

CHAPTER 6

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ARTICLE 1

Business Licenses

Sec. 6-1-10. Purpose.

The purpose of this Article is to require licensing and the maintaining of a register of all licensed business activities physically located within the City in order to protect the health, safety and welfare of the City's inhabitants. (Ord. 2008-O-36 §1)

Sec. 6-1-20. Definitions.

As used in this Article, unless otherwise noted:

Applicant means a person who has filed an application for a business license.

Application means an application for a business license.

Business means all trades, vocations, occupations, professions, enterprises and establishments and all other kinds of activities which are conducted for gain, financial profit, advantage or benefit either directly or indirectly, on any location in this City, including but not limited to all retail sales, wholesale sales, services and including contractor services as defined in Article 3 of this Chapter.

Business license or *license* means a license issued under this Article.

License Officer means the representative or agent of the City appointed by the City Manager to administer the business licenses provided herein.

Licensee means the holder of an unexpired business license.

Location means the premises upon which the business is located and any adjacent property under the ownership and control of the licensee.

Person means any natural person or non-natural entity, including but not limited to a corporation, partnership, unincorporated association or joint venture.

Premises means all lands, structures and places related to the business of the licensee and the licensee's operation. It also means equipment and appurtenances connected or used therewith in any business and also any personal property that is either affixed to or is otherwise used in connection with any business conducted on such premises. (Ord. 2008-O-36 §1)

Sec. 6-1-30. Business licenses required; license term.

(a) It shall be unlawful for any person operating a business within the City to fail to obtain and maintain a business license at all times while operating said business. Upon application approval, the License Officer shall issue an appropriate business license for a term of up to two (2) years, all licenses expiring on December 31st of the succeeding calendar year following the first calendar year covered by any such license.

(b) Business licenses issued under this Article shall be issued for a period of up to two (2) years, expiring on December 31st of the succeeding calendar year following the first calendar year covered by any such license. Applications for an initial business license received after November 1st of any calendar year shall be charged one-half ($\frac{1}{2}$) of any license fee and shall remain valid until December 31st of the succeeding calendar year. Applications for biennial renewal of a license are due on November 15th of the year in which the license is expiring.

(c) A separate business license shall be required for each fixed location of a business operating within the City. No license shall be required for any business operating in the City which does not maintain a fixed business location within the City. (Ord. 2008-O-36 §1)

Sec. 6-1-40. License Officer duties.

The License Officer shall:

(1) Enforce all reasonable rules and regulations approved by the City Manager and adopted by the License Officer as necessary to the operation and enforcement of this Article;

(2) Review business license applications;

(3) Keep confidential all proprietary, confidential or privileged information provided by an applicant or licensee. Such information shall not be subject to public inspection except for that information available to the public under the Open Records Act or through a court order;

(4) Notify applicants of the approval or denial of their applications;

(5) Issue licenses to all qualified applicants;

(6) Collect license fees; and

(7) Maintain records of all licenses purchased and revenues received. (Ord. 2008-O-36 §1)

Sec. 6-1-50. Procedures for issuance.

Each applicant for a business license must annually submit, on forms preapproved by the License Officer, information necessary to determine compliance with this Article. (Ord. 2008-O-36 §1)

Sec. 6-1-60. License fee.

(a) Each application for a business license shall be accompanied by a biennial license fee, if any, as set forth in the business license fee schedule resolution adopted by the City Council, which may be amended from time to time.

(b) The biennial license fee required by this Article is for the privilege of pursuing the designated business within the City for the period for which the license is issued.

(c) In the event of cessation of any business prior to the expiration of any license issued hereunder, no portion of any license fee shall be refunded. (Ord. 2008-O-36 §1)

Sec. 6-1-70. Denial of license.

(a) The License Officer shall approve or deny an application for a business license within thirty (30) days of receipt of a completed application and fee.

(b) An application for a business license may be denied for any of the following reasons:

(1) All applicable provisions of this Article and state and local law have not been met;

(2) The required fee has not been paid in full; or

(3) The application is incomplete or contains false, misleading or fraudulent statements.

(c) If the License Officer denies an application, the License Officer shall provide by first-class U.S. mail written notice of such denial, the reason for the denial, a description of the appeal process and a refund of the license fee submitted by the applicant. (Ord. 2008-O-36 §1)

Sec. 6-1-80. Hearings.

(a) An applicant or licensee may appeal a denial of his or her license to the City Manager and shall be entitled to a hearing before the City Manager. The appeal shall be made in writing, stating the grounds for appeal, within five (5) working days of the decision of the License Officer.

(b) At the hearing, the City Manager shall hear such statements and consider such evidence as is offered that is relevant to the grounds alleged for denial. The City Manager shall make findings of fact from the statements and evidence offered as to whether such grounds exist. If the City Manager determines by a preponderance of the evidence that cause for denial exists, he or she shall issue an order denying the license within ten (10) days after the hearing is concluded, based on the findings of fact. A copy of the order shall be mailed to or served on the licensee at the address on the license or application.

(c) The order of the City Manager made pursuant to Subsection (b) above shall be a final decision and may be appealed to the District Court in accordance with Rule 106(a)(4) of the Colorado Rules of Civil Procedure. Failure of a licensee to timely appeal said order constitutes a waiver by him or her of any right he or she may otherwise have to contest the denial of the license.

(d) The City Manager shall have the power to administer oaths, issue subpoenas and, when necessary, grant continuances. Subpoenas may be issued to require the presence of persons and production of papers, books and records necessary to the determination of any hearing that the City Manager conducts. It is unlawful for any person to fail to comply with any subpoena issued by the City Manager. A subpoena shall be served in the same manner as a subpoena issued by the Municipal Court.

(e) All hearings held before the City Manager regarding denial of a license shall be recorded stenographically or by electronic recording device. Any person requesting a transcript of such record shall post a deposit in the amount required by the City Manager and shall pay all costs of preparing such record. (Ord. 2008-O-36 §1)

Sec. 6-1-90. Duplicate licenses.

A duplicate license, valid for the remainder of the license period, shall be issued by the License Officer to replace any license previously issued, which has been lost, stolen, defaced or destroyed. Duplicate license fee amounts shall be those set out in the business license fee schedule adopted by the City Council by resolution, which may be amended from time to time. (Ord. 2008-O-36 §1)

Sec. 6-1-100. Supplemental information.

A licensee shall report in writing any change in information contained in his or her last application within thirty (30) days of such change, and a supplemental license shall be issued and additional fees collected or refunded where appropriate. (Ord. 2008-O-36 §1)

Sec. 6-1-110. Contents of license.

Each license shall contain the following information:

- (1) Name and address of the licensee and any other name under which such business is to be conducted;
- (2) Type of business;
- (3) Address of each location of business to be licensed; and
- (4) Date of issuance and expiration. (Ord. 2008-O-36 §1)

Sec. 6-1-120. Duties of licensee.

All licensees shall:

- (1) Refrain from operating the business unless a valid license therefor has been issued.
- (2) Post and maintain such license at the licensed location in a place visible at all times and, when working outside the licensed location, carry a copy of the license at all times. If a licensee has no business premises, the licensee shall carry such license on his or her person when conducting business.
- (3) Comply with all federal, state and local laws and regulations. (Ord. 2008-O-36 §1)

Sec. 6-1-130. Change of business locations.

Upon changing the location of the licensed business, a licensee shall file a written application for change with the License Officer and pay a relocation fee. Such fee shall be in an amount set forth in the business license fee schedule as adopted by City Council by resolution, which may be amended from time to time. (Ord. 2008-O-36 §1)

Sec. 6-1-140. Nontransferability.

All business licenses are nontransferable. If a business is sold or transferred to a different owner, the new owner must apply for a new license before resuming operation of the business. Sale or transfer of the business is defined as the acquisition of fifty percent (50%) or more of an ownership interest by any person. (Ord. 2008-O-36 §1)

Sec. 6-1-150. License register.

The License Officer shall keep a register listing every license issued under this Article, including:

- (1) The name of the licensee;
- (2) The name of the business;
- (3) The type of the business;
- (4) The number of employees;
- (5) The location of the business;
- (6) Emergency contacts; and
- (7) The date of issuance and expiration of the license. (Ord. 2008-O-36 §1)

Sec. 6-1-160. Enforcement and fines.

This Article may be enforced in the Municipal Court or any court of competent jurisdiction. Any person who violates the requirements of this Article may be punished in accordance with the general penalty provisions set forth in Section 1-4-10 of this Code. (Ord. 2008-O-36 §1)

ARTICLE 2

Reserved

ARTICLE 3

Contractor Licenses

*Division 1
General Requirements*

Sec. 6-3-10. Licensing requirements and fees.

(a) All contractors operating in this City, in addition to the business license required under Article 1 of this Chapter, must obtain a contractor's license in accordance with this Article unless exempt under the provisions of Subsection (f) below.

(b) For purposes of this Article, in addition to the definitions set forth in Section 6-1-20 of this Chapter:

Contractor means any person who performs work on real property for another party under the terms of an agreement. *Contractor* shall include building contractors; road, grading and excavating contractors; electrical, plumbing and heating contractors; and any other persons engaged, under a contractual arrangement, in the construction, reconstruction or repair of any building, bridge or structure. For the purpose of this definition, *subcontractor* has the same meaning as *contractor*.

(c) Contractor licenses issued hereunder shall be valid and in effect for one (1) year from the date of issuance.

(d) Except as otherwise specifically set forth in this Section, all contractor licenses issued and held hereunder shall be issued and held in accordance with the provisions for issuance of and requirements for business licenses, including, without limitation, the same issuance and/or denial procedures, appeal procedures, limit on transferability and the same duties of licensees, as are provided in Article 1 of this Chapter.

(e) The City shall charge a nonrefundable annual fee for contractor licenses as set forth by resolution of the City Council, as may be amended from time to time.

(f) Upon evidence satisfactory to the License Officer that the applicant is competent to perform as a contractor in the categories in which the work falls, the requirement for a license may be waived for the following:

(1) Public utility and communication companies, water and sanitation districts and mutual companies when engaged in the installation, operation and maintenance of equipment which will be used for the production, generation or distribution of the utility, product or service from their source through the facilities owned or operated by utility companies to the point of the customer service, but not their buildings. This shall only apply when work is performed completely by employees of the utility companies and the total cost is paid exclusively from funds of these companies.

(2) An owner acting as a contractor or performing the work personally when engaged in the construction of a new building or the alteration of or addition to a building of R-3 single-family detached or Group U occupancy for residential purposes located on the owner's property. In order to qualify for the exception provided in this Paragraph, such owner shall be limited to the construction of no more than one (1) new building of R-3 single-family in any consecutive twenty-four-month period.

(3) The City, its officers, employees and agents when performing work on any public improvement.

(4) Any contractor performing in accordance with a construction contract between the contractor and the City or the County, acting on behalf of the City unless such contract requires licensure. (Ord. 2008-O-36 §2; Ord. 2011-O-17 §1)

Sec. 6-3-20. Proof of competency.

In order to obtain a contractor business license, an applicant shall prove competency in the specific areas as defined in Section Division 2 of this Article. Such proof of competency shall be determined by means of a written test created or approved by the Chief Building Official and issued by the License Officer, testing or certification by a recognized model code agency or reciprocal license agreement as determined by the Chief Building Official, previous work experience in related field, references and letters of recommendation confirming level of experience or any combination thereof. Testing fee amounts shall be those set out in the business license fee schedule. (Ord. 2004-O-14 §2-6.3.202; Ord. 2007-O-14 §1)

Sec. 6-3-30. Insurance requirements.

(a) Liability insurance required. Every contractor granted a license or registration under the terms of this Chapter shall be required to maintain at all times workers' compensation insurance in the statutorily required amounts, employees' liability and public liability insurance with minimum limits of not less than one hundred thousand dollars (\$100,000.00) for one (1) person and three hundred thousand dollars (\$300,000.00) for any one (1) accident, and property damage insurance with a minimum limit of not less than twenty-five thousand dollars (\$25,000.00) for any one (1) accident.

(b) Certificate of insurance. At the time application is made, and before a license or registration can be issued, the contractor shall file with the License Officer a certificate, naming the City as certificate holder, signed by a qualified agent of an insurance company. The certificate shall contain the following items, together with a statement and a copy of an endorsement placed on each policy requiring ten (10) days' written notice by certified mail to the License Officer if it becomes necessary to cancel the policy for any reason:

- (1) The policies required by this Section have been issued to the licensee for employees' liability insurance or workers' compensation insurance, public liability insurance and public property damage insurance;
- (2) The minimum limits of each policy;
- (3) The policy numbers;
- (4) The name of the company;
- (5) The effective dates of the policies; and
- (6) The expiration dates of the policies.

(c) Cancellation. In the event of a cancellation of a policy, the licensee shall be required to furnish a new certificate in full compliance with the terms of this Section within ten (10) days; otherwise, the license or registration shall be automatically revoked. The license shall be reinstated when the licensee has furnished a certificate of insurance in compliance with this Section, unless such license is suspended for reasons other than the failure to file a proper certificate of insurance. (Ord. 2004-O-14 §2-6.3.203; Ord. 2007-O-14 §1)

Sec. 6-3-40. Enforcement and fines.

This Article may be enforced in accordance with the provisions of Section 6-1-160 of this Chapter. In addition, when violations occur on job sites where a building, fence, right-of-way, sign or engineering permit is valid and effective, the Chief Building Official or designee appointed by the City Manager shall have full authority to issue a stop work order remaining in effect until the contractor has complied with all rules and regulations set forth in this Chapter. (Ord. 2008-O-36 §3)

Division 2
Classification of Contractor Licenses

Sec. 6-3-110. Asphalt paving.

