

CHAPTER 6

Business Licenses and Regulations

Article I	Alcoholic Beverages
Sec. 6-1	Definitions
Sec. 6-2	Power and purpose
Sec. 6-3	Licensing application fees
Sec. 6-4	Suspension or revocation; fine
Sec. 6-5	Delegation of authority to Town Clerk to issue licenses
Sec. 6-6	Alcoholic beverage tastings authorized
Sec. 6-7	Elimination of distance restriction from schools
Sec. 6-8	Special event permits
Article II	Business Licenses
Sec. 6-21	Business license requirement
Sec. 6-22	Definitions
Sec. 6-23	License application; denials
Sec. 6-24	License fee
Sec. 6-25	License contents; record keeping; application forms
Sec. 6-26	Display of license
Sec. 6-27	License suspension or revocation; grounds
Sec. 6-28	License suspension or revocation; hearing
Sec. 6-29	Licensing of business in annexed property
Sec. 6-30	Special events business license
Sec. 6-31	Massage parlor license
Sec. 6-32	Peddler, solicitor and transient merchant license; prohibitions
Sec. 6-33	Tree service license
Sec. 6-34	Cease and desist orders
Sec. 6-35	Sales tax license
Sec. 6-36	Exemptions
Sec. 6-37	Penalty
Article III	Commercial River Rafting and Kayaking Fees and Requirements
Sec. 6-41	Definitions
Sec. 6-42	Annual permit and fee
Sec. 6-43	Proof of insurance required
Article IV	Medical Marijuana
Sec. 6-50	Purpose and incorporation of state law
Sec. 6-51	Definitions
Sec. 6-52	License required
Sec. 6-53	Requirements of application for license; payment of application fee; denial of license
Sec. 6-54	Medical marijuana centers
Sec. 6-55	Medical marijuana-infused products manufacturer
Sec. 6-56	Optional premises cultivation
Sec. 6-57	Location criteria
Sec. 6-58	Persons prohibited as licensees
Sec. 6-59	Issuance of license; duration; renewal
Sec. 6-60	Authority to impose conditions on license
Sec. 6-61	Annual license fee

Article IV	Medical Marijuana (Cont'd)
Sec. 6-62	Display of license
Sec. 6-63	Management of licensed premises; changes in manager or financial interest
Sec. 6-64	Transfer of ownership; change of location
Sec. 6-65	Hours of operation; signage and advertising
Sec. 6-66	Security requirements
Sec. 6-67	Cultivation, growing and processing by licensees
Sec. 6-68	On-site consumption of medical marijuana
Sec. 6-69.1	Prohibited acts
Sec. 6-69.2	Visibility of activities; paraphernalia; control of emissions
Sec. 6-69.3	Disposal of marijuana byproducts
Sec. 6-69.4	Sales tax
Sec. 6-69.5	Required books and records
Sec. 6-69.6	Nonrenewal, suspension or revocation of license
Sec. 6-69.7	Violations and penalties
Sec. 6-69.8	No Town liability; indemnification
Sec. 6-69.9	No waiver of governmental immunity
Sec. 6-69.10	Other laws remain applicable
Sec. 6-69.11	Severability
Sec. 6-69.12	Patients and primary caregivers

Article V	Sexually Oriented Businesses
Sec. 6-70	Purpose
Sec. 6-71	Definitions
Sec. 6-72	License required
Sec. 6-73	License application
Sec. 6-74	Background investigations
Sec. 6-75	Issuance or denial
Sec. 6-76	Term of license; renewal
Sec. 6-77	License nontransferable
Sec. 6-78	Suspension and revocation
Sec. 6-79	General regulations
Sec. 6-80	Dance and entertainment requirements
Sec. 6-81	Lighting requirements
Sec. 6-82	Hours of operation
Sec. 6-83	Age restrictions
Sec. 6-84	Conduct
Sec. 6-85	Inspection
Sec. 6-86	Employee identification
Sec. 6-87	Exemptions
Sec. 6-88	Regulations not exclusive
Sec. 6-89	Penalties

ARTICLE I

Alcoholic Beverages

Sec. 6-1. Definitions.

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

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.).

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 Paragraph (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)

Sec. 6-8. Special event permits.

(a) Pursuant to Section 12-48-107(5)(a), C.R.S., the Board of Trustees or its authorized agent, acting as the local licensing authority ("Authority"), elects not to notify the state licensing authority to obtain the state licensing authority's approval or disapproval of applications for special event permits.

(b) The Town Clerk shall report to the Colorado Liquor Enforcement Division, within ten (10) days after the Authority issues a special event permit, the name of the organization to which the

permit was issued, the address of the permitted location and the permitted dates of alcohol beverage service.

(c) Upon receipt of an application for a special event permit, the Town Clerk shall, as required by Section 12-48-107(5)(c), C.R.S., access information made available on the state licensing authority's website to determine the statewide permitting activity of the organization applying for the permit. The Authority shall consider compliance with the provisions of Section 12-48-105(3), C.R.S., which restricts the number of permits issued to an organization within a calendar year to fifteen (15), before approving any application.

(d) A special event permit may be issued only upon a satisfactory showing by an organization or a qualified political candidate that:

(1) Other existing facilities are not available or are inadequate for the needs of the organization or political candidate; and

(2) Existing licensed facilities are inadequate for the purposes of serving members or guests of the organization or political candidate and additional facilities are necessary by reason of the nature of the special event being scheduled; or

(3) The organization or political candidate is temporarily occupying premises other than the regular premises of such organization or candidate during special events, such as civic celebrations or county fairs, and members of the general public will be served during such special events.

(e) Each application for a special event permit shall be accompanied by an application fee in an amount equal to the maximum local licensing fee established by Section 12-48-107(2), C.R.S. (Ord. 9 §1, 2011)

Secs. 6-9—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:

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.

Kayak means a portable boat styled like an Eskimo kayak.

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.

Raft means an inflatable watercraft designed primarily to transport persons on sightseeing, fishing and similar tours.

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—6-49. Reserved.

ARTICLE IV

Medical Marijuana

Sec. 6-50. Purpose and incorporation of state law.

(a) The purpose of this Article is to implement the provisions of the Colorado Medical Marijuana Code, Section 12-43.3-101, C.R.S., which authorizes the licensing and regulation of medical marijuana businesses and affords local government the option to determine whether to allow medical marijuana businesses within their respective jurisdictions and to adopt licensing requirements that are supplemental to or more restrictive than the requirements set forth in state law. By adoption of this Article, the Board of Trustees does not intend to authorize or make legal any act that is not permitted under federal or state law.

(b) The provisions of the Colorado Medical Marijuana Code, and any rules and regulations promulgated thereunder, are incorporated herein by reference, except to the extent that more restrictive or additional regulations are set forth in this Article. (Ord. 20 §1, 2012; Ord. 9 §2, 2013)

Sec. 6-51. Definitions.

(a) For the purposes of this Article, the following terms shall have the following meanings:

Alcohol beverage shall have the meaning ascribed to such term in the Colorado Liquor Code.

Applicant means any person or entity that has submitted an application for a license or renewal of a license issued pursuant to this Article. If the applicant is an entity and not a natural person, *applicant* shall include all persons who are the members, managers, officers and directors of such entity.

Cultivation or *cultivate* means the process by which a person grows a marijuana plant.

