall include the grounds for denial. Fifty percent (50%) of the license fee paid for any license so denied shall be returned to the applicant.

(c) The following nonexclusive reasons may constitute cause for denial of a business license:

(1) Previous revocation or suspension of a business license held by the applicant;

(2) Nonconformance of the premises or building to be used for the business with the requirements of pertinent Town health or safety codes;

(3) Nonconformance of the business with zoning regulations; however, issuance of a business license shall not mean, nor shall issuance of a business license be construed, as a determination that a proposed business, business activity, or business premises satisfies all applicable zoning or other land use regulations; and

(4) The failure of a person or business engaged in, or intending to engage in, retail sales to possess a valid Colorado sales tax license.

(d) A denial of a business license application may be appealed by the applicant to the Board of Trustees by filing a written notice of appeal with the Town Clerk within ten (10) days from the date of the notice of denial. (Ord. 14-2002 §2)

Sec. 6-24. License fee.

(a) The fee for a business license shall be established and amended from time to time by written resolution adopted by the Board of Trustees, and must be deposited with the Town Clerk prior to consideration of a license application. A separate license fee may be assessed for each business license required under this Article. Notwithstanding the foregoing, nonprofit organizations shall be exempt from having to pay a business license fee, except for the fee for a special events license.

(b) Any licensee who fails to renew his or her business license for an existing business on or before January 31 of each year shall pay a late charge equal to fifty percent (50%) of the amount of the license fee in addition to the license fee. The late charge shall be paid to the Town Clerk prior to consideration of the application to renew the business license. (Ord. 14-2002 §2)

Sec. 6-25. License contents; record keeping; application forms.

All licenses shall specify the name of the licensee, a business address, the nature of the business, the term of the license, the place, if any, to which the license attaches, the amount payable thereon, and the date upon which it expires. The Town Clerk shall attest to all licenses granted and keep an adequate record thereof. (Ord. 14-2002 §2)

Sec. 6-26. Display of license.

Every license granted under the provisions of this Article shall be posted in a conspicuous place at the place of business for the full term of the license. Licenses shall be removed upon expiration. It shall also be the duty of every person to whom a license has been issued to show the same at any time during which business is being conducted when requested to do so by any Town official or business customer. (Ord. 14-2002 §2)

Sec. 6-27. License suspension or revocation; grounds.

The Board of Trustees shall have the power to revoke or suspend any license issued under this Article upon notice to the licensee and a hearing as hereinafter provided for any of the following reasons:

- (1) Providing false or fraudulent information on a license application or to the Town Clerk or other Town official;
- (2) Conviction on any violation of federal, state or municipal law committed in the course of operating a licensed business;
- (3) Repeated violations of one (1) or more Town ordinances at the licensee's place of business by the licensee;
- (4) The conduct of the licensee's business creates a breach of the peace or a public nuisance;
- (5) The business is of such a nature, or is operated in such a manner, that it is frequented by individuals who consistently disrupt the normal and reasonable peace and tranquility of the neighborhood, or who intimidate, threaten or harass any other business or person in the immediate neighborhood;
- (6) The licensee fails to keep and maintain permanent records which, in accordance with accepted accounting practices, are necessary for establishing the licensee's sales tax liability;
- (7) The licensee remains in arrears in payment of sales tax or other monies, including fines and fees, due the Town or Colorado Department of Revenue for more than thirty (30) days after payment is due, or fails to obtain and maintain a valid state sales tax license if engaged in retail sales. (Ord. 14-2002 §2)

Sec. 6-28. License suspension or revocation; hearing.

(a) The Board of Trustees may, on its own motion or otherwise, proceed to suspend or revoke for just cause any business license after notice to the licensee and a hearing as provided in this Article.

(b) Notice of a suspension or revocation hearing by Board of Trustees shall be posted at the licensee's place of business, if any, and mailed to the licensee by certified U.S. Mail, return receipt requested, or hand-delivered at least ten (10) days prior to the hearing.

(c) Every notice of suspension, revocation and/or hearing shall set forth in plain language the grounds for suspension or revocation and direct the licensee to appear before the Board of Trustees at a specified time and date to show cause why the license should not be suspended or revoked.

(d) The public hearing by the Board of Trustees shall include:

(1) A reading of the grounds set forth in the show cause/hearing notice allegedly warranting the suspension or revocation of the licensee's business license.

(2) The presentation by the Town Administrator or other Town official of any and all testimony, evidence, documents or other information supporting the suspension or revocation of the licensee's business, license.