An asphalt paving license shall entitle the licensee to contract for and perform work as an asphalt paving contractor in the public right-of-way and on private property within the City, and is required in order to perform asphalt placement, patching and sealing and other similar asphalt-related work. (Ord. 2004-O-14 §2-6.3.204)

Sec. 6-3-120. Concrete and form.

A Concrete and Form license entitles the licensee to contract for and install forms for concrete products, pour and finish concrete products and mix concrete products, subject to limitations in accordance with the applicable Building Code. All concrete and form work on Types I, II, III, IV and V structures, as defined in the applicable building code, over one thousand (1,000) square feet shall be under the supervision of a holder of a contractor's Class A, B or C license, as defined below. (Ord. 2004-O-14 §2-6.3.204)

Sec. 6-3-130. Contractor's Class A.

(a) A contractor's Class A license entitles the licensee to contract for and to do the work of building or contracting for, or altering or adding to, the structural portions of any building, structure or portion thereof of Types I, II, III, IV or V construction in any and all occupancy group classifications, where such work requires a permit pursuant to City building codes or ordinances. All such work shall be done in accordance with the terms and provisions of the City building codes and/or ordinances and all other City and state laws governing the same. A contractor's Class A license shall also entitle the licensee to contract for and do necessary demolition and wrecking work in connection with the work specified in this Section.

(b) Prior to any inspections, the general contractor shall provide a list to the City of all subcontractors to be used on the project, with the name and City license number for each subcontractor, or a list of all trades for which a subcontractor will be hired if the exact identity of the subcontractor is unknown or unidentified at the time of inspection. (Ord. 2004-O-14 §2-6.3.204)

Sec. 6-3-140. Contractor's Class B.

(a) A contractor's Class B license entitles the licensee to contract for and to do the work of building or contracting for, or altering or adding to, structural portions of buildings, structures or

portions thereof of Types III, IV and V construction in the following number of occupancy classifications, as defined in the applicable building code:

- (1) Group A.
- (2) Group B.
- (3) Group M.
- (4) Group R.
- (5) Group S.
- (6) Group U.

(b) There is no limit on the number of additions, alterations or remodeling of the group occupancies listed in this description. A contractor's Class B license shall also entitle the licensee to contract for and do the necessary demolition and wrecking work in connection with the work specified in this Section.

(c) Prior to any inspections, the general contractor shall provide a list to the City of all subcontractors to be used on the project, with the name and City license number for each subcontractor, or a list of all trades for which a subcontractor will be hired if the exact identity of the subcontractor is unknown or unidentified at the time of inspection. (Ord. 2004-O-14 §2-6.3.204)

Sec. 6-3-150. Contractor's Class C.

(a) A contractor's Class C license entitles the licensee to contract for and to do the work of building, contracting for, altering or adding to structural portions of buildings, structures or portions thereof of Types III, IV and V construction in the following number of occupancy classifications:

- (1) Group R, Division 3.
- (2) Group U – For residential purposes.

(b) There is no limit on the number of additional alterations or remodeling of the group occupancies mentioned in this description. A contractor's Class C license shall also entitle the licensee to contract for and to do the necessary demolition or wrecking work in connection with the work specified in this Section.

(c) Prior to any inspections, the general contractor shall provide a list to the City of all subcontractors to be used on the project, with the name and City license number for each subcontractor, or a list of all trades for which a subcontractor will be hired if the exact identity of the subcontractor is unknown or unidentified at the time of inspection. (Ord. 2004-O-14 §2-6.3.204)

Sec. 6-3-160. Demolition.

A demolition license entitles the licensee to contract and engage in the demolition of existing structures. All work connected with wrecking and demolishing structures shall be done in accordance with all applicable City codes and ordinances. (Ord. 2004-O-14 §2-6.3.204)

Sec. 6-3-170. Electrical.

An electrical license entitles the licensee to perform any functions as permitted under the licensure of the Colorado Electrical Board, and such licensee shall be licensed by the Colorado Electrical Board. (Ord. 2004-O-14 §2-6.3.204)

Sec. 6-3-180. Excavating.

An excavating license shall entitle the licensee to contract for and to do the work of cutting into public rights-of-way and excavating into the public right-of-way and on private property within the City. The holder of an excavating license shall be subject to the provisions of all applicable City codes and ordinances. The holder of a license under any other section of this Article shall not be required to obtain an excavating license, but shall be subject to the provisions of this Section. (Ord. 2004-O-14 §2-6.3.204)

Sec. 6-3-190. House and building movers.

A house and building movers license entitles the licensee to contract for and engage in the moving of structures within, into and out of the City limits, subject to the following limitations:

- (1) New structural alterations, additions and foundation work shall be completed by the holder of a contractor's Class A, B or C license;
- (2) Plumbing work necessary in moving and relocating the structure shall be completed by the holder of a plumber's master Class A or B license;
- (3) Electrical work necessary in moving and relocating the structure shall be completed by the holder of an electrical license. (Ord. 2004-O-14 §2-6.3.204)

Sec. 6-3-200. HVAC.

A warm air heating and ventilation (HVAC) license entitles the licensee to contract for and install warm-air heating and ventilation and their appurtenances. All work shall be performed only in accordance with all applicable City codes and ordinances. All electrical work shall be performed by a holder of an electrical license. (Ord. 2004-O-14 §2-6.3.204)

Sec. 6-3-210. Masonry.

A masonry license entitles the licensee to erect, construct, alter or demolish chimneys, fireplaces, walls and pilasters, and to do other work on a building composed of masonry units in accordance with all applicable City codes and ordinances. Holders of contractor's Class A, B or C licenses need not obtain a masonry license to do the work referred to under this Section. (Ord. 2004-O-14 §2-6.3.204)

Sec. 6-3-220. Mobile home installer.

(a) Every person engaged in the installation of a mobile home or other modular housing unit shall hold a valid mobile home installer's license issued by the City. The issuance of such a license shall conform to the requirements of all applicable City codes and ordinances. The license shall be considered a Class C contractor's license as specified in Section 6-3-150 of this Article, and the licensee shall be entitled to perform the following services:

- (1) Connect to existing electrical outlet and gas meter;
- (2) Connect to water and sewer utility outlets, provided that the outlets are located on the site of the mobile home; and
- (3) Move the mobile home onto a mobile home pad and install blocking, piers and tie-down systems.

(b) The owner of a mobile home, provided that the owner is also the occupant of the mobile home, may install and locate the mobile home, including attachment to the required utilities, without obtaining a mobile home installers license; provided, however that the owner shall acquire all other necessary permits.

(c) All installations and connections of mobile homes, either by a mobile home installer licensee or owner/occupant, shall be in accordance with the applicable provisions of this Chapter and other applicable codes and ordinances of the City. (Ord. 2004-O-14 §2-6.3.204)

Sec. 6-3-230. Plumber's journeyman.

A plumber's journeyman license entitles the licensee to install all sanitary plumbing and potable water supply piping for which a permit is required under the terms and provisions of the City's building code, other City ordinances and state laws governing the same. A plumber's journeyman may perform the work which he or she is licensed to do only under the supervision or in the employ of a Plumber's Master Class A license. (Ord. 2004-O-14 §2-6.3.204)

Sec. 6-3-240. Plumber's master Class A.

A plumber's master Class A license entitles the licensee to contract for and to install all sanitary plumbing and potable water supply piping for which a permit is required under the provisions of all applicable City codes and ordinances, and state laws governing the same. This license requires a current master plumber license issued by the Colorado Plumbing Board. (Ord. 2004-O-14 §2-6.3.204)

Sec. 6-3-250. Special inspector contractor.

A special inspector contractor license entitles the licensee to approve private firms or individuals to perform inspections as required by adopted codes.

- (1) A special inspector is a person responsible for performing inspections of projects where permits are required to be obtained for such work. A special inspector shall be licensed to perform such inspections by the City.

(2) In addition to the insurance requirements set out in Section 6-3-30 of this Article, a special inspector contractor shall obtain errors and omissions insurance in the amount of not less than one million dollars (\$1,000,000). (Ord. 2004-O-14 §2-6.3.204)

Sec. 6-3-260. Steam and hot water contractor Class VII.

A steam and hot water contractor Class VII license entitles the licensee to install the following:

- (1) Steam and hot water heating systems;
- (2) Process and industrial piping and related appurtenances, which shall include the piping used for the transmission of chemicals and gases;
- (3) Burners, piping and controls utilizing gas, liquid and solid fuel; and
- (4) Water heaters, pipe insulation and low-voltage wiring which does not exceed forty-eight (48) volts, provided that such wiring is not enclosed in a conduit or raceway. (Ord. 2004-O-14 §2-6.3.204)

Sec. 6-3-270. Trade contractor.

A trade contractor's license shall entitle the licensee to contract for and to do the work of a particular trade or job connected with the building industry; e.g., carpenter, drywall, framing, insulation, painting, roofing, siding, windows, doors, flooring, cabinets, counter tops, fencing, structural steel, welding, fire protection, access control, security systems, landscaping, lawn sprinkler systems, retaining walls, signs, swimming pools, elevators and escalators, caulking, waterproofing, etc. Such trade contractor's license shall be limited to the trade or particular kind of work specified in the license, and such other work as may be incidental thereto. (Ord. 2004-O-14 §2-6.3.204)

Sec. 6-3-280. Utility contractor.

A utility contractor license entitles the licensee to contract for and perform work as a utility contractor in the public right-of-way and on private property within the City. Utilities shall include, but are not limited to, sewer, water, cable, gas, electricity, communications and phone. (Ord. 2004-O-14 §2-6.3.204)

ARTICLE 4

Liquor Licenses

*Division 1
General Provisions*

Sec. 6-4-10. Title and scope.

This Article shall be known and cited as the *City Liquor Code*. The City Liquor Code shall apply to all persons who sell alcohol beverages at retail within the City. The existence of specific provisions in the City Liquor Code regarding any issue or subject shall not limit the requirements or

authorities provided in the state liquor laws related to regulating or licensing the sale of alcohol beverages within the City. (Ord. 2004-O-04 §2-6.4.101)

Sec. 6-4-20. Definitions.

All words and phrases used in this Article shall have the meanings as set forth in Title 12, Articles 46 and 47, C.R.S., and the case law interpreting the same. All other words and phrases used in this Article shall have their common, ordinary and accepted meanings, except that the following terms shall have the following meanings:

Administrative application means an application for a City license that may be granted or denied administratively by the City Clerk.

Alcohol beverage tastings means the sampling of malt, vinous or spirituous liquors that may occur on the premises of a retail liquor store licensee or liquor-licensed drugstore licensee by adult patrons of the licensee pursuant to the provisions of Division 4 of this Article and Section 12-47-301(10), C.R.S.

Applicant means a person or entity applying for a City license or permit under the City Liquor Code.

- a. If an individual, the person making the application.
- b. If a partnership, the partnership and each partner owning ten percent (19%) or more of the partnership.
- c. If a corporation or other legal entity licensed by the Colorado Secretary of State, the corporation and each and every officer, director, manager or stockholder holding ten percent (10%) or more of the stock therein.

Authority or Liquor Licensing Authority means the Local Licensing Authority for the City.

City Clerk means the City Clerk for the City or such person as may be assigned by the City Clerk to perform the functions or duties required under this Article.

City license means a license or permit issued pursuant to the City Liquor Code. The term *City license* shall include temporary permits.

Immediate family means a mother, father, brother, sister, child or spouse, whether established by blood or law.

Licensee means an applicant that has been issued a City license pursuant to the City Liquor Code.

Manager means an on-site person who manages, directs, supervises, oversees and administers the transactions and acts of servants of the establishment issued a City license or permit.

Optional premises license means a City license issued for an optional premises.

State liquor laws means Articles 46, 47 and 48 of Title 12, C.R.S., and the rules and regulations adopted thereunder by the Colorado Licensing Authority and Department of Revenue. (Ord. 2004-O-04 §2-6.4.102; Ord. 2005-O-10 §1; Ord. 2007-O-14 §1; Ord. 2010-O-10 §1; Ord. 2010-O-12 §1)

*Division 2
Liquor Licensing Authority*

Sec. 6-4-110. City Liquor Licensing Authority established.

(a) The City Liquor Licensing Authority (the "Authority") is hereby established to be and act as the Local Licensing Authority for the City with all powers and authority granted to the local licensing authority by state liquor laws.

(b) The Authority shall consist of five (5) residents of the City, one (1) from each of the four (4) districts and one (1) at large, who shall be appointed by the City Council. Of those initially appointed, two (2) shall be for a term of three (3) years, two (2) for a term of two (2) years and one (1) for a one-year term. Thereafter, appointments shall be for a three-year term. Additionally, two (2) persons from the City at large, but not from the same district, will be appointed as alternate members. One (1) alternate will initially be appointed for a term of two (2) years, and one (1) alternate will initially be appointed for a term of three (3) years. Appointments of alternates will be for three-year terms thereafter.

(c) No person shall serve as a member of the Authority who has any interest in any entity required to have a City license or a state license issued pursuant to the state liquor laws. A person shall be deemed to have such an interest if the person or a member of his or her immediate family has such an interest. Ownership of stock solely for investment purposes in a corporation whose stock is publicly traded shall not be deemed a disqualifying interest.

(d) Authority members shall be appointed and may be removed by resolution or motion of the City Council. Any member of the Authority may be removed with or without cause. Any vacancy occurring on the Authority shall be filled for the unexpired term.

(e) The Authority shall annually elect a chair who shall serve until his or her successor is elected, and shall preside over all hearings and proceedings of the Authority. The chair may designate a member of the Authority to assume his or her duties in his or her absence.

(f) A quorum for conducting business of the Authority shall consist of three (3) members of the Authority. Any absent member may be replaced during his or her absence by an alternate member, who shall be counted in determining whether a quorum exists and who may join in a decision of the Authority. A decision of the majority of the members voting, including any alternates replacing an absent regular member, shall control. All decisions of the Authority are final, subject only to appeal to a court of competent jurisdiction.