Financial interest means any ownership interest, including, without limitation, a membership, directorship or officership or any creditor interest, whether or not such interest is evidenced by any written document.

Good cause (for the purpose of refusing or denying a license renewal under this Article) means:

a. The licensee has violated, does not meet or has failed to comply with any of the terms, conditions or provisions of this Article and any rule and regulation promulgated pursuant to this Article;

b. The licensee has failed to comply with any special terms or conditions that were placed on its license at the time the license was issued or that were placed on its license in prior disciplinary proceedings or that arose in the context of potential disciplinary proceedings; or

c. The licensee's medical marijuana center, optional premises cultivation operation or medical marijuana-infused product manufacturing operation has been operated in a manner that adversely affects the public health, welfare or safety of the immediate neighborhood in which the medical marijuana center, optional premises cultivation operation or medical marijuana-infused product manufacturing operation is located. Evidence to support such a finding can include:

1. A continuing pattern of offenses against the public peace, as defined in Article 8 of Chapter 10 of this Code;

2. A continuing pattern of drug-related criminal conduct within the premises of the medical marijuana center, optional premises cultivation operation or medical marijuana-infused product manufacturing operation or in the immediate area surrounding the medical marijuana center, optional premises cultivation operation or medical marijuana-infused product manufacturing operation; or

3. A continuing pattern of criminal conduct directly related to or arising from the operation of the medical marijuana center, optional premises cultivation operation or medical marijuana-infused product manufacturing operation.

License means a document issued by the Town officially authorizing an applicant to operate a medical marijuana center, optional premises cultivation operation or medical marijuana-infused product manufacturing operation pursuant to this Article.

Licensee means the person to whom a license has been issued pursuant to this Article.

Licensed premises means the premises specified in an application for a license under this Article, which is owned or in possession of the licensee and within which the licensee is authorized to cultivate, manufacture, distribute or sell medical marijuana or medical marijuana-infused products in accordance with state and local law.

Limited access area means a building, room or other contiguous area upon the licensed premises where medical marijuana is grown, cultivated, stored, weighed, displayed, packaged, sold or possessed for sale, under control of the licensee, with limited access to only those persons licensed by the state licensing authority.

Local licensing authority means the Board of Trustees of the Town.

Medical marijuana means marijuana that is grown and sold for a purpose authorized by Article XVIII, Section 14 of the Colorado Constitution.

Medical marijuana business means a medical marijuana center, optional premises cultivation operation or medical marijuana-infused product manufacturing operation as defined in the Colorado Medical Marijuana Code.

Minor patient means a patient less than eighteen (18) years of age.

Patient means a person who has a debilitating medical condition as defined in Article XVIII, Section 14 of the Colorado Constitution.

Person means a natural person or business entity, such as, without limitation, a corporation, limited liability company, association, firm, joint venture, estate, trust, business trust, syndicate, fiduciary, partnership or any group or combination thereof.

(b) In addition to the definitions provided in Subsection (a) above, other terms used in this Article shall have the meanings ascribed to them in Article XVIII, Section 14 of the Colorado Constitution, or the Colorado Medical Marijuana Code, and such definitions are hereby incorporated into this Article by reference. (Ord. 20 §1, 2012; Ord. 5 §1, 2013; Ord. 9 §2, 2013)

Sec. 6-52. License required.

It shall be unlawful for any person to establish or operate a medical marijuana business in the Town without first having obtained a license for such business from the local licensing authority. Such license shall be kept current at all times, and the failure to maintain a current license shall constitute a violation of this Section. Medical marijuana businesses shall only be located in the Town's B-1, B-2, B-1 OT, I-1 and PUD zone districts. (Ord. 20 §1, 2012; Ord. 9 §2, 2013)

Sec. 6-53. Requirements of application for license; payment of application fee; denial of license.

(a) A person seeking a license or renewal of a license issued pursuant to this Article shall submit an application to the local licensing authority on forms provided by the Town Clerk. At the time of application, each applicant shall pay a nonrefundable application fee to defray the costs incurred by the Town for background investigations and inspection of the proposed premises, as well as any other costs associated with the processing of the application. The application fee, as well as all license renewal fees, shall be fixed by the Board of Trustees by resolution. In addition, the applicant shall present for recording one (1) of the following forms of identification:

- (1) An identification card issued in accordance with Section 42-2-302, C.R.S.;
- (2) A valid state driver's license;
- (3) A military identification card;
- (4) An alien registration card; or
- (5) A valid passport.

(b) The applicant shall also provide the following information on a form approved by or acceptable to the Town, which information shall be required for the applicant, all employees, including the proposed manager of the medical marijuana business, and all persons having a ten-percent or more financial interest in the medical marijuana business that is the subject of the application or, if the applicant is an entity, having a ten-percent or more financial interest in the entity:

- (1) Name, address, date of birth.
- (2) A complete set of fingerprints.
- (3) An acknowledgement and consent that the Town will conduct a background investigation, including criminal history check, and that the Town will be entitled to full and complete disclosure of all financial records of the medical marijuana business, including records of deposits, withdrawals, balances and loans.
- (4) If the applicant is a business entity, information regarding the entity, including, without limitation, the name and address of the entity, its legal status and proof of registration with, or a certificate of good standing from, the Colorado Secretary of State, as applicable.
- (5) The name and complete address of the proposed medical marijuana business, including the facilities to be used in furtherance of such business, whether or not such facilities are or are planned to be within the territorial limits of the Town.
- (6) If the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property authorizing the use of the property for a medical marijuana center or cultivation facility.
- (7) A deed, lease or other contractual document showing that the applicant has a right of possession of the proposed location for the medical marijuana business for the duration of the permit period.
- (8) Evidence of a valid sales tax license for the business.
- (9) If the medical marijuana center will be providing medical marijuana in edible form, evidence of, at a minimum, a pending application for any food establishment license or permit that may be required by the State.
- (10) A "to scale" diagram of the premises, showing, without limitation, a site plan, building layout, all entry ways and exits to the center and cultivation facility, loading zones and all areas in which medical marijuana will be stored, grown or dispensed.
- (11) A comprehensive business operation plan for the medical marijuana business which shall contain, without limitation, the following:
 - a. A security plan meeting the requirements of Section 6-66 of this Article;
 - b. A description by category of all products to be sold;
 - c. A signage plan that is in compliance with all applicable requirements and provisions of this Code; and
 - d. A plan for the disposal of medical marijuana and related byproducts to ensure that such disposal is in compliance with all applicable federal, state and local laws and regulations.

(12) For medical marijuana-infused products manufacturing operation license applications, a copy of any and all contracts between the applicant and any medical marijuana cultivation operation from which it will be purchasing medical marijuana for use in the production of medical marijuana-infused products.

(13) Any additional information that the local licensing authority reasonably determines to be necessary in connection with the investigation and review of the application.

(c) The applicant shall verify the truthfulness of the information required by this Section by the applicant's signature on the application.

(d) A license issued pursuant to this Article does not eliminate the need for the licensee to obtain other required permits or licenses related to the operation of the medical marijuana center, cultivation facility and medical marijuana-infused products manufacturing operation, including, without limitation, any development approvals or building permits required by this Article and any other applicable provisions of this Code.

(e) Upon receipt of a completed application, the local licensing authority shall circulate the application to all affected service areas and departments of the Town to determine whether the application is in full compliance with all applicable laws, rules and regulations.