(3) The presentation by the licensee of any testimony, evidence, documents or any other information in defense or rebuttal of the allegations or grounds asserted for the suspension or revocation of the licensee's business license. The licensee may present his or her defense by or with the assistance of legal counsel.

(4) The Mayor may place under oath persons testifying or otherwise providing information at the hearing, and all such persons shall be subject to examination by the Board of Trustees and the licensee.

(e) Based on the record of the public hearing, the Board of Trustees may cause the licensee's business license to be suspended or revoked. All decisions by the Board of Trustees shall be reduced to writing and a copy shall be provided to the licensee. (Ord. 14-2002 §2)

Sec. 6-29. Licensing of business in annexed property.

In the event that any business, trade or occupation is being conducted on property at the time of the annexation of such property to the Town, and the person carrying on or engaging in the business, trade or occupation is doing so lawfully and in conformance with all existing laws and statutes governing such property, the conduct of such business, trade or occupation may be continued upon and subsequent to the annexation of the property to the Town; provided that the applicable license fee is paid within ten (10) days of annexation. In subsequent calendar years, the business must conform to all licensing requirements contained in this Article. (Ord. 14-2002 §2)

Sec. 6-30. Special events business license.

(a) Any person or organization conducting or sponsoring a special business or fund-raising event must apply for and obtain a special events business license from the Town and pay the fee therefor. Applications for a license shall be made on forms provided by the Town Clerk. No special events business license for an event occurring on Town-owned property or right-of-way shall be issued without the applicant or person or organization sponsoring the event having first obtained a permit from the Town to use or occupy the Town-owned property as required by Article VI of Chapter 11 of this Code.

(b) Applications for a special events business license must be submitted not less than thirty (30) days prior to the date of the special event and must identify the name and address of each person or

organization sponsoring the event. Applications must be accompanied by a written plan describing, at a minimum, the manner in which the special event shall be conducted, including, without limitation, (i) a description of all proposed activities and any booths or other structures to be constructed or utilized, (ii) a list of all transient merchants and other businesses participating in the special event, and (iii) whether a street closure will be necessary.

(c) Applications for a special event business license shall be approved or denied by the Town Administrator. No license shall be issued for an event on Town-owned property or right-of-way without written verification that the licensee has and shall continue to maintain general liability insurance sufficient to insure and indemnify the Town against any injury to person or property that might arise from or during the event. Insurance coverage shall be in amounts not less than those recovery limits set forth in the Colorado Government Immunity Act, Section 24-10-114, C.R.S., or any successor statute thereto.

(d) All licensees shall inform each person or organization intending to make, or making, any retail sale at the special event of their duty to secure a Colorado sales tax license and to collect and remit the appropriate sales taxes, unless the event sponsor or organizer elects to collect and remit such taxes under its own sales tax license, if any.

(e) Where the event sponsor or organizer elects to collect sales taxes under its own sales tax license, said sponsor or organizer shall submit to the Town Clerk within thirty (30) days after the conclusion of the special event a written financial report reflecting, at a minimum, total sales of goods and/or services generated at the special event and the total sales tax revenues collected. Compliance with the reporting requirements in this Subsection shall be in addition to any required sales tax reporting due to the Colorado Department of Revenue.

(f) Any transient merchant or business authorized by the event sponsor to participate in a licensed special event shall be exempt from having to obtain an individual business license to conduct business at such event. (Ord. 14-2002 §2)

Sec. 6-31. Massage parlor license.

(a) Notwithstanding any other provision in this Article, no person, corporation, business or other entity shall operate a massage parlor within the Town without first having obtained a license as required under the Colorado Massage Parlor Code. Applications for a massage parlor license shall be made on forms furnished by the Town Clerk and shall be accompanied by a nonrefundable application fee as may be established by the Board of Trustees.

(b) An application for a new massage parlor license, or the renewal of an existing license, shall be processed and reviewed in accordance with the procedures and standards set forth in the Colorado Massage Parlor Code, Sections 12-48.5-101, *et seq.*, C.R.S., or any successor statute.

(c) The fee for a new or renewed massage parlor license shall be equal to the maximum amount authorized under the Colorado Massage Parlor Code, or such lesser amount as may be established by the Board of Trustees from time to time.

(d) This Section has been adopted to implement the provisions of the Colorado Massage Parlor Code. In the event of the repeal of the Colorado Massage Parlor Code by the Colorado General Assembly, this Section shall correspondingly be deemed to be repealed and of no further effect. (Ord. 14-2002 §2)

Sec. 6-32. Peddler, solicitor and transient merchant license; prohibitions.