(g) Members of the Authority shall be entitled to a stipend for meeting attendance in an amount established by resolution of the City Council. Other than such stipend, members of the Authority

shall not be entitled to any other compensation or reimbursement of expenses. (Ord. 2004-O-04 §2-6.4.201; Ord. 2005-O-01 §1; Ord. 2008-O-16 §3)

Sec. 6-4-120. Duty and authority of City Clerk's office.

The City Clerk shall be responsible for receiving all applications for and issuing all licenses pursuant to this Article, assisting all applicants and licensees in the liquor licensing process, maintaining adequate records of all licenses and applications therefor and serving as the official secretary and staff liaison to the Authority. Subject to the right of any appeal to the Authority, the City Clerk shall decide all licensing matters that may be determined administratively under this Article and state liquor laws. (Ord. 2010-O-10 §2)

Sec. 6-4-130. Adoption of administrative procedures.

The Authority, with the assistance of the City Clerk, may adopt such administrative procedures, rules and regulations as necessary or convenient to implement the provisions of the City Liquor Code. All such procedures, rules and regulations shall be consistent with the state liquor laws. (Ord. 2004-O-04 §2-6.4.203; Ord. 2010-O-10 §3; Ord. 2010-O-12 §1)

Sec. 6-4-140. Legal counsel.

The office of the City Attorney shall be the legal advisor to the Authority and shall represent the Authority and the City in all proceedings before the Authority and in all courts where any decision of the Authority is appealed. In any matter before the Authority where representation of the Authority would create a conflict with representing the City, such as representing the City in opposition of an applicant or licensee, the City attorney's office shall represent the Authority and the Municipal Court prosecutor or another attorney outside the City attorney's office designated by the City attorney shall represent the City. (Ord. 2004-O-04 §2-6.4.204)

*Division 3
Liquor License Requirements*

Sec. 6-4-210. Liquor license required.

No person shall sell alcohol beverages at retail within the City except pursuant to and in compliance with the City Liquor Code, the state liquor laws and a currently valid City license. All previously issued City licenses must be renewed annually upon proper application and payment of licensing and application fees. (Ord. 2004-O-04 §2-6.4.301)

Sec. 6-4-220. Conditions of issuance.

It shall be deemed a condition of the issuance of every City license that the licensee shall comply with the terms of this Code, including but not limited to the City Liquor Code and the state liquor laws. (Ord. 2004-O-04 §2-6.4.302)

Sec. 6-4-230. License display required.

Once a temporary or permanent City license is issued, it shall be unlawful for the licensee to fail to display said license in a prominent location within the licensed premises. (Ord. 2004-O-04 §2-6.4.303)

Sec. 6-4-240. Application for liquor license.

(a) Application forms and written procedures for submitting applications for a City license shall be available to applicants from the City Clerk. Applications shall be submitted to the City Clerk and accompanied by all the required fees and such additional materials as the City Clerk deems necessary or appropriate to carry out the provisions of the state liquor laws and the City Liquor Code. No application shall be considered which is not complete in every detail. Incomplete applications may be returned to the applicant for completion or correction without any further action. Neither the City nor the Authority shall be responsible for the failure of a license to be issued or renewed prior to an expiration date because of a late, incomplete or defective application.

(b) The City Clerk will receive and process all applications, including conducting or directing investigations of the character, record and reputation of applicants and managers, and inspection of the licensed premises.

(c) Applications requiring Authority determination will then be scheduled for consideration by the Authority.

(d) Administrative applications will then be approved or denied by the City Clerk, subject to appeal to the Authority, or referred by the City Clerk to the Authority.

(e) Upon approval by the City Clerk or the Authority, as the case may be, applications will be forwarded by the City Clerk to the State for final consideration. (Ord. 2004-O-04 §2-6.4.401; Ord. 2010-O-10 §4; Ord. 2010-O-12 §1)

Sec. 6-4-250. Financial information authorization and release.

Every applicant and licensee shall execute an authorization for any source to release to the City, without further permission from the applicant or licensee, financial information concerning the applicant or licensee. (Ord. 2004-O-04 §2-6.4.402; Ord. 2007-O-14 §1)

Sec. 6-4-260. Fees.

(a) License fees. An applicant shall pay a City license fee at the time of application, in the amount set by the state liquor laws. Such license fee shall not be rebated or discounted on a proportionate or other basis for any license in existence or issued for less than one (1) full year. City license fees shall be in addition to any annual state license or registration fees.

(b) Application fees. In addition to the fees set forth in Subsection (a), the applicant shall pay to the City at the time of application for any liquor license, liquor license amendment, permit or other form of review and approval, including but not limited to an application for a new license, special events permit, transfer of location or ownership, change of corporate structure, renewal, late fee for

renewal or temporary permit pending transfer of ownership, an application fee in the amount equal to the maximum amount authorized by state statute, as may be amended from time to time. (Ord. 2004-O-04 §2-6.4.403; Ord. 2005-O-10 §2; Ord. 2007-O-15 §1)

Sec. 6-4-270. Manager registration required.

(a) Each hotel and restaurant licensee or tavern licensee shall manage the licensed facility himself or herself or shall have a separate and distinct manager who shall be registered by the licensee with the Authority and the state licensing authority. Upon a change of manager of a hotel and restaurant or tavern licensee, the licensee shall notify the City Clerk within five (5) days and shall designate a new registered manager within thirty (30) days. In addition to fees required by the State, there will be paid to the City a registration fee of seventy-five dollars (\$75.00).

(b) All other licensees must report the names of new managers to the City Clerk within thirty (30) days of their appointment. (Ord. 2004-O-04 §2-6.4.404; Ord. 2010-O-10 §4)

Sec. 6-4-280. Optional premises license.

(a) An optional premises license, as defined in Section 12-47-413, C.R.S., and an optional premises designation in conjunction with a hotel and restaurant liquor license may be issued in compliance with the standards set forth in this Section.

(1) Additional standards. The standards for optional premises licenses shall be in addition to all other standards applicable to the issuance of City licenses.

(2) Eligible facilities. An optional premises may only be approved when the premises are located on or adjacent to an outdoor sports and recreational facility. The types of outdoor sports and recreational facilities which may be considered for an optional premises license include the following:

- a. Country clubs.
- b. Golf courses and driving ranges.
- c. Ice skating arenas.
- d. Mini golf courses.
- e. Swimming pools.
- f. Outdoor tennis courts and clubs.

There are no restrictions on the minimum size of the outdoor sports and recreational facilities which may be eligible for an optional premises license. However, the Authority may consider the size of the particular outdoor sports or recreational facility in relationship to the number of optional premises requested for the facility, and may deny any optional premises application if it considers the related facility to be too small to require an optional premises.

(3) Number of optional premises. The Authority, in its discretion, may restrict the number of optional premises which any one (1) licensee may have. Any licensee requesting approval of more than one (1) optional premises shall:

a. Explain the reason for each optional premises requested.

b. Demonstrate how the optional premises relate to each other from an operational standpoint.

c. Demonstrate the need for each optional premises in relationship to the outdoor sports and recreational facility and its guests.

d. Demonstrate that the optional premises will not adversely affect the neighborhood in which it is located.

(4) Submittal requirements. Each initial application and annual renewal application for an optional premises shall be accompanied by:

a. An application fee, plus the local and state license fees.

b. A map or other drawing illustrating the outdoor sports or recreational facility boundaries and the approximate location of each optional premise requested.

c. A description of the approximate area within which the optional premises shall be located.

d. A description of the method which shall be used to identify the boundaries of and to control the optional premises when it is in use. For example, the applicant may describe the types of signs, fencing or other notices or barriers to be used in order to control the optional premises.

e. A description of the provisions which have been made for storing alcohol beverages in a secured area, on or off the optional premises, for the future use of the optional premises.

(b) Advance notification. No alcohol beverages may be served at optional premises without the licensee providing written notice to the State and the Authority forty-eight (48) hours in advance, stating the specific days and hours on which the optional premises are to be used. (Ord. 2004-O-04 §2-6.4.405)

Sec. 6-4-290. License renewal.

(a) All renewal applications for City licenses shall be submitted to the City Clerk no later than forty-five (45) days prior to the date on which the license expires.

(b) If there is evidence that the license should not be renewed, the City Clerk shall set the application for hearing with the Authority.

(c) Renewal of expired license:

(1) A licensee whose license has expired for not more than ninety (90) days may file an expired license renewal application. A licensee who files such application and pays the requisite fees may continue to operate until both the State and the City have taken final action to approve or deny the late renewal application.

(2) An expired license renewal application will not be accepted more than ninety (90) days after the expiration of a licensee's permanent annual license. If more than ninety (90) days have elapsed since the expiration of a permanent annual license, the licensee must apply for a new license and shall not sell or possess for sale any alcohol beverage until all required licenses have been obtained. (Ord. 2004-O-04 §2-6.4.406; Ord. 2010-O-10 §4)

Sec. 6-4-300. Administrative applications.

(a) The following administrative applications may be decided by the City Clerk, subject to appeal to the Authority:

- (1) Transfer of ownership of existing City license.
- (2) Change of corporate structure of existing City license.
- (3) Modification of premises of existing City license.
- (4) Renewal of existing City license.
- (5) Manager registration for existing City license.
- (6) Special events permit.
- (7) Change of corporate or trade name permit for an existing City license.
- (8) Bed and breakfast permits.
- (9) All other City license-related applications not requiring a public hearing by the state liquor laws.

(b) The City Clerk may refer to the Authority for a decision regarding any administrative application when, as determined in the discretion of the City Clerk, the public interest would be best served by the determination of the matter by the Authority.

(c) Administrative applications denied by the City Clerk may be appealed to the Authority. Appeals must be submitted in writing to the City Clerk within ten (10) days of denial, and may include a request for a hearing. Appeals to the Authority will be decided de novo. (Ord. 2004-O-04 §2-6.4.407; Ord. 2010-O-10 §4; Ord. 2010-O-12 §1)

Sec. 6-4-310. Authority determinations.

(a) Appeals. The Authority shall determine all appeals of administrative applications, matters for which a hearing is required pursuant to the City Liquor Code or the state liquor laws, and all matters not authorized to be determined administratively.

(b) Public notice. The Authority shall cause to be posted and published public notice of any hearing as required by the state liquor laws.

(c) Investigation. At least five (5) days prior to the hearing, the City Clerk shall send a letter to the applicant, by certified mail, enumerating the results of any and all investigations performed by the City Clerk. The letter shall be available for public inspection at least five (5) days prior to the hearing.

(d) Authority powers. The Authority shall have the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books and records necessary to the determination of any hearing which the Authority is authorized to conduct. It shall be unlawful for any person to fail to comply with any subpoena issued by the Authority in the proper conduct of its hearings. The Municipal Court shall enforce the subpoenas of the Authority.

(e) Deliberations. The Authority may continue any hearing from time to time as may be required to gather necessary facts and evidence and to permit witnesses to testify. Before entering any decision on any matter before it, the Authority shall consider the facts and evidence adduced as a result of the investigation, evidence and testimony and, when applicable, the desires of the inhabitants of the neighborhood, the reasonable requirements of the neighborhood for the type of license for which application has been made, and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed.

(f) Decisions. The Authority shall render its decision no later than thirty (30) days following the conclusion of a public hearing.

(g) The City Clerk shall send a written copy of the Authority's decision and the reasons for the decision, by certified mail, to the applicant at the address shown on the application, and to any other party in interest upon written request. (Ord. 2004-O-04 §2-6.4.408; Ord. 2010-O-10 §5)

Sec. 6-4-320. Suspension, revocation and fines.

(a) The Authority shall have the power upon its own motion or upon complaint, and in accordance with the state liquor laws, to:

(1) Summarily suspend any City license for a period not to exceed fifteen (15) days.

(2) Upon notice to the licensee and hearing, suspend any City license for a period not to exceed six (6) months or revoke the license.

(3) Accept payment of a fine in lieu of any suspension of fourteen (14) days or less.

(b) Whenever the Authority or the City Clerk receives a written complaint charging any person with a violation of the state liquor laws or the City Liquor Code, the Authority shall cause an investigation to be made to determine the veracity of the charge. After investigating the charge and determining the probable truth of the charge, the Authority shall issue a written notice to show cause directed to such person. The notice to show cause shall be served personally or by certified mail to the licensee at the address contained in the license or to such other person at the person's residence or principal place of business. The notice shall direct the person to appear at a certain place and at a

time designated, which date shall be not earlier than ten (10) days after mailing, to show cause, if any, why the City license should not be suspended or revoked or the person found in violation of the state liquor laws or City Liquor Code. The notice shall further contain information generally describing the alleged charge. (Ord. 2004-O-04 §2-6.4.409; Ord. 2010-O-10 §6; Ord. 2010-O-12 §1)

Division 4
Alcohol Beverage Tastings

Sec. 6-4-410. Authority.

Alcohol beverage tastings, as defined in this Article, are permitted within the City only following approval of an application for an alcohol beverage tastings permit and subject to the limitations set forth in this Division and Section 12-47-301(10), C.R.S. (Ord. 2005-O-10 §3-6.4.501)

Sec. 6-4-420. Application for alcohol beverage tastings permit.

(a) A retail liquor store or liquor-licensed drugstore licensee desiring to conduct alcohol beverage tastings must submit an administrative permit application or administrative application permit renewal for that purpose in accordance with this Section and Section 6-4-300 of this Article.

(b) An alcohol beverage tastings permit shall be valid for the period of the then-existing liquor license, and the permit may be renewed at the time of any liquor license renewal.

(c) An application for an alcohol beverage tastings permit must be submitted to the City Clerk no later than thirty (30) days prior to the date of the first alcohol beverage tasting requested in the application or at the time of license renewal, whichever occurs first.