(f) Upon receipt of an application for a new license, the local licensing authority shall schedule a public hearing on the application, to be held not less than thirty (30) days after the date of the completed application. The local licensing authority shall cause a notice of such hearing to be posted in a conspicuous place upon the proposed licensed premises, published in a newspaper of general circulation within the Town not less than ten (10) days prior to the hearing. Such posted notice given by posting shall include a sign of suitable material, not less than twenty-two (22) inches wide and twenty-six (26) inches high, composed of letters of not less than one (1) inch in height. Both the posted and the published notice shall state the type of license applied for, the date of the hearing, the name and address of the applicant and such other information as may be required to fully apprise the public of the nature of the application. The notice shall also contain the names and addresses of the officers, directors and/or managers of the facility to be licensed.

(g) Not less than five (5) days prior to the date of the public hearing for a new license, the local licensing authority shall cause its preliminary findings based on its investigation to be known in writing to the applicant and other parties in interest. The local licensing authority shall deny any application that does not meet the requirements of this Article. The local licensing authority shall also deny any application that contains any false, misleading or incomplete information. The local licensing authority shall also deny or refuse to issue a license for good cause. Denial of an application for a license shall not be subject to further administrative review but only to review by a court of competent jurisdiction.

(h) Before entering a decision approving or denying the application for a local license, the local licensing authority may consider, except where this Article specifically provides otherwise, the facts and evidence adduced as a result of its investigation, as well as any other facts pertinent to the type of license for which application has been made, including the number, type and availability of medical marijuana centers, optional premises cultivation operations or medical marijuana-infused products manufacturers located in or near the premises under consideration, and any other pertinent matters

affecting the qualifications of the applicant for the conduct of the type of business proposed. The local licensing authority shall issue its decision within thirty (30) days of the completion of the public hearing thereon. Such decision shall be by resolution and shall state the reasons for the decision. The resolution shall be sent via certified mail to the applicant to the address shown in the application. In the event an application is conditionally approved, the Town shall clearly set forth the conditions of approval.

(i) The Town shall, prior to issuance of the license, perform an inspection of the proposed licensed premises, including, without limitation, the proposed cultivation facility, if applicable, to determine compliance with any applicable requirements of this Article or other applicable requirements of this Code. (Ord. 20 §1, 2012; Ord. 9 §2, 2013)

Sec. 6-54. Medical marijuana centers.

(a) With the exception of sales pursuant to those contracts described in Subsection (c) below, a licensed medical marijuana center may sell marijuana and marijuana-infused products only to registered patients or primary caregivers.

(b) The medical marijuana offered for sale and distribution must be labeled with a list of all chemical additives, including nonorganic pesticides, herbicides and fertilizers, used in cultivation and production.

(c) With the exception of medical marijuana-infused products, at least seventy percent (70%) of the medical marijuana offered for sale and/or distribution must be comprised of medical marijuana grown at the medical marijuana center's own optional premises cultivation licensed facility.

(d) Medical marijuana centers may not be co-located with facilities used to prepare, produce or assemble food, whether for medical or nonmedical purposes. (Ord. 20 §1, 2012; Ord. 9 §2, 2013)

Sec. 6-55. Medical marijuana-infused products manufacturer.

(a) All medical marijuana-infused products shall be prepared at a licensed premises that is used exclusively for the manufacture and preparation of medical marijuana-infused products. The equipment used in manufacturing of medical marijuana-infused products shall be used exclusively for such manufacture and preparation of infused products.

(b) All medical marijuana-infused products shall be sealed and conspicuously labeled in compliance with state law. A medical marijuana-infused products manufacturer may not include medical marijuana from more than five (5) different medical marijuana centers in one (1) product.

(c) A medical marijuana-infused products manufacturer shall enter into a contract with any medical marijuana center for the purchase of medical marijuana to be used in the manufacturing of infused products. The contract must contain, at a minimum, the total amount of marijuana obtained by the medical marijuana center to be used in manufacturing infused products and the total amount of infused products to be manufactured. (Ord. 20 §1, 2012; Ord. 9 §2, 2013)

Sec. 6-56. Optional premises cultivation.

An optional premises cultivation license may be issued only to a person licensed as a medical marijuana center or medical marijuana-infused products manufacturer within the corporate limits of the Town. (Ord. 20 §1, 2012; Ord. 9 §2, 2013)

Sec. 6-57. Location criteria.

(a) Prior to the issuance of a license for a medical marijuana business, the local licensing authority shall determine whether the proposed location of the medical marijuana business complies with the requirements of this Section. Failure to comply with the requirements of this Section shall preclude issuance of a license.

(b) No medical marijuana business shall be located within one thousand (1,000) feet of any of the following locations:

(1) A licensed child care facility.

(2) Any educational institution or school, college or university, either public or private.

(3) Any other medical marijuana business, whether such business is located within or outside of the Town.

(c) The distances described in Subsection (b) above shall be computed by direct measurement from the nearest property line of the land used for the above purposes to the unit within a building or structure housing the medical marijuana business, using a route of direct pedestrian access.

(d) Each medical marijuana business shall be operated from a permanent location. No medical marijuana business shall be permitted to operate from a movable, mobile or transitory location.

(e) The suitability of a location for a medical marijuana business shall be determined at the time of the issuance of the first license for such business. The fact that changes in the neighborhood that occur after the issuance of the first license might render the site unsuitable for a medical marijuana business under this Section shall not be grounds to suspend, revoke or refuse to renew the license for such business so long as the license for the business remains in effect. (Ord. 20 §1, 2012; Ord. 9 §2, 2013)

Sec. 6-58. Persons prohibited as licensees.

(a) No license shall be issued to, held by or renewed by any of the following:

(1) Any person until all applicable fees have been paid;

(2) Any person who is not of good moral character satisfactory to the local licensing authority;

(3) Any corporation, any of whose officers, directors or stockholders are not of good moral character satisfactory to the local licensing authority;

(4) Any partnership, association or company, any of whose officers are not of good moral character satisfactory to the local licensing authority;

(5) Any person employing, assisted by or financed in whole or in part by any other person who is not of good moral character and reputation satisfactory to the local licensing authority;

(6) Any sheriff, deputy sheriff, police officer, prosecuting officer and state or local licensing authority or any of its members, inspectors or employees;

(7) Any natural person under twenty-one (21) years of age;

(8) Any person who fails to file any tax return with a taxing agency, stay out of default on a government-issued student loan, pay child support or remedy outstanding delinquent taxes;

(9) Any person for a licensed location that is also a retail food establishment or wholesale food registrant;

(10) Any person who has not been a resident of Colorado for at least two (2) years prior to the date of the application;

(11) Any person who has discharged a sentence for a felony conviction within the past five (5) years;

(12) Any person who, at any time, has been convicted of a felony for drug possession, distribution or use;

(13) Any person whose license for a medical marijuana business in another town, county or state has been revoked;

(14) Any licensed physician making patient recommendations;

(15) Any entity whose directors, shareholders, partners or other persons having a financial interest in said entity do not meet the criteria set forth above; or

(16) Any person who has made a false, misleading or fraudulent statement on his or her application.

(b) Jurisdiction.