(a) No peddler, solicitor or transient merchant shall engage in business or operate within the corporate limits of the Town without first having obtained a license from the Town Clerk, except as otherwise provided in this Section.

(b) Applications for a license under this Section shall be filed with the Town Clerk on forms provided therefor. Such applications shall, at a minimum, contain the following information:

- (1) Full name and, if a natural person, physical description and date of birth;
- (2) Permanent and local addresses;
- (3) Brief description of the nature of the business and the goods or services to be sold, solicited or delivered;
- (4) Length of time during which business is to be conducted within the Town;
- (5) Proof of a valid state sales tax license, inclusive of the license number;
- (6) If a vehicle is to be used, a description of the vehicle, including the license plate number and vehicle identification number, and the name and driver's license information for the vehicle operator;
- (7) A statement whether the applicant has been convicted of any crime, including misdemeanors and violations of municipal ordinances, other than traffic violations, including the jurisdiction and nature of the offense and the penalty imposed;
- (8) No license shall be issued under this Section absent the payment of a fee as established by the Board of Trustees.

(c) Transient merchants participating in a licensed special event need not obtain a separate license as otherwise required under this Section if they have previously registered with the event sponsor.

(d) Except as may be otherwise allowed for sponsored special events, every individual who is a peddler, solicitor or transient merchant shall be required to make an individual application and obtain a license, which shall be issued in the individual's name. Any license issued to a firm, association or corporation shall include the name of the authorized representative of the firm, association or corporation, and the name of the individual authorized representative shall appear on the application. No license shall be transferable or be used by any other person than the individual whose name appears thereon and if a firm, association, corporation or other entity is to have more than one (1) representative engaged in business within the Town, then a separate license shall be required for each representative.

(e) It is unlawful for any peddler, solicitor or transient merchant to go uninvited upon any property, or approach any person upon property, that is posted by a sign that states "No Solicitors or Peddlers," or contains some similar warning or prohibition, or to engage in door-to-door sales or solicitations at private residences between the hours of 8:00 p.m. and 9:00 a.m. on the following day.

(f) The following persons, organizations or activities shall be exempt from the licensing requirements contained in this Section:

- (1) Self-employed farmers or gardeners that go door-to-door or from place to place to sell and

deliver, or offer for sale and delivery, fruits, vegetables or other agricultural produce grown by them; but excluding roadside or other temporary produce stands.

(2) Merchants who have acquired a business license and operate within their established business premises or at a licensed special event.

(3) Organizations or persons engaged in door-to-door political or religious advocacy or religious proselytizing.

(4) Salespersons or merchants engaged in selling products wholesale or delivering services directly to licensed retail businesses.

(5) Door-to-door newspaper delivery and persons delivering goods or services to preestablished residential customers pursuant to a regular schedule over a defined and established route. (Ord. 14-2002 §2)

Sec. 6-33. Tree service license.

(a) No person shall engage in the business of tree trimming, tree cutting or tree spraying within the corporate limits of the Town without first having obtained a license from the Town Clerk's office and paid a nonrefundable license fee in an amount established by the Board of Trustees.

(b) Application for a tree service license shall be made on forms provided therefor by the Town Clerk. Before such license shall be issued, the applicant must file with the Town Clerk proof of insurance issued by an insurance company authorized to do business in the State, which insurance shall provide general liability insurance coverage for property damage, personal injury or death arising from the applicant's operation of vehicles and equipment used in the trimming, cutting or spraying of trees, and which shall be in an amount not less than those judgment limitations set forth in the Colorado Government Immunity Act, Section 24-10-114, C.R.S., or any successor statute thereto. The insurance policy shall include liability coverage for any employee or agent of the licensee engaged in tree trimming, cutting or spraying. Such policy shall also carry an endorsement providing for written ten-day advance notice to the Town of any cancellation or discontinuance of coverage. A license issued under this Section shall be automatically revoked upon receipt by the Town of cancellation of the required insurance policy and notice to the licensee. (Ord. 14-2002 §2)

Sec. 6-34. Cease and desist orders.