(d) At a minimum, the application must include the following information:

(1) The name of the licensee and location of the licensed premises of the retail liquor store or liquor-licensed drugstore;

(2) Description of the proposed tasting event, including information describing where within the licensed premises the tasting event will be conducted and how such event will comply with this Division.

(3) Schedule of the specific dates and times of requested alcohol beverage tastings for the period of the permit. Such schedule shall conform to all requirements imposed by Section 6-4-440 below. Following approval of a tastings permit and the tastings schedule by the City, the licensee may amend such schedule by delivering to the liquor licensing Administrator, at least forty-eight (48) hours prior to an unscheduled event, a notice of amendment of the City-approved schedule.

(4) A copy of a certificate of training for individuals who will conduct alcohol beverage tastings.

(5) Payment of the application fee in accordance with Section 6-4-260 of this Article.

(6) Any other information requested by the City Clerk reasonably necessary to ensure compliance with the requirements of this Division, state law or applicant regulation. (Ord. 2005-O-10 §3-6.4.502; Ord. 2010-O-10 §4)

Sec. 6-4-430. Decision on application.

In accordance with Section 6-4-300, the City Clerk shall approve, approve with restrictions, deny the application for alcohol beverage tastings or refer such decision to the Authority. The City Clerk or Authority, as appropriate, may deny an application if the applicant fails to establish that the applicant is able to conduct alcohol beverage tastings in compliance with this Division or Section 12-47-301(10), C.R.S., or if such alcohol beverage tastings create or threaten to create a public safety risk to the neighborhood. A decision to deny an alcohol beverage tastings application shall be made in writing and shall be provided to the applicant within five (5) business days of the date of the decision. Approval of an application for alcohol beverage tastings shall also constitute approval of the schedule for tastings submitted with the application unless such schedule fails to conform to all applicable requirements imposed by Section 6-4-440 below. (Ord. 2005-O-10 §3-6.4.503; Ord. 2010-O-10 §4)

Sec. 6-4-440. Alcohol beverage tastings regulations.

The following regulations shall apply to all alcohol beverage tastings:

(1) Alcohol beverage tastings shall be conducted only on a licensee's licensed premises and only by a person who has completed a server training program that meets the standards established by the Liquor Enforcement Division of the Colorado Department of Revenue and who is either a retail liquor store licensee, a liquor-licensed drugstore licensee or an employee of a licensee.

(2) The alcohol used in alcohol beverage tastings shall be purchased through a licensed wholesaler, licensed brewpub or winery licensed pursuant to Section 12-47-403, C.R.S.

(3) The size of an individual alcohol sample shall not exceed one (1) ounce of malt or vinous liquor or one-half (½) ounce of spirituous liquor. The licensee shall not serve more than four (4) individual samples to a patron during an alcohol beverage tasting.

(4) Alcohol beverage tastings shall not exceed a total of five (5) hours in duration per day, which hours shall be consecutive.

(5) Alcohol beverage tastings shall be conducted only during the operating hours in which the licensee on whose premises the tastings occur is permitted to sell alcoholic beverages, and in no case earlier than 11:00 a.m. or later than 7:00 p.m.

(6) Alcohol beverage tastings shall occur only on those dates and times specified in the tastings schedule submitted with the application, as may be amended in conformance with this Division.

(7) The licensee shall prohibit patrons from leaving the licensed premises with an unconsumed alcohol sample.

(8) The licensee shall promptly remove all open and unconsumed alcohol beverage samples from the licensed premises or shall destroy the samples immediately following the completion of the alcohol beverage tastings.

(9) The licensee shall not serve a person who is under twenty-one (21) years of age or who is visibly intoxicated.

(10) Alcohol samples shall be in open containers and shall be provided to a patron free of charge.

(11) The number of weekly and/or annual alcohol beverage tastings per license shall be limited as set forth in Section 12-47-301(10)(c)(XI), C.R.S., as may be amended.

(12) No manufacturer of spirituous or vinous liquors shall induce a licensee through free goods or financial or in-kind assistance to favor the manufacturer's products being sampled at a tasting. The licensee shall bear the financial and all other responsibility for a tasting.

(13) Alcohol beverage tastings may only be conducted at a date or time specified in the City-approved schedule of tasting events for the licensee. The City-approved schedule may be amended by the applicant by delivering to the City Clerk, at least forty-eight (48) hours prior to an unscheduled event, a notice of amendment of the City-approved schedule. The City Clerk shall promptly transmit tastings schedules and any amendment to a tasting schedule to the appropriate law enforcement official responsible for monitoring and enforcing the laws governing liquor licensees. (Ord. 2005-O-10 §3-6.4.504; Ord. 2010-O-10 §4; Ord. 2011-O-03 §1)

Sec. 6-4-450. Violations.

(a) Any violation of the regulations specified in this Division or in Section 12-47-301(10), C.R.S., by a retail liquor store or liquor-licensed drugstore licensee, whether by the licensee's employees, agents or otherwise, shall be the responsibility of the retail liquor store or liquor-licensed drugstore licensee which is conducting the alcohol beverage tasting.

(b) A licensee's noncompliance with any provision of this Division shall be deemed a violation of the City Liquor Code and shall be cause for revocation of the licensee's alcohol beverage tastings permit, or shall be cause for revocation, suspension or other enforcement provisions as otherwise apply to the licensee's license. (Ord. 2005-O-10 §3 6.4.505)

ARTICLE 5

Sexually Oriented Business Licenses

Division 1 General Licensing

Sec. 6-5-10. Title, application and findings of fact.

(a) Title and application. This Article shall be known as the *Sexually Oriented Business License Program* and shall apply to any business operating a sexually oriented business as defined in Section 3-400 of the Land Development Code.

(b) Findings of fact. The City Council hereby finds:

(1) There are a substantial number of sexually oriented businesses in the Denver metropolitan area and these uses require special supervision from public safety agencies and municipal regulation in order to protect the health, safety and welfare of the patrons of such businesses, as well as the citizenry.

(2) Regulation of sexually oriented businesses furthers substantial governmental interests and is necessary because, in the absence of such regulation, significant criminal activity, including prostitution, narcotics and liquor law violations, has historically and regularly occurred.

(3) Sexually oriented businesses are frequently used for unlawful and unhealthy sexual activities, including prostitution and sexual liaisons of a casual nature.

(4) The concern over sexually transmitted diseases, including HIV, is a legitimate health concern of the City which demands reasonable regulation of sexually oriented businesses in order to protect the health and well-being of the citizens.

(5) Sexually oriented businesses have a deleterious effect on both neighboring businesses and surrounding residential areas, causing an increase in crime and a decrease in property values.

(6) Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are often uncontrolled by the operators of the establishments.

(7) Some people frequent certain adult theaters, adult arcades and other sexually oriented businesses to engage in sex within the premises of such sexually oriented businesses.

(8) Sexually oriented businesses have serious objectionable characteristics, particularly when they are located in close proximity to each other, thereby contributing to urban blight and downgrading the quality of life in the adjacent area.

(9) City Council recognizes the possible harmful impact on children and minors exposed to the effects of adult businesses that includes those encountered when children walk through or visit in the immediate neighborhood of such businesses.

(10) Location criteria alone do not adequately protect the health, safety and general welfare of the residents of the City.

(11) Sexually oriented businesses have operational characteristics that the City Council should reasonably regulate to protect substantial government concerns relating to the transmission of communicable diseases and illegal sexual activities that occur in these establishments.

(12) A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and operators of the sexually oriented business, and such licensing procedure places an incentive on operators to see that sexually oriented businesses are run in a manner consistent with the health, safety and welfare of patrons and employees, as well as the citizens of the City.

(13) The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of sexually oriented businesses is substantially related to the significant governmental interest in the operation of such uses and will aid in preventing the spread of sexually transmitted diseases.

(14) The fact that an applicant for a sexually oriented business has been convicted of a sexually related crime leads to the rational assumption that the applicant may engage in that conduct in violation of this Article, and barring such individuals from the management of adult uses for a period of years serves as a deterrent to, and prevents the conduct that leads to, the transmission of sexually transmitted diseases.

(15) The City wishes to minimize and control adverse effects and thereby protect the health, safety and welfare of the citizens; preserve the quality of life; preserve the property values and character of surrounding neighborhoods; deter the spread of urban blight; and protect the citizens from increased crime.

(16) It is not the intent of this Article to suppress any speech protected by the First Amendment, but to enact content-neutral regulations that address the secondary effects of sexually oriented businesses. (Ord. 2005-O-29 §1-6.5.101)

Sec. 6-5-20. Definitions.

As used in this Article, the following words, terms and phrases have the following meanings or the meanings prescribed in Section 3-402 of the Land Development Code, as amended:

City Manager means the City Manager for the City or the City Manager's designee. In the event the position of City Manager is vacant, the Mayor shall appoint such person.

Employee means any person who performs any service, with or without compensation, on the premises of a sexually oriented business on a full-time, part-time or contract basis, regardless of whether the person is identified as an employee, independent contractor, agent or volunteer, or by another designation. *Employee* shall not include a person on the premises exclusively for repair or maintenance of the premises, or for delivering or removing tangible property to or from the premises.

Entertainer means a person who performs, dances or otherwise entertains while nude or semi-nude in a sexually oriented business, regardless of whether said person is paid a salary, wage or other compensation for said performance.

Licensee means a person in whose name a license to operate a sexually oriented business is issued, as well as every individual listed as an applicant on the license application.

Person means an individual, proprietorship, partnership, corporation, association or other legal entity.

Specified criminal act means any offense which is included in the definition of *unlawful sexual behavior* under Section 16-22-102, C.R.S.; any offense committed in another state that, if committed in this State, would constitute an offense involving unlawful sexual behavior; or any offense that has a factual basis of one (1) of the offenses specified in the statutory definition of *unlawful sexual behavior*. *Specified criminal act* also includes any offense involving soliciting for prostitution, prostitution, patronizing a prostitute, pandering, pimping, public indecency or the distribution or possession of obscene materials. (Ord. 2005-O-29 §1-6.5.102)

Sec. 6-5-30. License required; fee.

(a) No person shall conduct or operate a sexually oriented business without first having obtained a sexually oriented business license as required by this Article. Each applicant shall pay an annual license fee set by resolution of the City Council based on the reasonable costs incurred by the City to administer this Article.

(b) In the event an application for a sexually oriented business license is withdrawn prior to issuance or is denied, the license fee shall be refunded in full to the applicant. The license fee is in addition to any application fee required by this Article. (Ord. 2005-O-29 §1-6.5.103)

Sec. 6-5-40. License application.

(a) All applicants for a sexually oriented business license shall file a completed application for such license with the City Manager on forms to be provided by the City Manager. Each individual applicant, partner of a partnership, officer or director of a corporation, and manager of a limited liability company and all business managers shall be named in each application form, and each of them shall be photographed and fingerprinted by the County Sheriff's Department within ten (10) days of the applicant requesting such photograph and fingerprinting.

(b) The completed application shall contain the following information and shall be accompanied by the following information or documents:

(1) If the applicant is:

a. An individual, the individual shall state his or her legal name and any aliases and submit satisfactory proof that he or she is eighteen (18) years of age or older;

b. A partnership, the partnership shall state its complete name, the names of all partners and whether the partnership is general or limited; provide a copy of the partnership agreement, if any; and submit satisfactory proof that each partner is eighteen (18) years of age or older;

c. A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the statutes of the State or, in the case of a foreign corporation, evidence that it is currently authorized to do business in the State, the names and capacity of all officers and directors, satisfactory proof that they are eighteen (18) years of age or older, the name of the registered corporate agent and the address of the registered office for service of process; or

d. A limited liability company, the company shall state its complete name, the date of its formation, evidence that the company is in good standing under the statutes of the State or, in the case of a foreign company, evidence that it is currently authorized to do business in the State, the name of the Manager, satisfactory proof that the Manager is eighteen (18) years of age or older, the name of the registered agent and the address of the registered office for service of process.

(2) State whether the applicant or any other individual listed pursuant to Subsection (a) of this Section has previously operated, is currently operating or has been employed at an unlicensed sexually oriented business as defined in this Article or has had a previous sexually oriented business license under this Article or other sexually oriented business ordinances, resolutions or other regulations from another jurisdiction denied, suspended or revoked, or declared a public nuisance, including the name and location of the sexually oriented business for which the permit was denied, suspended, revoked or declared a public nuisance, as well as the date of the denial, suspension, revocation or declaration as a public nuisance. Additionally, state whether the applicant or any other individual listed pursuant to Subsection (a) above has been a partner in a partnership, an officer or director of a corporation or manager of a limited liability company of a sexually oriented business whose license has previously been denied, suspended, revoked or declared a public nuisance, including the name and location of the sexually oriented business for which the license was denied, suspended, revoked or declared a public nuisance, as well as the date of the denial, suspension, revocation or declaration as a public nuisance. State whether the applicant or any other individual listed pursuant to Subsection (a) above holds any other licenses under this Article or other similar sexually oriented business ordinance from another city or county and, if so, the names and locations of such other permitted businesses.

(3) State the location of the proposed sexually oriented business, including a legal description of the property, street address and telephone numbers, if any.

(4) Provide proof of the applicant's right to possession of the premises wherein the sexually oriented business will be conducted.

(5) State the applicant's mailing address and residential address.

(6) State the applicant's Social Security number and/or his or her federally issued tax identification number;

(7) Provide a floor plan of the licensed premises that specifies the locations and dimensions of all managers' stations and demonstrates that there is an unobstructed view from at least one (1) manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. The floor plan shall designate exits, entrances, doors, walls and those rooms or other areas of the premises where patrons are not permitted, and shall also designate the use of each room or other area of the premises. The floor plan shall also demonstrate compliance with Section 6-5-230 of this Article. The floor plan need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches. The diagram shall designate the place at which the license will be conspicuously posted and the location of any stages. A manager's station is not required, and need not be shown on the floor plan, for an adult motion picture theater, adult motel, adult bookstore, adult novelty store or adult video store.