(1) In investigating the qualifications of the applicant or licensee, the local licensing authority may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the local licensing authority takes into consideration information concerning the applicant's criminal history record, the local licensing authority shall also consider any information provided by the applicant regarding such criminal history record, including but not limited to evidence of rehabilitation, character references and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of the application for a license.

(2) As used in Paragraph (1) above, *criminal justice agency* means any federal, state or municipal court or any governmental agency or subunit of such agency that performs the administration of criminal justice pursuant to a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice. (Ord. 20 §1, 2012; Ord. 9 §2, 2013)

Sec. 6-59. Issuance of license; duration; renewal.

(a) Upon issuance of a license, the Town shall provide the licensee with one (1) original of such license for each center or cultivation site to be operated by the licensee in the Town. Each such copy shall show the name and address of the licensee, the type of facility or business for which it is issued and the address of the facility at which it is to be displayed.

(b) Each license issued pursuant to this Article shall be valid for one (1) year from the date of issuance and may be renewed only as provided in this Article. All renewals of a license shall be for no more than one (1) year. An application for the renewal of an existing license shall be made to the local licensing authority not more than sixty (60) days and not less than thirty (30) days prior to the date of expiration of the license. A licensee may submit to the local licensing authority a late renewal application on the prescribed forms and pay a nonrefundable late application fee in an amount of five hundred dollars (\$500.00) for a renewal application made less than thirty (30) days prior to the date of the expiration of the license. All other provisions concerning renewal applications apply to a late renewal application. The timely filing of a completed renewal application or a late renewal application shall extend the current license until a decision is made on the renewal.

(c) Notwithstanding state law to the contrary, a licensee whose license expires and for which a renewal application has not been received by the expiration date shall be deemed to have forfeited its license under this Article. The Town shall not accept renewal applications after the expiration date of such license.

(d) A licensee whose license expires shall not cultivate, process, manufacture, distribute or sell medical marijuana or medical marijuana-infused products until all necessary licenses have been obtained. (Ord. 20 §1, 2012; Ord. 9 §2, 2013)

Sec. 6-60. Authority to impose conditions on license.

The local licensing authority shall have the authority to impose such reasonable terms and conditions on a license as may be necessary to protect the public health, safety and welfare and to obtain compliance with the requirements of this Article and applicable law. (Ord. 20 §1, 2012; Ord. 9 §2, 2013)

Sec. 6-61. Annual license fee.

Upon issuance of a license or any renewal of a license, the licensee shall pay to the Town a fee in an amount determined by the local licensing authority to be sufficient to cover the annual cost of inspections conducted by the Police Department, and such other departments of the Town as may be designated by the local licensing authority, for the purpose of determining compliance with the provisions of this Article and any other applicable state or local laws or regulations. (Ord. 20 §1, 2012; Ord. 9 §2, 2013)

Sec. 6-62. Display of license.

(a) Each license shall be limited to use at the premises specified in the application for such license.

(b) Each license shall be continuously posted in a conspicuous location at the medical marijuana facility. (Ord. 20 §1, 2012; Ord. 9 §2, 2013)

Sec. 6-63. Management of licensed premises; changes in manager or financial interest.

(a) Licensees who are natural persons shall either manage the licensed premises themselves or employ a separate and distinct manager on the premises and report the name of such manager to the local licensing authority. Licensees that are entities shall employ a manager on the premises and report the name of the manager to the local licensing authority. All managers must be natural persons who are at least twenty-one (21) years of age. No manager shall be a person having a criminal history as described in Paragraphs 6-58(a)(11) and (12) of this Article.

(b) Each licensee shall report any change in managers to the local licensing authority within thirty (30) days after the change. Such report shall include all information required for managers under this Section.

(c) Each licensee shall report in writing to the local licensing authority any transfer or change in financial interest in the license holder or in the medical marijuana business that is the subject of the license. Such report must be filed with the local licensing authority within thirty (30) days after any such transfer or change. A report shall be required for any transfer of the capital stock of a public corporation totaling more than ten percent (10%) of the stock in any one (1) year, as well as any transfer of a controlling interest in the corporation whenever a sufficient number of shares have been transferred to effectuate the transfer of a controlling interest. No person having or acquiring a financial interest in the medical marijuana business that is the subject of a license shall be a person having a criminal history as described in Paragraphs 6-58(a)(11) and (12) of this Article.

(d) Whenever any licensee causes a change in its officers or directors and a license addendum is required to be filed with the State, an application fee in the amount of one hundred dollars (\$100.00) shall be paid to the Town at the time of filing the addendum with the Town. (Ord. 20 §1, 2012; Ord. 9 §2, 2013)

Sec. 6-64. Transfer of ownership; change of location.

(a) Transfer of ownership. For a transfer of ownership, a license holder shall apply to the state and local licensing authority on forms provided by the state licensing authority. In considering whether to permit a transfer of ownership, the local licensing authority shall consider only the requirements of this Article, the Colorado Medical Marijuana Code and the regulations promulgated in conformance therewith. The local licensing authority may hold a hearing on the application for a transfer of ownership, but such hearing shall not be held until a notice of such hearing has been posted on the licensed medical marijuana business premises for a period of at least ten (10) days prior to such hearing and the applicant has been provided at least ten (10) days' prior notice of such hearing.

(b) Change of location. A licensee from another jurisdiction that has previously obtained a license from the State and any other local licensing authority may move his or her permanent location to the Town so long as the applicant and the new location conform to the requirements of this Article. (Ord. 20 §1, 2012; Ord. 9 §2, 2013)

Sec. 6-65. Hours of operation; signage and advertising.

(a) A medical marijuana business may open no earlier than 9:00 a.m. and shall close no later than 7:00 p.m. the same day. A medical marijuana business may be open seven (7) days a week.

(b) All signage and advertising for a medical marijuana center or a medical marijuana-infused products manufacturing operation shall comply with all applicable provisions of this Article and other applicable provisions of this Code, including Section 16-242 of this Code. In addition, no signage or advertising shall use the word "marijuana" or "cannabis" or any other word, phrase or symbol commonly understood to refer to marijuana unless such word, phrase or symbol is immediately preceded by the word "medical" in type and font that is at least as readily discernible as all other words, phrases or symbols. Such signage and advertising must clearly indicate that the products and services are offered only for medical marijuana patients and primary caregivers. (Ord. 20 §1, 2012; Ord. 9 §2, 2013)

Sec. 6-66. Security requirements.

(a) Security measures at medical marijuana business facilities shall include, at a minimum, the following:

(1) Security surveillance cameras installed to monitor all entrances and the exterior of the premises to discourage and to facilitate the reporting of criminal acts as well as nuisance activities. Security video shall be preserved for at least seventy-two (72) hours.

(2) Robbery and burglary alarm systems which are professionally monitored and maintained in good working condition.

(3) A locking safe permanently affixed to the premises that is suitable for storage of all medical marijuana and cash stored overnight on the licensed premises. Medical marijuana that is being processed or dried need not be stored in the locking safe, provided that it is kept in a secure area.

(4) Exterior lighting that illuminates the exterior walls of the licensed premises, which is linked to motion sensor devices during nonbusiness hours.

(5) A battery back-up system that allows for the operation of the lighting and alarm systems during power outages.

(b) All security recordings shall be preserved for at least seventy-two (72) hours by the licensee and be made available to the Police Department upon request for inspection. (Ord. 20 §1, 2012; Ord. 5 §4, 2013; Ord. 9 §2, 2013)

Sec. 6-67. Cultivation, growing and processing by licensees.