If any business within the Town is operating without a license required under this Article, the Town Clerk may issue an order to the business to cease and desist all further operations until a license is issued for the business. The order shall give the business three (3) days to comply with all applicable licensing requirements, secure the necessary license, and pay all amounts due the Town, or to post a bond in the amount owing the Town and to request in writing a hearing before the Board of Trustees. If the business does nothing, it shall cease operations on the third day. If a hearing is requested, the Town Clerk shall promptly schedule same before the Board of Trustees and notify the subject business in writing of the time and date thereof. The proceedings shall not relieve or discharge anyone from the liability for the payment of the taxes, penalties and interest due and owing to the Town, or from the prosecution of any offense committed under the Town's ordinances. (Ord. 14-2002 §2)

Sec. 6-35. Sales tax license.

All persons or businesses engaged in retail sales or a retail business within the Town must obtain and retain a valid Colorado sales tax license as required under the Emergency Retail Sales Act of 1935 during all times in which such business is being conducted. (Ord. 14-2002 §2)

Sec. 6-36. Exemptions.

Notwithstanding the licensing provisions set forth in this Article, the following activities shall be exempt from the business license requirements:

- (1) That activity commonly known and referred to as a residential garage sale or rummage sale, or similar irregular private noncommercial activity; but only if the person or organization engaged in such activity conducts not more than four (4) such sales in any calendar year.
- (2) The door-to-door delivery of newspapers.
- (3) The performance of odd jobs or services by self-employed minors.
- (4) The door-to-door sale of food or other items by members of a nonprofit organization as part of a fund-raising campaign. (Ord. 14-2002 §2)

Sec. 6-37. Penalty.

Failure to comply with the terms of this Article shall constitute a violation of this Code. Any person found guilty of or who pleads guilty or *nolo contendere* to a violation of any section of this Article shall be subject to a fine not to exceed one thousand dollars (\$1,000.00) or a term of imprisonment not to exceed one (1) year, or both such fine and imprisonment. (Ord. 14-2002 §2)

Secs. 6-37—6-40. Reserved.

ARTICLE III

Commercial River Rafting and Kayaking Fees and Requirements

Sec. 6-41. Definitions.

As used in this Article, the following words shall have the following meanings:

- (1) *Commercial operator* means a person engaged in the business of providing rafting tours and excursions for profit; and a person engaged in the business of providing kayaking tours, excursions or instruction for profit.
- (2) *Kayak* means a portable boat styled like an Eskimo kayak.
- (3) *Launch* means the act of boarding passengers in a raft for the purpose of commencing a river rafting trip or excursion; and the act of inserting a kayak into a river for the purpose of commencing a kayaking trip, excursion or period of instruction.
- (4) *Raft* means an inflatable watercraft designed primarily to transport persons on sightseeing, fishing and similar tours.

(5) *Town's launching facility* means that facility located on the Town's leasehold in the west one-half of Section 9, Township 14 South, Range 78 West of the 6th P.M., Chaffee County, Colorado, which is adjacent to the Arkansas River and which is specifically designed and constructed for the purpose of permitting river rafts, boats, kayaks and other watercraft to be placed in the Arkansas River. (Prior code 5.16.010)

Sec. 6-42. Annual permit and fee.

No commercial operator may launch a raft, kayak or other watercraft from the Town's launching facility without having first obtained an annual permit. Permits shall be obtained from the Town Clerk upon application and the payment of a nonrefundable fee, which fee shall be established by the Board of Trustees. Permits shall only be issued upon proof of insurance as required in Section 6-43 of this Article and shall expire at the end of the calendar year in which they were issued. (Prior code 5.16.020; Ord. 6-1991 §1; Ord. 10-1992 §1; Ord. 6-1998, §3)

Sec. 6-43. Proof of insurance required.

Before a commercial operator shall be permitted to launch a raft or kayak from the Town's launching facility, he or she shall first provide to the Town Clerk a copy of the current public liability insurance policy with one (1) or more insurance carriers licensed to do business in the State who are acceptable to the Town insuring claims and demands made by any person or persons for injuries received in connection with, or arising out of, the commercial operator's use of the Town's launching facility. Such policy or policies shall contain limits of liability of not less than the monetary limitations for judgments against municipalities provided from time to time by the Colorado Governmental Immunity Act, Section 24-10-101, *et seq.*, C.R.S., or any successor statute. Such policy shall name the Town and the raft operator as named insureds under such policy and shall be approved by the Town before the commercial operator shall be entitled to use the Town's launching facility. The commercial operator shall maintain such insurance in full force and effect at all times while using the Town's launching facility. The subject policy shall require at least ten (10) days' advance notice to the Town prior to cancellation of such policy. (Prior code 5.16.030; Ord. 9-1991 §1; Ord. 7-1992 §1; Ord. 4-1993 §1)

Secs. 6-44—6-100. Reserved.