(8) Provide a current improvement location certificate and straight-line drawing prepared by a land surveyor, prepared within thirty (30) days prior to the application. Additionally, said document shall depict the property lines and the structures containing any sexually oriented business within one thousand (1,000) feet of the closest exterior wall of the structure in which the applicant's business will be located, and from the property line of the applicant's business and depicting the property line of any school, child care center, park (not including trails), residential district, residential lot or church within one thousand (1,000) feet from the closest exterior wall of the structure in which the applicant's business will be located.

(9) Provide evidence prepared by the Land Use Services Department that the proposed location of such business complies or fails to comply with all applicable requirements of the Land Development Code. Said evidence shall be supplied by the Land Use Services Department within ten (10) days of the applicant requesting such information;

(10) Provide a verified affidavit of the applicant that the proposed sexually oriented business and its location comply with and conform to all requirements of this Article.

(11) State whether the applicant or any person pursuant to Subsection (a) of this Section has been convicted of a specified criminal act and, if so, the date of the conviction and the location of the offense. (Ord. 2005-O-29 §1-6.5.104)

Sec. 6-5-50. Determination of complete application.

(a) Not more than ten (10) days following submission of an application, the City Manager shall review the application for completeness and conformance with the application requirements of Section 6-5-40 above. The City Manager shall not accept for filing any application that is not complete in every detail. If an omission or error is discovered by the City Manager, the application shall be rejected by the City Manager and returned to the applicant, together with a written explanation of the omission or error without further action by the City Manager. Any application rejected by the City Manager due to an omission or error may be resubmitted to the City Manager when the omission or error has been remedied. For the purposes of this Article, the date the City Manager determines that an application is complete and in conformance with the application requirements of Section 6-5-40 above in every detail shall be the date the application is deemed filed with the City Manager.

(b) The applicant shall promptly notify the City Manager in writing in the event that any information contained in an application has changed or any information is discovered by the applicant to be incorrect in any way from what is stated on the application, and the applicant shall have the continuing duty to promptly update and supplement such information during the term of any sexually oriented business license issued to the applicant. The failure to notify the City Manager in accordance with this Section within thirty (30) days from the date of such change or discovery, by supplementing or updating the application on file with the City Manager, shall be grounds for revocation of any application approval or, where a license has been issued, suspension or revocation of an issued sexually oriented business license. (Ord. 2005-O-29 §1-6.5.105)

Sec. 6-5-60. Application fee.

Each applicant, whether an individual, partnership, limited liability company or corporation, shall pay the following application fees at the time of submitting any application to the City Manager:

(1) An application processing fee in an amount set by resolution of the City Council based on the administrative costs to process an application. Such application fee shall be nonrefundable.

(2) An application investigation fee in the amount then charged by the Colorado Department of Public Safety for each person who will be investigated as required by this Article. Such application investigation fee shall be nonrefundable following a determination by the City Manager that the application is complete in accordance with Section 6-5-50 above. The application investigation fee shall be refunded upon written request by the applicant in the event that the applicant withdraws its application prior to the City Manager's determination that the application is complete. (Ord. 2005-O-29 §1-6.5.106)

Sec. 6-5-70. Investigation.

(a) Without undue delay following the City Manager's determination that an application is complete, the City Manager shall transmit the application to the County Sheriff's Department for investigation of the background of each individual applicant, the partners of a partnership, the officers and directors of a corporation, the Manager of a limited liability company and the Manager of the sexually oriented business, and to investigate the accuracy of the information provided in the application. The investigation is intended to provide an opportunity to determine whether the application is in conformance with the requirements of this Article based on information and resources available to the City and to determine if any applicant, those individuals listed in Subsection 6-5-40(a) above or manager has been convicted of a specified criminal act. The results of such investigation shall not be interpreted or construed as constituting an affirmation or verification by the City that the information contained in the application is factually correct or accurate.

(b) The City Manager may cause to be conducted any other investigation deemed necessary by the City Manager to determine the application's conformance with any requirement of this Article, including but not limited to an investigation of the proposed sexually oriented business's conformance with the Land Development Code or other applicable laws. (Ord. 2005-O-29 §1-6.5.107)

Sec. 6-5-80. Approval or denial.

(a) A completed license application filed with the City Manager shall be administratively approved or denied by the City Manager within thirty (30) days of the date of the filing of the application. The City Manager shall deny a license application if:

(1) The individual applicant, director or officer of a corporation, partner of a partnership, manager of a limited liability company or manager of the sexually oriented business is under the age of eighteen (18) years.

(2) The application or any investigation performed by the City demonstrates or establishes that the proposed sexually oriented business fails to conform to any requirement of this Article, the Land Development Code or other applicable law.

(3) The applicant knowingly made a false statement or knowingly gave false information in connection with the application.

(4) The individual applicant, director or officer of a corporation, partner of a partnership, manager of a limited liability company or manager of the sexually oriented business has had a sexually oriented business license revoked or suspended within five (5) years prior to the application.

(5) The individual applicant, director or officer of a corporation, partner of a partnership, manager of a limited liability company or manager of the sexually oriented business has operated a sexually oriented business which was determined to be a public nuisance under state, federal or local law within five (5) years prior to the application.

(6) A corporate applicant or limited liability company applicant is not in good standing or authorized to do business in the State.

(7) The individual applicant, director or officer of a corporation, partner of a partnership, manager of a limited liability company or manager of the sexually oriented business has been convicted of a specified criminal act for which:

a. Less than two (2) years have elapsed since the date of the conviction or the date of release from confinement or supervision, whichever is the later date, if the conviction is of a misdemeanor offense;

b. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement or supervision, whichever is the later date, if the conviction is of a felony offense; or

c. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement or supervision, whichever is the later date, if the convictions are of two (2) or more misdemeanors.

The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

For the purposes of this Paragraph (7), *convicted* includes having pleaded guilty or nolo contendere to a specified criminal act or any offense for which the factual basis involved one (1) of the specified criminal acts. *Convicted* includes persons who have received a deferred judgment and sentence or a deferred adjudication for a specified criminal act or any offense for which the factual basis involved one (1) of the specified criminal acts.

(8) The applicant is overdue in payment to the City of taxes, fees, fines or penalties assessed against him or her or imposed against him or her in relation to a sexually oriented business.

(b) In the event the City Manager approves a license application, the City Manager shall make a written finding that the application conforms to the requirements of this Article based on the information available and the investigation performed by the City. The City Manager may make additional findings as deemed necessary to identify the City Manager's basis for approval. The written finding shall be sent by certified mail to the address of the applicant as shown in the application within ten (10) days after the date of the City Manager's approval. Nothing in this Article shall prevent or preclude the City Manager from revoking such approval where it is discovered that the application contained or included a false or incorrect statement or false or incorrect information which would otherwise constitute sufficient grounds or a basis for the denial of the application. Approval of a license application shall not constitute issuance of a sexually oriented business license. Issuance of a license shall be made only in accordance with Section 6-5-100 below. The decision of the City Manager to approve a license application shall not be construed as a quasi-judicial act but shall be a final administrative decision of the City.

(c) The City Manager's approval of a license application shall be valid for one (1) year following the date of approval. Failure to obtain the issuance of the license pursuant to Section 6-5-100 below within such one-year period shall require the submission of a new application.

(d) In the event the City Manager denies a license application, the City Manager shall prepare written findings of fact stating the reasons or basis for the denial. A copy of the City Manager's findings shall be sent by certified mail, return receipt requested, to the address of the applicant as shown in the application within ten (10) days after the date of the City Manager's denial. The City Manager's decision to deny a license application shall become a final administrative decision of the City on the fourteenth day following the date of the denial unless the applicant files a timely request for appeal as provided by Section 6-5-90 below. (Ord. 2005-O-29 §1-6.5.108; Ord. 2007-O-14 §1)

Sec. 6-5-90. Appeal of application denial.

(a) In the event the City Manager denies a license application, an applicant shall have the right to a quasi-judicial hearing before the City Council or an independent hearing officer appointed at the direction of the City Council for the purpose of appealing the City Manager's administrative decision. A written request for a hearing shall be submitted to the City Clerk within ten (10) days after the date of the mailing of the City Manager's written findings and denial of the license application. The hearing shall be conducted within ten (10) days of the City's receipt of the written request for a hearing or at the next regularly scheduled Council meeting, whichever occurs later, unless a later date is requested by the applicant.

(b) Upon receipt of a timely request for a hearing, the City Clerk shall schedule a hearing before City Council or hearing officer and shall notify the applicant of the date, time and place of the

hearing. Such notification maybe made by the City by telephone, provided that a written notice shall also be mailed or delivered to the applicant at the applicant's address shown in the application. An applicant may be represented at the hearing by an attorney or other representative. An applicant may request and shall be granted a continuation or postponement of the hearing date. Any continuance requested by the City shall require a showing of just cause or the consent of the applicant.

(c) The City Council or hearing officer, as applicable, shall have the power to administer oaths, issue subpoenas to require the presence of persons and, when necessary, grant continuances. Subpoenas may be issued to require the presence of persons and production of papers, books and records necessary to the determination of any hearing which the City Council conducts. It is unlawful for any person to fail to comply with any subpoena issued by the City. A subpoena shall be served in the same manner as a subpoena issued by the District Court of the State. Upon failure of any witness to comply with such subpoena, the City attorney or the applicant may:

(1) Petition any judge of the Municipal Court, setting forth that due notice has been given of the time and place of attendance of the witness and the service of the subpoena, requesting that the Municipal Court, after hearing evidence in support of or contrary to the petition, enter its order compelling the witness to attend and testify or produce books, records or other evidence, under penalty of punishment for contempt in case of willful failure to comply with such order of court; or

(2) Petition the District Court in and for Arapahoe County, setting forth that due notice has been given of the time and place of attendance of the witness and the service of the subpoena, requesting that the court, after hearing evidence in support of or contrary to the petition, enter its order as in other civil actions, compelling the witness to attend and testify or produce books, records or other evidence, under penalty of punishment for contempt in case of willful failure to comply with such order of court.

(d) At the hearing, the City Council or hearing officer, as applicable, shall hear and consider such evidence and testimony presented by the City, the applicant or any other witnesses presented by the City or the applicant which are relevant to the stated reason and basis for the City Manager's denial of the license application. The hearing shall be conducted in conformity with quasi-judicial proceedings and shall permit the relevant testimony of witnesses, cross-examination and presentation of relevant documents and other evidence. The hearing shall be recorded by stenographer or by electronic recording device. Any person requesting a transcript of such record shall pay the reasonable cost of preparing the record.

(e) Not more than ten (10) days following the conclusion of the hearing, the City Council or hearing officer shall send a written order by certified mail, return receipt requested, to the applicant at the address as shown on the application. The order shall include findings of fact and a final decision concerning the approval or denial of the application. In the event the City Council or hearing officer concludes that the application is approved, the applicant may seek issuance of a license in accordance with this Chapter.

(f) The order of the City Council or hearing officer made pursuant to this Section shall be a final decision and may be appealed to the District Court pursuant to Colorado Rules of Civil Procedure 106(a)(4). For purposes of any appeal, the decision of the City Council or hearing officer shall be

final upon the earlier of the date of the applicant's receipt of the order or four (4) days following the date of mailing.

(g) To facilitate prompt judicial review of any appeal from the City Council or hearing officer to the District Court pursuant to Colorado Rules of Civil Procedure 106(a)(4), the City shall agree to an expedited briefing schedule in which each of the deadlines otherwise required for filing of the opening brief, answer brief and reply brief are shortened by at least ten (10) days. The City shall proffer to the applicant a joint motion to the court requesting prompt judicial attention to, and acceleration of, the appeal in accordance with Colorado Rules of Civil Procedure 106(a)(4)(VIII). (Ord. 2005-O-29 §1-6.5.109; Ord. 2010-O-12 §1)

Sec. 6-5-100. Issuance of license.

(a) No license shall be issued by the City after approval of an application until such time as the building in which the business is to be conducted is ready for occupancy with such furniture, fixtures and equipment in place as are necessary to comply with the provisions of this Article and other applicable codes, ordinances and regulations of the City or State, and then only after inspection of the premises and certification by the County Sheriff's Department and Land Use Services Department that the applicant has complied with the plans and specifications approved by the City with the application. Such inspection of the premises shall be made within ten (10) days after the City Manager receives written notification from the applicant that the applicant desires inspection of the premises and the issuance of a license.

(b) If the licensed business premises has been closed or inactive for at least one (1) year, the City Manager may administratively revoke or elect not to renew the license, and such revocation shall be subject to appeal in accordance with the procedures generally described in Section 6-5-90 above. (Ord. 2005-O-29 §1-6.5.110)

Sec. 6-5-110. Term of license.

All licenses issued pursuant to this Article shall be valid for the entire calendar year in which the license is issued unless revoked. Each license term shall expire on December 31 of the calendar year for which the license is issued unless the license is renewed for the next subsequent calendar year. No proration of any application or license fee or any other requirement shall be permitted for any application or license filed or issued after January 1 of any calendar year. (Ord. 2005-O-29 §1-6.5.111)

Sec. 6-5-120. License renewal.

(a) Renewal of an existing license issued pursuant to this Article shall be granted upon the payment of the annual licensing fee and the filing of a completed renewal application with the City Manager not less than forty-five (45) days prior to the date of license expiration (December 31). The City Manager may waive the timely filing requirement where the licensee demonstrates in writing that the failure to timely file is not solely the result of the applicant's neglect; provided that no renewal application shall be accepted by the City Manager from any licensee after December 31 of the calendar year in which the license expires.