(a) Subject to the limitations set forth in this Section and Section 12-43.3-403, C.R.S., and other applicable laws, the growing, cultivation or processing of marijuana shall be allowed contiguous or not contiguous to the licensed premises of a licensed medical marijuana business.

(b) The cultivation, growing, processing, display or storage of marijuana plants by a licensee shall be conducted only at the cultivation facility shown on the licensee's application.

(c) Access to any cultivation facility that is located in the same building as a medical marijuana center or medical marijuana-infused products manufacturing operation shall be secured so as to render the cultivation facility inaccessible to any unauthorized persons during all hours of operation of the business facility. All such cultivation facilities shall be independently ventilated so as to prevent odors, debris and dust from entering the center.

(d) To the extent permitted by law, the Town shall keep confidential the location of all cultivation facilities. (Ord. 20 §1, 2012; Ord. 9 §2, 2013)

Sec. 6-68. On-site consumption of medical marijuana.

The use, consumption, ingestion or inhalation of medical marijuana or medical marijuana-infused products on or within the premises of a medical marijuana center, cultivation facility or medical marijuana-infused products manufacturing facility is prohibited. (Ord. 20 §1, 2012; Ord. 9 §2, 2013)

Sec. 6-69.1. Prohibited acts.

It shall be unlawful for any licensee to:

(1) Employ any person at a medical marijuana center, cultivation facility or medical marijuana-infused products manufacturing facility who is not at least twenty-one (21) years of age or who has a criminal history as described in Paragraphs 6-58(a)(11) and (12) of this Article.

(2) Sell, give, dispense or otherwise distribute medical marijuana to anyone other than a patient, primary caregiver, licensee or medical marijuana business that is licensed in another jurisdiction of the State.

(3) Possess more than six (6) medical marijuana plants and two (2) ounces of any usable form of medical marijuana per patient, except a licensee may, in the case of a patient authorized to possess more than the six-plant or two-ounce limit, possess such additional marijuana as provided by Section 43.3-901(4)(e), C.R.S.

(4) Purchase or otherwise obtain medical marijuana from any source that is not properly authorized under state and local law to sell or dispense medical marijuana.

(5) Permit in the limited access area any person other than:

a. The licensee, the licensee's manager, employees and financial interest holders;

b. A patient in possession of a registry identification card or its functional equivalent under Section 14(3)(d) of Amendment 20;

c. A minor patient accompanied by a parent or lawful guardian in possession of the minor patient's registry identification card;

d. A minor accompanied by a parent or legal guardian who is a patient;

e. A primary caregiver in possession of his or her patient's registry identification card or its functional equivalent under Section 14(3)(d) of Amendment 20 and the patient's written designation of said person as the patient's primary caregiver, as submitted to the Colorado Department of Public Health and Environment;

f. A person whose physical presence and assistance are necessary to assist a patient;

g. A person who is actively engaged in the maintenance, repair or improvement of the licensed premises or in the provision of accounting or other professional services directly related to the conduct of the licensee's medical marijuana business; or

h. Law enforcement officers, inspectors and other officials or employees of any federal, state or local government or agency engaged in the lawful performance of their official duties.

(6) Dispense medical marijuana in or upon its cultivation facility.

(7) Permit the sale or consumption of alcohol beverages on the licensed premises.

(8) Post or allow to be posted signs or other advertising materials identifying cultivation facilities as being associated with the use or cultivation of marijuana.

(9) Dispense medical marijuana to a person who is or appears to be under the influence of alcohol or under the influence of any controlled substance, including marijuana. (Ord. 20 §1, 2012; Ord. 5 §§2, 3, 2013; Ord. 9 §2, 2013)

Sec. 6-69.2. Visibility of activities; paraphernalia; control of emissions.

(a) All activities of medical marijuana centers, cultivation facilities and medical marijuana-infused products manufacturing operations, including, without limitation, cultivating, growing, processing, displaying, selling and storage, shall be conducted indoors.

(b) Devices, contrivances, instruments and paraphernalia for inhaling or otherwise consuming marijuana, including but not limited to rolling papers and related tools, water pipes and vaporizers, may lawfully be sold at a medical marijuana business. Such items may be sold or provided only to patients or primary caregivers. No medical marijuana or paraphernalia shall be displayed or kept in a medical marijuana business facility so as to be visible from outside the licensed premises.

(c) Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a medical marijuana business facility must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a medical marijuana business facility, the owner of the subject premises and the licensee shall be jointly and severally liable for

such conditions and shall be responsible for immediate, full clean-up and correction of such a condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations. (Ord. 20 §1, 2012; Ord. 9 §2, 2013)

Sec. 6-69.3. Disposal of marijuana byproducts.

The disposal of medical marijuana, medical marijuana-infused products, byproducts and paraphernalia shall be done in accordance with plans and procedures approved in advance by the local licensing authority. (Ord. 20 §1, 2012; Ord. 9 §2, 2013)

Sec. 6-69.4. Sales tax.

Each licensee shall collect and remit Town sales tax on all medical marijuana, medical marijuana-infused products, paraphernalia and other tangible personal property sold by the licensee. (Ord. 20 §1, 2012; Ord. 9 §2, 2013)

Sec. 6-69.5. Required books and records.

(a) Every licensee shall maintain an accurate and complete record of all medical marijuana purchased, sold or dispersed by the medical marijuana business in any usable form. Such record shall include the following:

- (1) The identity of the seller and purchaser involved in each transaction;
- (2) The total quantity of and amount paid for the medical marijuana and/or the medical marijuana-infused products; and
- (3) The date, time and location of each transaction.

(b) Every patient or primary caregiver shall provide to the licensee and the licensee shall record the following information for such books and records:

- (1) The patient or primary caregiver's name, date of birth and current street address, including Town, state and zip code.
- (2) The form of identification that was presented by the patient or primary caregiver, which may include any of the following, and the identifying number, if any, from such form:
 - a. An identification card issued in accordance with Section 42-2-302, C.R.S.;
 - b. A valid state driver's license;
 - c. A military identification card; or
 - d. An alien registration card.

(3) A registry identification card or its functional equivalent under Section 14(3)(d) of Amendment 20 and, in the case of a primary caregiver, the date the primary caregiver was designated by the patient for whom the medical marijuana was purchased.

(c) Information provided to the licensee by a patient or primary caregiver under the provisions of this Section need not include any information regarding the patient's physical or medical condition.

(d) All transactions shall be kept in a numerical register in the order in which they occur.

(e) All records required to be kept under this Article must be kept in the English language in a legible manner and must be preserved and made available for inspection for a period of three (3) years after the date of the transaction. Information inspected by the Police Department or other Town departments pursuant to this Article shall be used for regulatory and law enforcement purposes only and shall not be a matter of public record. (Ord. 20 §1, 2012; Ord. 9 §2, 2013)

Sec. 6-69.6. Nonrenewal, suspension or revocation of license.

(a) The local licensing authority may, after notice and hearing, suspend, revoke or refuse to renew a license for good cause, including suspension or revocation of the licensee's state license. The local licensing authority is authorized to adopt rules and procedures governing the conduct of such hearings.

(b) The local licensing authority may, in its discretion, revoke or elect not to renew any license if it determines that the licensed premises has been inactive, without good cause, for at least one (1) year. (Ord. 20 §1, 2012; Ord. 9 §2, 2013)

Sec. 6-69.7. Violations and penalties.

In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this Article, any person, including but not limited to any licensee, manager or employee of a medical marijuana business, or any customer of such business who violates any of the provisions of this Article shall be subject to the following penalties:

(1) It shall be a misdemeanor offense for any person to violate any provision of this Article. Any person convicted of having violated any provision of this Article shall be punished as set forth in Chapter 1, Article IV of this Code.

(2) The operation of a medical marijuana business without a valid license issued pursuant to this Article may be enjoined by the Town in an action brought in a court of competent jurisdiction, including the Municipal Court.

(3) The operation of a medical marijuana business without a valid license issued pursuant to this Article is also specifically determined to be a public nuisance pursuant to Section 7-1 of this Code. (Ord. 20 §1, 2012; Ord. 9 §§ 2, 3, 2013)

Sec. 6-69.8. No Town liability; indemnification.

(a) By accepting a license issued pursuant to this Article, the licensee waives and releases the Town, its officers, elected officials, employees, attorneys and agents from any liability for injuries,

damages or liabilities of any kind that result from any arrest or prosecution of center owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations.

(b) By accepting a license issued pursuant to this Article, all licensees, jointly and severally if more than one (1), agree to indemnify, defend and hold harmless the Town, its officers, elected officials, employees, attorneys, agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the medical marijuana business that is the subject of the license. (Ord. 20 §1, 2012; Ord. 9 §2, 2013)

Sec. 6-69.9. No waiver of governmental immunity.

In adopting this Article, the Board of Trustees is relying on and does not waive or intend to waive by any provision of this Article, the monetary limitations (presently one hundred fifty thousand dollars [\$150,000.00] per person and six hundred thousand dollars [\$600,000.00] per occurrence) or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S., or any other limitation, right, immunity or protection otherwise available to the Town, its officers or its employees. (Ord. 20 §1, 2012; Ord. 9 §2, 2013)

Sec. 6-69.10. Other laws remain applicable.

(a) To the extent the State has adopted or adopts in the future any additional or stricter law or regulation governing the sale or distribution of medical marijuana or medical marijuana-infused products, the additional or stricter regulation shall control the establishment or operation of any medical marijuana business in the Town. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this Article, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any license issued hereunder.

(b) Any licensee may be required to demonstrate, upon demand by the local licensing authority or by law enforcement officers, that the source and quality of any marijuana found upon the licensed premises are in full compliance with any applicable state law or regulation.

(c) If the State prohibits the sale or other distribution of marijuana through medical marijuana centers, any license issued hereunder shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.

(d) The issuance of any license pursuant to this Article shall not be deemed to create an exception, defense or immunity to any person in regard to any potential criminal liability the person may have for the cultivation, possession, sale, distribution or use of marijuana. (Ord. 20 §1, 2012; Ord. 9 §2, 2013)

Sec. 6-69.11. Severability.

If any provision of this Article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Article which can be

given effect without the invalid provision or application, and, to this end, the provisions of this Article are declared to be severable. (Ord. 20 §1, 2012; Ord. 9 §2, 2013)

Sec. 6-69.12. Patients and primary caregivers.

Nothing in this Article shall be construed to prohibit, regulate or otherwise impair the use of medical marijuana by patients as defined by the Colorado Constitution or the provision of medical marijuana by a primary caregiver to a patient in accordance with the Colorado Constitution, and consistent with Section 25-1.5-106, C.R.S., and rules promulgated thereunder. (Ord. 20 §1, 2012; Ord. 9 §2, 2013)

ARTICLE V

Sexually Oriented Businesses

Sec. 6-70. Purpose.

The purpose of this Article is to promote and protect the public health, safety and welfare by regulating sexually oriented businesses through the establishment of reasonable and uniform regulations to reduce the adverse secondary effects of sexually oriented businesses within the Town. This Article is not intended to limit or restrict the content of any communicative materials, including sexually oriented materials. This Article is not intended to restrict or deny access by adults to sexually oriented materials protected by the First Amendment of the United States Constitution or Article II, § 10 of the Colorado Constitution or to deny access of distributors or exhibitors of sexually oriented entertainment to their intended market. Finally, this Article is not intended to condone or legitimize the distribution of obscene material. (Ord. 20 §1, 2010; Ord. 24 §1, 2010)

Sec. 6-71. Definitions.

For purposes of this Article, the following terms shall have the following meanings, unless the context indicates otherwise:

Adult arcade means any commercial establishment in which the public is permitted or invited where, for any form of consideration, one (1) or more motion picture projectors, slide projectors, image or virtual reality producing machines or similar machines, for viewing by five (5) or fewer persons per machine at any one (1) time, are used regularly to show films, motion pictures, video cassettes, slides, digital images, electronic reproductions or photographs describing, simulating or depicting specified sexual activities or specified anatomical areas.

Adult cabaret means a nightclub, bar, restaurant or similar commercial establishment which, for any form of consideration, regularly features live performances which are characterized by the exposure of specified anatomical areas or by the exhibition of specified sexual activities.

Adult motion picture theater means a commercial establishment which is characterized by the showing, for any form of consideration, of films, motion pictures, video cassettes, slides, compact discs, digital video discs (DVDs), digital images or other visual representations that have an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

Adult store means any commercial establishment which, as one (1) of its principal business purposes, offers for sale or rent for any form of consideration one (1) or more of the following:

- a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, compact discs, digital video discs (DVDs), digital images or other visual representations which are characterized by their emphasis on the depiction or description of specified sexual activities or specified anatomical areas; or
- b. Instruments, devices or paraphernalia designed for use in connection with specified sexual activities.

Adult theater means a theater, auditorium or similar commercial establishment which, for any form of consideration, regularly features live performances which are characterized by an emphasis on exposure of specified anatomical areas or specified sexual activities.

Convicted means having been found guilty by a judge or a jury or entering a guilty plea or a plea of nolo contendere, and includes deferred judgments, deferred sentences, deferred adjudications and plea bargains, whether or not an appeal of such conviction is pending; excluding any conviction overturned or vacated by appeal or other force of law.

Employee means a person who works or performs work or service in or for a sexually oriented business on a full-time, part-time or contract basis, with or without compensation, regardless of whether such person is designated as an employee, independent contractor, agent, volunteer or any other status; excluding any person on the premises for repair or maintenance of the premises or for delivering or removing tangible personal property to or from the premises.

Licensed premises means the building or structure in which a licensed sexually oriented business is operating.

Sexually oriented business means an adult arcade, adult store, adult cabaret, adult motion picture theater or adult theater, except an establishment where a medical practitioner, psychologist, psychiatrist or similar professional licensed by the State engages in approved and recognized sexual therapy.

Specified anatomical areas means any of the following:

- a. Human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areola, which are not completely and opaquely covered; or
- b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified crime means and includes the following crimes committed under the penal or criminal code of any municipality, county, state or country: sex crimes against children; sexual abuse; sexual assault; possession or distribution of child pornography; distribution of an illegal controlled substance; prostitution, promotion of prostitution or pandering; and organized crime if such organized crime is committed within the premises of a sexually oriented business in the Town or elsewhere.