(b) A license that is under suspension may be renewed for the next calendar year in accordance with this Section; provided that such renewal shall not modify, alter, terminate or shorten the period or term of the suspension. The suspension of a license shall not extend the term of the license or otherwise relieve the licensee from timely seeking renewal of the license in accordance with this Section. (Ord. 2005-O-29 §1-6.5.112)

Sec. 6-5-130. Display; transferability; change of ownership or corporate structure.

(a) Any sexually oriented business license issued pursuant to the terms of this Article shall be prominently displayed at all times upon the premises for which the license was issued.

(b) Licenses issued under this Article shall not be transferable except as provided herein. Any change in the partners of a partnership, officers or directors of a corporation or Manager of a limited liability company holding a sexually oriented business license shall result in termination of the license of the partnership, corporation or limited liability company, unless such licensee, within thirty (30) days of any such change, files a written notice of such change accompanied by the application fee and an investigation fee as required by this Article. Any such change shall be reported on forms provided by the City Manager and shall require the names of all new partners of a partnership, officers and directors of a corporation and the manager of a limited liability company, and any additional information as required by Section 6-5-40 of this Article. Approval or denial by the City Manager of such transfer shall be upon the same terms as provided for in this Article for the approval or denial of a sexually oriented business license.

(c) When a license has been issued to a husband and wife or to general or limited partners, the death of a spouse or partner shall not require the surviving spouse or partner to obtain a new license. All rights and privileges granted under the original license shall continue in full force and effect as to such survivors for the balance of the license.

(d) Each license issued under this Article is separate and distinct, and no person shall exercise any of the privileges granted under any license other than that which he or she holds. (Ord. 2005-O-29 §1-6.5.113)

Division 2
Operational Requirements for Licensed Premises

Sec. 6-5-210. Manager; change of manager.

(a) A registered manager shall be on the premises of a sexually oriented business at all times that adult entertainment is being provided, performed, featured, shown or presented. A sexually oriented business may have more than one (1) registered manager. It shall be unlawful for any person to work as a manager of a sexually oriented business without first registering with the City Manager. No manager shall work in a sexually oriented business who has been convicted of a specified criminal act within the time frames set forth in Subsection 6-5-80(a)(7) of this Article and as so defined.

(b) In the event a licensee changes the manager of a sexually oriented business, the licensee shall immediately report such change and register the new manager on forms provided by the City Clerk within ten (10) days of such change. (Ord. 2005-O-29 §1-6.5.201; Ord. 2010-O-12 §1)

Sec. 6-5-220. Hours of operation.

It shall be unlawful for a sexually oriented business, except an adult motel, to be open for business, or for the licensee or any employee of a licensee to allow patrons upon the licensed premises from 10:00 p.m. until 10:00 a.m., or any time on a Sunday. (Ord. 2005-O-29 §1-6.5.202)

Sec. 6-5-230. Standards of conduct.

(a) The following standards of conduct shall apply to any adult arcade and to any sexually oriented business that offers, conducts or maintains live adult entertainment:

(1) No employee or entertainer shall be semi-nude, unclothed or in such attire, costume or clothing so as to expose to view any portion of specified anatomical areas; except upon a stage at least eighteen (18) inches above the immediate floor level and removed at least six (6) feet from the nearest patron or behind a solid, uninterrupted and permanently affixed physical barrier that completely separates the entertainer from any patrons. The barrier must be a minimum of one-quarter (¼) inch thick and have no openings between the entertainer and any patrons. The stage shall be fixed and immovable.

(2) No patron shall be unclothed or in such attire, costume or clothing so as to expose to view any portion of specified anatomical areas. Patrons shall be prohibited from accessing or occupying any stage.

(3) No employee, entertainer or patron shall engage in specified sexual activities, nor shall any employee or entertainer encourage, allow or permit any person upon the premises to engage in specified sexual activities.

(4) There shall be posted and conspicuously displayed in the common areas of each place offering adult entertainment a list of food and drink prices.

(5) Any tips for entertainers shall be placed into a box or container that is permanently affixed in the sexually oriented business, and no tip or gratuity may be handed directly to any entertainer. A licensee that desires to provide for such tips from its patrons shall establish one (1) or more boxes or containers to receive tips or gratuities. Any physical contact between a patron and an entertainer or employee is strictly prohibited.

(6) A sexually oriented business that provides tip or gratuity boxes or containers shall conspicuously display in the common area of the premises one (1) or more signs in letters at least one (1) inch high to read as follows:

ADULT ENTERTAINMENT IS REGULATED BY THE
CITY OF CENTENNIAL.

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. No entertainer shall: engage in any type of sexual conduct; appear semi-nude or nude except on a stage; accept tips or gratuities in advance of their performance; or accept tips or gratuities directly from patrons while performing upon any stage area.

(7) No adult entertainment occurring on the premises shall be visible at any time from outside of the premises.

(8) It is the duty of the licensee of the premises to ensure that at least one (1) manager currently registered by the City is on duty and situated in each manager's station; from which there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding restrooms, at all times that any patron is present inside the premises.

(9) It is the duty of the licensee and manager of the premises to ensure that any doors to public areas on the premises remain unlocked during business hours.

(10) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises have two (2) or more managers' stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding restrooms, from at least one (1) of the managers' stations. The view required in this Subsection must be by direct line of sight from a manager's station. A manager occupying a manager's station shall be clearly visible from any of the interior locations of the premises described herein, excluding restrooms. The use of electronic viewing devices, video cameras, photographic equipment or any other remote viewing devices does not constitute a direct line of sight. A manager's station may not exceed thirty-two (32) square feet of floor area and no single dimension of a manager's station shall exceed eight (8) feet. A manager's station shall be unlocked and be readily accessible for the purpose of routine inspections as provided for in this Article.

(11) No alteration to the configuration or location of a manager's station may be made without the prior approval of the City Manager.

(12) It shall be the duty of the licensee, and it shall also be the duty of any manager, agents and employees present in the premises, to ensure that the view area specified in Paragraph (10) above remains unobstructed by any doors, curtains, drapes, walls, merchandise, display racks or other materials at all times, and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the license application filed pursuant to this Article.

(13) A viewing room of less than one hundred fifty (150) square feet for an adult arcade shall not be occupied by more than one (1) person at any one (1) time.

(14) Viewing rooms must be separated from other viewing rooms by a solid, uninterrupted and permanently affixed physical wall constructed with two-inch-by-four-inch nominal framing members covered on both sides with gypsum wall board material of a minimum thickness of five-eighths ($\frac{5}{8}$) inch per side, and in compliance with the building code, as adopted by the City. The total wall thickness shall not be less than four and three-fourths ($4\frac{3}{4}$) inches and shall prevent physical contact between patrons.

(15) No person shall make or attempt to make an opening of any kind between viewing rooms.

(16) The licensee shall, during each business day, regularly inspect and repair, if necessary, the walls between the viewing rooms to ensure that no openings or holes exist.

(17) No licensee or employee of such licensee shall knowingly allow to occur any disorderly conduct or other conduct proscribed by this Article or any other City ordinance or state or federal law, rule or regulation that occurs on or within the premises of a sexually oriented business.

(18) No licensee or employee of such licensee shall knowingly fail to immediately report to the County Sheriff's Department any disorderly conduct or other conduct proscribed by this Article or any other City ordinance or state or federal law, rule or regulation that occurs on or within the premises of a sexually oriented business.

(b) Nothing in this Section shall be construed to permit any act on the premises of a sexually oriented business in violation of Title 12, Article 46 or Article 47, C.R.S. (Ord. 2005-O-29 §1-6.5.203)

Sec. 6-5-240. Age restrictions.

Admission to sexually oriented businesses is restricted to persons of the age of eighteen (18) years or older. This minimum age limitation also applies to any employees, agents, servants or independent contractors working on the premises. (Ord. 2005-O-29 §1-6.5.204)

Sec. 6-5-250. Entertainer requirement.

No person shall appear, be featured, be shown or be presented while nude or semi-nude in any commercial establishment or private club unless licensed as an entertainer pursuant to this Article. (Ord. 2005-O-29 §1-6.5.205)

Sec. 6-5-260. Entertainer license.

(a) Each entertainer to be employed in a sexually oriented business shall be required to obtain an entertainer license. Each applicant shall pay an application processing fee in an amount set by resolution of the City Council. Such application fee shall be nonrefundable.

(b) Said applicant shall pay an application investigation fee in the amount then charged by the Colorado Department of Public Safety.

(c) An applicant for an entertainer license shall submit, on a form to be provided by the City Clerk, the following information:

- (1) The applicant's name or any other names (including "stage" names) or aliases used by the individual;
- (2) Age, date and place of birth;
- (3) Height, weight, hair and eye color;
- (4) Present residence address and telephone number;

- (5) Present or intended business address and telephone number;
- (6) State driver's license or government-issued photo identification card;
- (7) Social Security number;
- (8) Acceptable written proof that the individual is at least eighteen (18) years of age;

(9) A statement detailing the license or permit history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant has ever had a license, permit or authorization to do business denied, revoked or suspended, or had any professional or vocational license or permit denied, revoked or suspended; in the event of any such denial, revocation or suspension, state the date and the name of the issuing or denying jurisdiction, and describe in full the reasons for the denial, revocation or suspension; and

(10) Whether the applicant or any person pursuant to Subsection (a) above has been arrested for a specified criminal act and, if so, the date of the arrest and the location of the offense.

(d) The City Manager shall refer the entertainer license for an investigation to be made of such information as is contained on the application. Each applicant shall be photographed and fingerprinted by the County Sheriff's Department within ten (10) days of the applicant requesting such photograph and fingerprinting. Any fees for the photographs and fingerprints shall be paid by the applicant. The application process shall be completed within ten (10) days from the date the completed application is filed. After the investigation, the City Manager shall issue a license unless the report from the County Sheriffs Department finds that one (1) or more of the following findings are true:

(1) That the applicant has knowingly made a false statement or knowingly given false information in connection with the application.

(2) That the applicant is under eighteen (18) years of age.

(3) That the applicant has been convicted of a specified criminal act within the timeframes set forth in Paragraph 6-5-80(a)(7) of this Article and as so defined.

(4) That the entertainer license is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by this Article.

(5) That the applicant has had an entertainer license revoked or suspended within two (2) years of the date of the current application.

(e) Each entertainer shall display said entertainer license upon demand by a police officer or other authorized agent of the City.

(f) The entertainer license may be revoked for a violation of any of the provisions of this Article.

(g) Where the City seeks to revoke a license, a licensee shall be entitled to notice, a quasi-judicial hearing before the City Manager, and the right to appeal conducted in the same manner as a hearing for suspension as provided by Section 6-5-420 of this Article. Where the City seeks to deny a license,

a licensee shall be entitled to notice, a quasi-judicial hearing before the City Manager and the right to appeal conducted in the same manner as a hearing for suspension as provided by Section 6-5-420 of this Article, including the right to prompt judicial review as set forth in Subsection 6-5-420(g). (Ord. 2005-O-29 §1-6.5.206; Ord. 2010-O-12 §1)

Sec. 6-5-270. Lighting requirements.

(a) All off-street parking areas and premises entries of sexually oriented businesses shall be illuminated from dusk to closing hours of operation with a lighting system that provides an average maintained horizontal illumination of one (1) foot-candle of light on the parking surface and/or walkways. This required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the sexually oriented business to help ensure the personal safety of patrons and employees and to reduce the incidence of vandalism and other criminal conduct.

(b) The premises of all sexually oriented businesses, except adult motion picture theaters and adult motels, shall be equipped with overhead lighting fixtures of sufficient intensity to provide an illumination of not less than two (2) foot-candles of white light at every place to which patrons are permitted access.

(c) Adult motion picture theaters shall be equipped with overhead lighting fixtures of sufficient intensity to provide an illumination of not less than one (1) foot-candle of white light at every place to which patrons are permitted access.

(d) The illumination described above shall be maintained at all times that any patron is present in the premises. In the event of a power failure, the sexually oriented business shall stop operating immediately and all patrons shall be promptly required to exit the premises. The premises shall not be reopened until the minimum illumination level can be assured. (Ord. 2005-O-29 §1-6.5.207)

Sec. 6-5-280. Right of entry.

The application for a sexually oriented business license shall constitute consent of the licensee and his or her agents or employees to permit the County Sheriff's Department or any other authorized agent of the City to conduct routine inspections, from time to time and at least four (4) times a year, of any licensed sexually oriented business during the hours the establishment is conducting business. (Ord. 2005-O-29 §1-6.5.208)

Sec. 6-5-290. Signage and exterior.

Notwithstanding any other City ordinance, code or regulation to the contrary, it shall be unlawful for the owner or operator of any sexually oriented business or any other person to erect, construct or maintain any sign for the sexually oriented business other than one (1) allowed on the property which is in conformance with the Land Development Code. (Ord. 2005-O-29 §1-6.5.209)

Division 3
Violations and Enforcement

Sec. 6-5-410. Violation.

(a) Any person who fails or refuses to obey or comply with or violates any of the provisions of this Article commits a minor offense and upon conviction thereof, shall be punished by a fine of not more than one thousand dollars (\$1,000.00) for each separate violation. The penalty assessment procedure provided in Section 16-2-201, C.R.S., may be followed by any officer for any such violation.

(b) Nothing herein contained shall prevent or restrict the City from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any violation or noncompliance. Such other lawful actions shall include, but shall not be limited to, an action for injunctive relief.

(c) All remedies and penalties provided for in this Article shall be cumulative and independently available to the City, and the City shall be authorized to pursue any and all remedies to the full extent allowed by law. (Ord. 2005-O-29 §1-6.5.301)

Sec. 6-5-420. Suspension of license.

(a) In addition to or in lieu of any other enforcement provided in this Division, the City Manager may suspend a license for a period not to exceed six (6) months upon a finding of any of the following factors:

(1) Two (2) or more disturbances of the public peace have occurred within a six-month period upon the licensed premises or upon any parking areas, sidewalks, access ways or grounds within the immediate neighborhood of the licensed premises involving a patron or customer, manager, employees or the licensee.