Specified sexual activities means any of the following:

- a. Fondling or other intentional touching of human genitals, pubic region, buttocks, anus or female breasts;
- b. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation and sodomy;
- c. Masturbation, actual or simulated; or
- d. Human genitals in a state of sexual stimulation or arousal; human excretory functions as part of or in connection with any of the activities set forth in Subparagraphs a. through d. hereof. (Ord. 20 §1, 2010; Ord. 24 §1, 2010)

Sec. 6-72. License required.

All sexually oriented businesses in the Town shall be licensed as set forth in this Article, and it shall be unlawful for any person to operate a sexually oriented business in the Town without a valid license issued pursuant to this Article. (Ord. 20 §1, 2010; Ord. 24 §1, 2010)

Sec. 6-73. License application.

(a) Applicants for a sexually oriented business license shall submit a written application to the Town Clerk which includes the following:

- (1) The name, address, telephone number and date of birth of the applicant and, if applicable, each of its officers, partners, directors and registered agents;
- (2) The trade name of the applicant and copies of all documents recording the trade name, including the trade name affidavit;
- (3) The name of any other sexually oriented business in which any officer, director or partner has a financial interest;
- (4) The address of the premises to be licensed;
- (5) If the applicant is a corporation, copies of the articles of incorporation, bylaws and last annual report;
- (6) Copies of documents demonstrating that the applicant has a legal right to possession of the premises to be licensed;
- (7) A sketch, drawing or diagram drawn to scale and showing the configuration of the premises, including total floor area to be occupied by each sexually oriented business; and
- (8) The type or types of the sexually oriented business proposed, such as an adult store, adult cabaret, adult theater or adult motion picture theater.

(b) Each application shall be verified and acknowledged to be true by the applicant or the managing partner, president or other officer having the authority to sign for the applicant. (Ord. 20 §1, 2010; Ord. 24 §1, 2010)

Sec. 6-74. Background investigations.

(a) Upon receipt of a completed application, the Town Clerk shall perform a background investigation of the applicant and its officers, directors and partners and the information contained in the application.

(b) The Town Clerk may investigate any fact related to any of the criteria set forth in this Article that may be relevant to determine the eligibility of the applicant for a sexually oriented business license.

(c) The Town Clerk may seek and obtain the assistance of law enforcement agencies in conducting the background investigation.

(d) The background investigation shall be completed within forty-five (45) days of receipt of the completed application. (Ord. 20 §1, 2010; Ord. 24 §1, 2010)

Sec. 6-75. Issuance or denial.

(a) Within ten (10) days of the completion of the background investigation, the Town Clerk shall either issue the sexually oriented business license or issue a written statement of denial. The license or statement of denial shall be sent via United States mail, postage prepaid, to the applicant at the address provided on the application. The Town Clerk shall issue the license unless one (1) or more of the following is true:

(1) The applicant has not paid all required fees under this Article;

(2) The applicant or any of its officers, directors or partners is under eighteen (18) years of age;

(3) The applicant is not qualified to conduct business under applicable state or federal law or Town ordinances;

(4) The applicant has knowingly provided false information to the Town on an application for a sexually oriented business license;

(5) The location of the proposed sexually oriented business does not comply with the location requirements set forth in the Town's zoning ordinance;

(6) The premises in which the sexually oriented business is proposed to be located do not comply with applicable Town ordinances, such as the building code, electrical code or fire code;

(7) The applicant is delinquent in the payment of any taxes owed to the Town; or

(8) The applicant or any of its directors, officers or partners has been convicted of a specified crime in the two (2) years preceding the date of the application.

(b) Within ten (10) days of the date of a written statement of denial, the applicant may submit a written request that the Town Clerk schedule a public hearing before the Board of Trustees on the

application. The hearing shall be held at the next regularly scheduled Board of Trustees meeting occurring at least ten (10) days after receipt of the written request.

(c) At the hearing, the applicant may present additional evidence, either documentary or through witness testimony, which is relevant to the applicant's eligibility for a sexually oriented business license.

(d) At the conclusion of the hearing or within ten (10) days thereafter, the Board of Trustees shall either order that the Town Clerk issue the sexually oriented business license, or issue a written order denying the application for the sexually oriented business license.

(e) If the Board of Trustees denies the application for a sexually oriented business license, the Board of Trustees' decision shall be final, subject to judicial review pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. (Ord. 20 §1, 2010; Ord. 24 §1, 2010)

Sec. 6-76. Term of license; renewal.

(a) All sexually oriented business licenses issued under this Article shall be valid for one (1) year from the date of issuance, unless revoked or suspended as provided in this Article.

(b) Written application for renewal of a sexually oriented business license shall be filed with the Town Clerk at least sixty (60) days prior to the expiration of the current license, together with the applicable annual license fee. If no application for renewal is timely filed, the licensee has waived its option to renew the license and must re-apply for a new license.

(c) Applications for renewal shall include the same information as an original application, except as the Town Clerk deems redundant.

(d) The procedures for renewal license applications shall be the same as the procedures for new license applications. (Ord. 20 §1, 2010; Ord. 24 §1, 2010)

Sec. 6-77. License nontransferable.

A sexually oriented business license issued under this Article is nontransferable. By way of example but not limitation, a new sexually oriented business license shall be required upon: the sale, lease or sublease of the sexually oriented business or the licensed premises; the transfer by sale, exchange or similar means of a controlling interest in the sexually oriented business; or the establishment of a trust, gift or similar legal device which transfers ownership or control of the sexually oriented business or the licensed premises, other than transfer by bequest or other operation of law upon the death of the person possessing ownership or control. (Ord. 20 §1, 2010; Ord. 24 §1, 2010)

Sec. 6-78. Suspension and revocation.

(a) The Town Clerk may suspend or revoke any sexually oriented business license issued under this Article if the Town Clerk receives reliable information to establish that:

- (1) A nuisance is being maintained on the licensed premises;

(2) The licensed premises are unsanitary as certified by the Chaffee County Department of Health;

(3) The licensed premises are unsafe as certified by the Building Official, the Fire Marshal or the Fire Chief with jurisdiction over the premises;

(4) The licensee has knowingly permitted on the licensed premises: the possession, sale or use of illegal controlled substances; any specified sexual activity; or prostitution;

(5) The licensee or any of its officers, directors, partners or employees has been convicted of a specified crime during the term of the license; or

(6) The licensee knowingly provided false information on an application for a sexually oriented business license or renewal of such a license.

(b) At least twenty (20) days before the Town Clerk suspends or revokes any sexually oriented business license, the Town Clerk shall provide written notice to the licensee, via United States mail, postage prepaid, to the address provided on the most recent application, of the allegations supporting the suspension or revocation.

(c) During the twenty-day period, the licensee may file a written request for a stay of the suspension or revocation pending a public hearing before the Board of Trustees on the allegations to support the suspension or revocation.

(d) The public hearing shall be held at the next regularly scheduled Board of Trustees meeting at least ten (10) days after receipt of the request.

(e) At the hearing, the applicant may present additional evidence, either documentary or through witness testimony, which is relevant to the suspension or revocation.

(f) At the conclusion of the hearing or within ten (10) days thereafter, the Board of Trustees shall order that the sexually oriented business license be suspended for a period of time not to exceed one hundred eighty (180) days, that the license be revoked or that no action be taken with respect to the license.