(2) The licensee, manager or any employees thereof illegally offered for sale or illegally allowed to be consumed or possessed upon the licensed premises, or upon any parking areas, sidewalks, walkways, access ways or grounds immediately adjacent to the licensed premises, narcotics, dangerous drugs, fermented malt beverages or malt, vinous or spirituous liquors.

(3) The licensee or manager, as required by Section 6-5-210 of this Article, is not upon the licensed premises at all times that the sexually oriented business is open for business or at all times when the business premises are occupied by any employee, agent, invitee or other person.

(4) Adult entertainment was offered at the licensed establishment or the sexually oriented business was open for business during hours prohibited by this Article.

(5) The licensee, manager or employee has allowed or permitted patrons to engage in public displays of indecency or has allowed or permitted patrons or employees to engage in acts of prostitution or negotiations for acts of prostitution within the licensed establishment or upon any parking areas, sidewalks, access ways or grounds immediately adjacent to the licensed establishment.

(6) The licensee or manager knowingly made a false statement or knowingly gave false information in connection with an application for a license or a renewal of a license.

(7) The licensee, manager or employee knowingly violated or knowingly allowed or permitted a violation of any provision of this Article.

(8) A manager or employee of the licensed establishment is under the age of eighteen (18) years.

(9) The licensee, in the case of a corporation or limited liability company, is not in good standing or authorized to do business in the State.

(10) The licensee is delinquent in payment to the City or State for any taxes or fees past due.

(11) The licensee, manager or employee has allowed specified sexual activities to occur within the licensed premises.

(12) The licensee or manager knowingly allowed or permitted the performance, exhibition or display of live adult entertainment by any person not licensed as an entertainer under Section 6-5-260 of this Article.

(13) The licensed premises are deemed unsanitary as certified by any county or state health department with jurisdiction over the premises.

(14) The licensee, manager or any employees thereof knowingly permitted on the licensed premises the possession or sale of illegal controlled substances.

(b) Nothing in this Article shall prohibit the City from taking any other enforcement action provided for by this Code or the laws of the State or of the United States.

(c) A licensee shall be entitled to a quasi-judicial hearing before the City Manager if the City seeks to suspend a license based on a violation of this Article.

(1) When there is probable cause to believe that a licensee has violated or permitted a violation of this Article to occur upon the licensed premises, or upon any parking areas, sidewalks, walkways, access ways or grounds immediately adjacent to the licensed premises, the City attorney may file a written complaint with the City Manager setting forth the circumstances of the violation.

(2) The City Manager shall send a copy of the complaint by certified mail, return receipt requested, to the licensee at the address as shown on the license application, together with a notice to appear before the City Manager for the purpose of a hearing to be conducted at a specified date and time and at a place designated in the notice, to show cause why the licensee's license should not be suspended. Such hearing shall be held on a date not less than fourteen (14) days following the date of mailing of the complaint and notice to the licensee.

(d) The City Manager shall have the power to administer oaths, issue subpoenas to require the presence of witnesses and, when necessary, grant continuances. Subpoenas may be issued to require the presence of persons and production of papers, books and records necessary to the determination of

any hearing which the City Manager conducts. It is unlawful for any person to fail to comply with any subpoena issued by the City Manager. A subpoena shall be served in the same manner as a subpoena issued by the District Court of the State. Upon failure of any witness to comply with such subpoena, the City attorney or licensee may:

(1) Petition any judge of the Municipal Court, setting forth that due notice has been given of the time and place of attendance of the witness and the service of the subpoena, requesting that the Municipal Court, after hearing evidence in support of or contrary to the petition, enter its order compelling the witness to attend and testify or produce books, records or other evidence, under penalty of punishment for contempt in case of willful failure to comply with such order of court; or

(2) Petition the District Court in and for the County, setting forth that due notice has been given of the time and place of attendance of the witness and the service of the subpoena, requesting that the court, after hearing evidence in support of or contrary to the petition, enter its order as in other civil actions, compelling the witness to attend and testify or produce books, records or other evidence, under penalty of punishment for contempt in case of willful failure to comply with such order of court.

(e) At the hearing, the City Manager shall hear and consider such evidence and testimony presented by the County Sheriff's Department or other enforcement officers, the City, the licensee or any other witnesses presented by the City or the licensee which are relevant to the violations alleged in the complaint. The City Manager shall conduct the hearing in conformity with quasi-judicial proceedings and shall permit the relevant testimony of witnesses, cross-examination and presentation of relevant documents and other evidence. The hearing shall be recorded stenographically or by electronic recording device. Any person requesting a transcript of such record shall pay the reasonable cost of preparing the record.

(f) The City Manager shall make written findings of fact from the statements and evidence offered and shall reach a conclusion as to whether the alleged violations occurred. Such written findings and conclusion shall be prepared and issued not less than ten (10) days following the conclusion of the hearing. If the City Manager determines that a violation did occur which warrants suspension of the license pursuant to this Section, he or she shall also issue an order suspending the license. A copy of the findings, conclusion and order shall be hand-delivered or mailed to the licensee by certified mail, return receipt requested, at the address as shown on the license application.

(g) For purposes of any appeal to the District Court, the City Manager's decision shall be final upon the earlier of the date of the applicant's receipt of the findings, conclusion and order or four (4) days following the date of mailing of the City Manager's decision. The order of the City Manager shall be a final decision and may be appealed to the District Court pursuant to Colorado Rules of Civil Procedure 106(a)(4). Any suspension ordered by the City Manager may be stayed and held in abeyance following the filing of a complaint for judicial relief and until a final conclusion of the matter by the District Court. To facilitate prompt judicial review of any appeal to the District Court pursuant to Colorado Rules of Civil Procedure 106(a)(4), the City shall agree to an expedited briefing schedule in which each of the deadlines otherwise required for filing of the opening brief, answer brief and reply brief are shortened by at least ten (10) days. The City shall proffer to the applicant a joint motion to the court requesting prompt judicial attention to, and acceleration of, the appeal in accordance with Colorado Rules of Civil Procedure 106(a)(4)(VIII).

(h) In the event of suspension or cessation of business, no portion of the license fee shall be refunded. (Ord. 2005-O-29 §1-6.5.302; Ord. 2007-O-14 §1)

Sec. 6-5-430. Revocation of license.

(a) In addition to or in lieu of any other enforcement provided in this Division, the City Manager may revoke any license granted pursuant to this Article upon a finding that either:

(1) Two (2) or more violations of the provisions warranting suspension contained in Section 6-5-420 above have been found to exist during a consecutive two-year period; or

(2) The licensee, or an employee of the licensee, operated the sexually oriented business during a period of time when the sexually oriented business license was suspended.

(b) Nothing in this Article shall prohibit the City from taking any other enforcement action provided for by this Code or the laws of the State or of the United States.

(c) Where the City seeks to revoke a license, a licensee shall be entitled to notice and a quasi-judicial hearing before the City Manager and the right to appeal conducted in the same manner as a hearing for suspension as provided by Section 6-5-420 above. (Ord. 2005-O-29 §1-6.5.303)

ARTICLE 6

Medical Marijuana

*Division 1
General*

Sec. 6-6-10. Purpose.

The purpose of this Article is to:

(1) Implement the local authority conferred to the City by Article XVIII, Section 14 of the Colorado Constitution, the Colorado Medical Marijuana Code and the Colorado Medical Marijuana Program; and

(2) Protect the lawful rights of Patients and Primary Care-givers to reasonably cultivate, produce, possess and process medical marijuana in accordance with Article XVIII, Section 14 of the Colorado Constitution, the Colorado Medical Marijuana Code and the Colorado Medical Marijuana Program; and

(3) Balance the reasonable and lawful rights of Patients and Primary Care-givers with the protection of the health, safety and welfare of the public through the prevention and mitigation of deleterious and negative secondary effects that may occur or are likely to occur from the presence of medical marijuana in the City; and

(4) Supplement, through regulation of matters of local concern as authorized by Article XX of the Colorado Constitution and state law, the provisions of Article XVIII, Section 14 of the

Colorado Constitution, the Colorado Medical Marijuana Code and the Colorado Medical Marijuana Program; and

(5) Comply with requirements imposed upon Colorado municipalities by Article XVIII, Section 14 of the Colorado Constitution, the Colorado Medical Marijuana Code and the Colorado Medical Marijuana Program to the extent such state laws are binding upon home rule municipalities. However, neither this Article nor its adoption, implementation or enforcement shall be construed as an intent of the City, its elected officials or its employees or contractors to violate federal law, including but not limited to the Controlled Substances Act of 1970, as amended, nor shall such adoption, implementation or enforcement be construed as acquiescence or conspiracy by the City, its elected officials or its employees to violate such federal law. (Ord. 2011-O-13 §2)

Sec. 6-6-20. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section:

Colorado Medical Marijuana Code means Section 12-43.3-101, et seq., of the Colorado Revised Statutes, as may be amended.

Colorado Medical Marijuana Program means that program defined by Section 25-1.5-106(2)(d) of the Colorado Revised Statutes, as may be amended.

Contiguous, in terms of determining the area devoted to the cultivating, producing, possessing or processing of medical marijuana and Medical Marijuana Plants, means an uninterrupted expanse of space on the same floor or level of the Primary Residence that can be measured by framing the area with four (4) or more continuous and connected straight lines. The space within a single room which is defined by permanent perimeter walls is contiguous; the space within adjoining rooms divided by a permanent wall or permanent structure *but* accessible via a common doorway or connected by a common hallway is contiguous; however, nonadjacent spaces separated by two (2) or more permanent walls or separated by floors or levels of the building are not contiguous.

Lot means that real property around the Primary Residence and the buildings thereon that are commonly used for domestic and residential purposes.

Marijuana shall have the meaning provided in Section 12-22-303(17) of the Colorado Revised Statutes, as may be amended.

Medical marijuana business means any enterprise or activity, whether or not for profit, gain or benefit, that is undertaken for the purpose of cultivating, producing, possessing, storing, processing, dispensing, distributing or selling medical marijuana, and without limiting the foregoing, including specifically a Medical Marijuana Center, Medical Marijuana Infused Product Manufacturer and Optional Premises Cultivation Operation. A medical marijuana business does not include the lawfully authorized activities undertaken by a Patient or Primary Care-giver in accordance with this Article.

Medical Marijuana Center means that business described in Section 12-43.3-402 of the Colorado Medical Marijuana Code, as may be amended, which would sell medical marijuana to a Patient or a Primary Care-giver as these persons are defined by Section 14 of Article XVIII of the Colorado Constitution.

Medical Marijuana Infused Products manufacturer means that business described in Section 12-43.3-404 of the Colorado Medical Marijuana Code, as may be amended.

Medical Marijuana Plants means marijuana plants, seedlings or any part thereof in a living condition that are lawfully cultivated, produced, possessed or processed pursuant to the provisions of Article XVIII, Section 14 of the Colorado Constitution, the Colorado Medical Marijuana Code, the Colorado Medical Marijuana Program and other applicable laws or regulations governing the cultivation, production, possession or processing of medical marijuana.

Medical use means that use described and defined in Article XVIII, Section 14 of the Colorado Constitution, the Colorado Medical Marijuana Code and the Colorado Medical Marijuana Program.

Optional Premises Cultivation Operation means that business described in Section 12-43.3-403 of the Colorado Medical Marijuana Code, as may be amended.

Patient means a person who meets the definition of patient under Article XVIII, Section 14(1)(d) of the Colorado Constitution and applicable law.

Physician means a doctor of medicine as defined in Article XVIII, Section 14(1)(e) of the Colorado Constitution and meeting all requirements of Section 25-1.5-106, C.R.S.

Primary Care-giver means a person who meets the definition of primary care-giver under Article XVIII, Section 14(1)(f) of the Colorado Constitution and applicable law.

Primary Residence means the place that a person, by custom and practice, makes his or her principal domicile and address and to which the person intends to return, following any temporary absence, such as vacation. Residence is evidenced by actual daily physical presence, use and occupancy of the Primary Residence and the use of the residential address for domestic purposes, such as, but not limited to, slumber, preparation of and partaking of meals, regular mail delivery, vehicle and voter registration or credit, water and utility billing. A person shall have only one (1) Primary Residence. A Primary Residence shall not include accessory buildings. (Ord. 2011-O-13 §2)

Division 2

Medical Marijuana Businesses

Sec. 6-6-110. Medical marijuana businesses prohibited.

Medical marijuana businesses, including Medical Marijuana Centers, Optional Premises Cultivation and Medical Marijuana Infused Manufacturer Operations are prohibited within the municipal limits of the City. This prohibition applies irrespective of the form of ownership, purpose

or structure of the business and includes cooperatives and nonprofits. It shall be unlawful for any person to operate a medical marijuana business within the municipal limits of the City. (Ord. 2011-O-13 §2)

Division 3

Cultivation of Medical Marijuana Within Primary Residences

Sec. 6-6-210. General requirements.

It shall be unlawful for any person to cultivate, produce or process Medical Marijuana Plants within the City unless such person is lawfully registered as a Patient or lawfully licensed as a Primary Care-giver, and provided that:

(1) The cultivation, production and processing occurs within the Primary Residence of the Patient or the Primary Care-giver; and

(2) The cultivation, production and processing fully comply with all applicable provisions of Article XVIII, Section 14 of the Colorado Constitution, the Colorado Medical Marijuana Code, the Colorado Medical Marijuana Program, this Article and all applicable requirements of all City ordinances, resolutions and regulations, including but not limited to the land development code, building and safety codes and sales and use tax codes, as may be amended.