(g) If the Board of Trustees orders suspension or revocation, the Board of Trustees' decision shall be final, subject to judicial review pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. (Ord. 20 §1, 2010; Ord. 24 §1, 2010)

Sec. 6-79. General regulations.

(a) All licensed premises shall comply with all applicable Town regulations and ordinances, including but not limited to the building code, fire code, electrical code and zoning regulations.

(b) Every sexually oriented business license issued under this Article shall be displayed in a conspicuous place on the licensed premises in a clear cover or frame and shall be available for inspection at all times by the public.

(c) All licensed premises shall be maintained in a clean and sanitary condition and shall be cleaned at least once daily and more frequently when necessary.

(d) Trash and garbage shall not be permitted to accumulate in any licensed premises or on the property outside any licensed premises.

(e) All materials, devices and novelties offered by a sexually oriented business which depict specified sexual activities or specified anatomical areas shall be displayed so that they cannot be seen by anyone other than customers who have entered the licensed premises. (Ord. 20 §1, 2010; Ord. 24 §1, 2010)

Sec. 6-80. Dance and entertainment requirements.

(a) An adult cabaret or adult theater at which employees dance shall have one (1) or more stages or similar structures specially designed for dancing, which shall be constructed in accordance with applicable building code regulations, and located inside the licensed premises. Employees shall dance only upon such stage or structure.

(b) When an employee dances on a structure which is designed to hold not more than two (2) persons, the structure shall be level, of sturdy construction and securely fastened to the floor or wall during dance performances. Steps and handrails shall be required on all such stages and structures where the platform on which the employee dances is more than eight (8) inches above the surface upon which the structure rests.

(c) Any adult cabaret or adult theatre shall have one (1) or more separate areas designated in the diagram submitted as part of the application as a stage for the licensee or employees to perform as entertainers. Entertainers shall perform only upon the stage, and the stage shall be fixed and immovable.

(d) No seating for the audience shall be permitted within three (3) feet of the edge of any stage, and no members of the audience shall be permitted upon any stage or within three (3) feet of the edge of any stage. A physical barrier, such as a roped-off cordon, shall separate the edge of the stage from the area customers are permitted.

(e) No private rooms or screened areas that are accessible to non-employees are permitted inside an adult cabaret or adult theater, such as rooms or screened areas available for private dance performances by individuals or groups to the exclusion of other customers of the establishment.

(f) No activity, materials or merchandise inside a sexually oriented business shall be visible from the exterior. (Ord. 20 §1, 2010; Ord. 24 §1, 2010)

Sec. 6-81. Lighting requirements.

(a) When the occupant capacity of any licensed premises, as determined by the Fire Department, is at least fifty (50) persons, such licensed premises shall have electric, battery-operated emergency lights using reliable storage batteries properly maintained and charged.

(b) The interior portion of a licensed premises to which patrons are permitted access shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place at an illumination of not less than two (2) foot-candles as measured at the floor level. It shall be the duty of the licensee and employees present on the premises to ensure that the illumination described above is maintained at all times that any patron is present on the premises. (Ord. 20 §1, 2010; Ord. 24 §1, 2010)

Sec. 6-82. Hours of operation.

It is unlawful for a sexually oriented business to be open for business or for the licensee or any employee of a licensee to allow patrons upon the licensed premises on any Monday through Saturday between 2:00 a.m. and 7:00 a.m.; and on any Sunday between 2:00 a.m. and 8:00 a.m. (Ord. 20 §1, 2010; Ord. 24 §1, 2010)

Sec. 6-83. Age restrictions.

(a) It is unlawful for a licensee to admit or permit the admission of any person under eighteen (18) years of age into any sexually oriented business.

(b) It is unlawful for any person to sell, barter, give or offer for sale, barter or gift, to any person under eighteen (18) years of age any service, material, device or thing sold or offered for sale by any adult store or adult motion picture theater.

(c) Employees of any sexually oriented business shall be at least eighteen (18) years of age. (Ord. 20 §1, 2010; Ord. 24 §1, 2010)

Sec. 6-84. Conduct.

(a) No licensee or employee shall encourage or knowingly permit any person on or within the licensed premises to touch, caress or fondle the genitals, pubic region, buttocks, anus or breasts of any person.

(b) No licensee or employee shall knowingly fail to immediately report to the Police Department any criminal conduct or violation of any Town ordinance or state or federal law, rule or regulation that occurs on or within the licensed premises.

(c) No person shall engage in specified sexual activities on or within a licensed premises.

(d) No licensee or employee mingling with patrons or serving food or drinks shall be unclothed or in such attire, costume or clothing so as to expose to view any specified anatomical area.

(e) No employee shall receive tips from patrons except as provided herein. A licensee that desires to provide for tips from its patrons shall establish one (1) or more boxes or other containers to receive tips. All tips for employees shall be placed by patrons into the tip box. The licensee shall post one (1) or more signs to be conspicuously visible to patrons in letters at least one (1) inch high to read as follows:

All tips are to be placed in tip box and not handed directly to the entertainer. Any physical contact between the patron and the entertainer is strictly prohibited.

(Ord. 20 §1, 2010; Ord. 24 §1, 2010)

Sec. 6-85. Inspection.

Every licensee shall permit law enforcement officers, and any other federal, state, county or Town agency in the performance of any function connected with the enforcement of this Article and normally and regularly conducted by such agency, to inspect the licensed premises for the purpose of ensuring compliance with this Article at any time the licensed premises is occupied or open for business. (Ord. 20 §1, 2010; Ord. 24 §1, 2010)

Sec. 6-86. Employee identification.

Each licensee shall provide to the Town Clerk, in writing, the full name, any aliases, date of birth and the current address and telephone number of every employee of the licensee within five (5) days of employment. (Ord. 20-2010 §1; Ord. 24-2010 §1)

Sec. 6-87. Exemptions.

Notwithstanding anything to the contrary in this Article, the following businesses and activities shall be exempt from the requirements of this Article:

- (1) Any adult store which derives less than ten percent (10%) of its gross income from the sale of materials depicting specified sexual activities or specified anatomical areas if such materials are located in a separate room or booth containing those materials only.
- (2) Any college, junior college or university supported, in whole or in part, by tax revenue and offering educational programs which, for educational purposes, may include the depiction of specified sexual activities or specified anatomical areas. (Ord. 20-2010 §1; Ord. 24-2010 §1)

Sec. 6-88. Regulations not exclusive.

Nothing contained in this Article shall limit the effectiveness or applicability of any other provision of this Code to any sexually oriented business. (Ord. 20-2010 §1; Ord. 24-2010 §1)

Sec. 6-89. Penalties.

(a) 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. Each and every day of violation of the provisions of this Article shall constitute a separate offense punishable as such.

(b) In the event of violation of any of the terms and regulations set forth herein, the Town may obtain equitable relief, including injunctive relief, to require compliance with the provisions hereof. In the event the Town is successful in obtaining injunctive or other equitable relief, the costs and attorney fees incurred by the Town in such action shall be awarded to the Town in addition to any other relief.

(c) Nothing contained herein shall preclude the Town from enforcing the suspension and revocation provisions of this Article in addition to simultaneously or subsequently prosecuting alleged violations of this Article, under this Section. (Ord. 20-2010 §1; Ord. 24-2010 §1)

Secs. 6-90—6-110. Reserved.