(3) Medical Marijuana is not cultivated, produced or processed within a garage, whether attached or detached, or other structure designed or intended for the keeping or storage of vehicles, equipment or goods; and

(4) Medical Marijuana is not cultivated, produced or processed within any common area of a multi-family or single-family attached residential property; and

(5) Medical Marijuana is not cultivated, produced or processed in the yard, lot or other area or structure located outside of the Primary Residence, including but not limited to outdoor gardens, ancillary or accessory buildings, greenhouses, sheds or storage units; and

(6) Medical Marijuana is not produced or processed with the use of chemicals for the purposes of enhancing, concentrating or extracting tetrahydrocannabinol (THC) from Medical Marijuana or Medical Marijuana Plants; and

(7) The area of a Primary Residence devoted to the cultivation, production or processing of Medical Marijuana Plants, including the keeping, storage and maintenance of all materials, supplies, tools, equipment and paraphernalia associated with the cultivation, production and processing of Medical Marijuana Plants, does not exceed the following:

a. Within a single-family detached dwelling unit, a maximum contiguous one-hundred-fifty-square-foot area; or

b. Within any residential structure other than a single-family detached dwelling unit, a maximum contiguous one-hundred-square-foot area.

(8) The cultivation, production and processing is in compliance with all applicable home occupation and home-based business regulations contained in the City's Land Development Code, including but not limited to restrictions on physical features, building character and business operations. In the event of a conflict between the provisions of this Article and restrictions on home occupations or home-based businesses as set forth in the City's Land Development Code, the more restrictive provisions shall govern. (Ord. 2011-O-13 §2)

Sec. 6-6-220. Maximum number of Medical Marijuana Plants.

It shall be unlawful for Patients or Primary Care-givers to cultivate, produce, possess or process, or permit to be cultivated, produced, possessed or processed, more than the following maximum number of Medical Marijuana Plants within the Patient's or Primary Care-giver's Primary Residence:

(1) A Patient may cultivate, produce, possess or process, or permit to be cultivated, produced, possessed or processed within the Patient's Primary Residence, the *lesser* of either:

a. Six (6) Medical Marijuana Plants with three (3) or fewer being mature, flowering plants that are producing a useable form of marijuana for each Patient residing in the Primary Residence; or

b. The maximum number of Medical Marijuana Plants necessary to alleviate the Patient's chronic or debilitating disease or medical condition as evidenced by the Patient's Physician's written professional opinion or recommendation;

but in no event shall the maximum number of Medical Marijuana Plants within a Patient's Primary Residence exceed thirty (30) Medical Marijuana Plants, regardless of size or stage of growth or the number of Patients residing at the Primary Residence.

(2) A Primary Care-giver may cultivate, produce, possess or process, or permit to be cultivated, produced, possessed or processed within the Care-giver's Primary Residence, the *lesser* of either:

a. Six (6) Medical Marijuana Plants with three (3) or fewer being mature, flowering plants that are producing a useable form of marijuana for each Patient of the Primary Care-giver; or

b. The aggregate maximum number of Medical Marijuana Plants necessary to alleviate the Primary Care-giver's Patient's chronic or debilitating disease or medical condition as evidenced by the Patient's Physician's professional opinion;

but in no event shall the maximum number of Medical Marijuana Plants within a Primary Care-giver's Primary Residence exceed thirty (30) Medical Marijuana Plants, regardless of size or stage of growth.

(3) For a Primary Residence at which one (1) or more Primary Care-givers and/or one (1) or more Patients reside, each Primary Care-giver and each Patient may cultivate, produce, possess or process, or permit to be cultivated, produced, possessed or processed, the maximum number of Medical Marijuana Plants provided in Subparagraph (1)a. or b. or in Subparagraph (2)a. or b., above, as applicable, provided that, *in no event*, shall the maximum number of Medical Marijuana

Plants within the Primary Residence exceed thirty (30) Medical Marijuana Plants, regardless of size or stage of growth and regardless of the total number of Care-givers and Patients residing within the Primary Residence. (Ord. 2011-O-13 §2)

Sec. 6-6-230. Exterior impacts unlawful.

It shall be unlawful for the cultivation, production, possession or processing of Medical Marijuana Plants within a Primary Residence to be perceptible from the exterior of the Primary Residence by means including, but not limited to:

(1) Common visual observation, including any form of signage;

(2) Odors, smells, fragrances or other olfactory stimulus generated by the cultivation, production, possession or processing of Medical Marijuana Plants; or

(3) Light pollution, glare or brightness of artificial illumination associated with the cultivation, production, possession or processing of Medical Marijuana Plants. (Ord. 2011-O-13 §2)

Sec. 6-6-240. Special provisions for Primary Care-givers.

(a) The cultivation, production or processing of Medical Marijuana and Medical Marijuana Plants by Primary Care-givers for Patients is a home occupation or a home-based business pursuant to the Centennial Land Development Code and the sale or distribution of Medical Marijuana to Patients is a taxable transaction in accordance with state and local law. Primary Care-givers shall therefore comply with other applicable provisions of this Code and, specifically, the business licensing and sales tax licensing and reporting requirements set forth in applicable provisions of the Sales and Use Tax Code.

(b) A Primary Care-giver shall provide the registry identification card number of each of his or her Patients to employees and contractors of the City and to law enforcement agencies, upon inquiry in the course of their official duties while investigating compliance with the requirements of this Article.

(c) To the extent required by law, documentation that evidences the name, address or other information of a Patient or Primary Care-giver, including but not limited to applications, permits and correspondence, shall be maintained by the City as confidential. No person shall be permitted to gain access to such confidential documentation except for authorized employees and contractors of the City in the course of their official duties and authorized employees of state or local law enforcement agencies. (Ord. 2011-O-13 §2)

Sec. 6-6-250. Private covenants not affected.

This Article is not intended to impair and does not supersede or override provisions of any lawful privately imposed contracts, covenants, conditions or restrictions that are more restrictive regarding the use of a Primary Residence for the cultivation, production, possession and processing of Medical Marijuana or Medical Marijuana Plants. Nothing in this Article is intended to defer to or to permit privately imposed contracts, covenants, conditions or restrictions that would authorize any activity or

action prohibited or regulated by this Article. The City shall not enforce private covenants except to the extent specifically provided by law. (Ord. 2011-O-13 §2)

Division 4
Enforcement

Sec. 6-6-310. Penalties for violation.

(a) In addition to any other penalties that may exist under state, federal and local laws, any person charged with a violation of this Article, upon conviction or plea of nolo contendere thereof, shall be punished as follows:

(1) For an offense involving the cultivation, production, possession or processing of one (1) or more Medical Marijuana Plants in excess of the maximum number of Medical Marijuana Plants permitted by this Article, such fine shall be not less than seven hundred fifty dollars (\$750.00) and not more than one thousand dollars (\$1,000.00) for each Medical Marijuana Plant cultivated, produced, possessed or processed in excess of such maximum; or

(2) For any other violation of this Article not set forth in Paragraph (1) above, such fine shall be not less than five hundred dollars (\$500.00) and not more than one thousand dollars (\$1,000.00) for each offense.

(b) Each person violating any provision of this Article shall be guilty of a separate offense for each and every day during any portion of which any violation of this Article is committed, continued or permitted by such person.

(c) The Municipal Court shall retain the discretion to suspend, reduce or impose a lesser fine upon recommendation of the Municipal Court prosecutor pursuant to a mutually accepted plea agreement with the defendant. (Ord. 2011-O-13 §2)

Sec. 6-6-320. Search warrants authorized.

(a) The City Council declares that a violation of this Article involves a serious threat to public safety or order within the meaning of Rule 241(a)(1) of the Colorado Municipal Court Rules of Procedure.

(b) If the owner or occupant of the premises denies officials of the Code Compliance, Building Division, law enforcement agency and/or other authorized official permission to inspect the residential structure, authorized law enforcement personnel may request the Municipal Court to issue a search warrant for the inspection of the premises pursuant to the procedure and standards as set forth in Rule 241 of the Colorado Municipal Court Rules of Procedure.

(c) The Municipal Court may issue a search warrant authorizing officials of the Code Compliance, Building Division, law enforcement agency and/or other authorized official to inspect a residential structure for the cultivation, production, possession or processing of Medical Marijuana Plants in accordance with Rule 241(b) of the Colorado Municipal Court Rules of Procedure. Any

search warrant issued pursuant to this Article shall fully comply with the applicable provisions of Rule 241 of the Colorado Municipal Court Rules of Procedure.

(d) The Municipal Court may impose such conditions on a search warrant as may be necessary to protect the private property rights of the owner of the premises to be inspected or to otherwise ensure that the warrant complies with applicable law.

(e) It shall be unlawful and a minor offense for any owner or occupant to deny officials of the Code Compliance, Building Division, law enforcement agency and/or other authorized official access to the property owned or occupied by such owner or occupant if the authorized person presents a warrant issued pursuant to this Article. (Ord. 2011-O-13 §2)

Sec. 6-6-330. Violations constitute nuisances.

In addition to any other lawful method of enforcement, which methods shall not be deemed exclusive, a violation of this Article is declared to be a public nuisance that may be abated as provided in Chapter 7, Article 1 of this Code. (Ord. 2011-O-13 §2)

Sec. 6-6-340. Most stringent law or construction applies.

Nothing in this Article is intended to supersede or modify applicable provisions of state law concerning the same subject. To the extent this Article is interpreted to authorize an action or activity otherwise prohibited by state law, such authorization shall mean such action or activity is not prohibited by local law. To the extent that a provision of state law is or becomes more stringent than a provision of this Article, the most stringent requirement or construction shall govern or apply. (Ord. 2011-O-13 §2)

ARTICLE 7

Pawnbroker Licenses

Division 1

General Provisions

Sec. 6-7-10. Title and scope.

(a) This Article shall be known and cited as the *City Pawnbroker Licensing Code* and shall apply to any business operating as a Pawnbroker as defined herein.

(b) The City Manager may promulgate additional administrative procedures, rules and regulations to further effectuate the terms of this Article. (Ord. 2011-O-24 §1)

Sec. 6-7-20. Definitions.

As used in this Article, unless otherwise noted:

Applicant means any natural person who is the sole proprietor, any partnership, limited liability company, corporation, or any other business entity that has submitted an application for a license pursuant to this Article.

City means the City of Centennial, Colorado.

City Manager means the City Manager or the Acting City Manager for the City or the City Manager's designee.

Contract for Purchase means a contract entered into between a Pawnbroker and a Pledgor pursuant to which the Pawnbroker advances money to the Pledgor on the delivery of Tangible Personal Property by the Pledgor on the condition that the Pledgor, for a Fixed Price and within a Fixed Time period, to be no less than thirty (30) days, has the option to cancel said contract.

Fixed Price means the amount agreed upon to cancel a Contract for Purchase during the option period which amount shall not exceed one-fifth (1/5) of the original purchase price for each month, plus the original purchase price.

Fixed Time means that period of time, to be no less than thirty (30) days, as set forth in a Contract for Purchase, for an option to cancel said contract.

Internet Pawnbroker means a business operation that:

a. Engages in Pawnbrokering, which business is principally conducted over the Internet or by such other electronic communication;

b. Has no retail business location or other form of storefront location within the City from which the business conducts either any retail transaction with any Person or any Pawnbrokering transaction that is not conducted over the Internet or by such other electronic communication; and

c. Either:

1. Maintains within the City, directly or indirectly or by a subsidiary, an office, building, structure, distributing house, warehouse or other place of business;

2. Maintains within the City an office for employees, agents or commissioned sales persons to solicit or conduct business; or

3. Owns, leases, rents or otherwise exercises control over real or personal property within the City.

Law enforcement agency means the Arapahoe County Sheriff's Office or any other agency designated to provide law enforcement services by and on behalf of the City.

Licensee means any natural Person who is the sole proprietor, any partnership, limited liability company, corporation, or other business entity that is licensed to conduct Pawnbrokering in compliance with this Article or any employee, agent, or any other Person acting on the Licensee's behalf.

Manager means any natural person on the Licensee's premises who manages, directs, supervises, oversees and administers the transactions and acts of servants of the establishment issued a City license or permit, including but not limited to the officers of the Applicant or Licensee.

Pawn Ticket means either:

a. For all Retail Pawnbrokers, one of a series of numbered records of a Licensee's contracts for purchase torn from a bound book containing stubs that are correspondingly serially numbered containing information specified in Section 6-7-530 of this Article and given to a Pledgor upon entering a Contract for Purchase with the Pawnbroker; or

b. For Internet Pawnbrokers, a serially numbered electronic record of the Licensee's contracts for purchase containing information specified in Section 6-7-530 of this Article, a copy of which shall be given to a Pledgor upon entering a Contract for Purchase with the Pawnbroker.

Pawnbroker means any Person, partnership, limited liability company, corporation or any other firm or company regularly engaged in the business of making Contracts for Purchase or Purchase Transactions in the course of the Pawnbroker's business. *Pawnbroker* shall include, without limitation, all owners, Managers and supervisors of a Pawnbrokering business required to be licensed by the City whose regular duties include making Contracts for Purchase, Purchase Transactions or executing any documents required to be prepared pursuant to this Article. Pawnbroker does not include secondhand dealers as defined in and regulated by Sections 18-13-114 through 18-13-118, C.R.S.

Pawnbrokering means the business of Pawnbroker as defined in this Section, including Internet Pawnbrokering.

Peace Officer means any sheriff, undersheriff or deputy sheriff (other than one appointed with authority only to receive and serve summons and civil process), police officer, state patrol officer or investigator for a district attorney or the Colorado Attorney General who is employed by the State of Colorado, or a city, county, town or judicial district within this State.

Person means any natural person or non-natural entity, including but not limited to a corporation, partnership, unincorporated association or joint venture.

Pledge or Pledged Property means any Tangible Personal Property deposited with a Licensee pursuant to a Contract for Purchase in the course of its business as defined in this Article.

Pledgor means the Person who delivers a Pledge into the possession of a Pawnbroker.

Purchase transaction means the purchase by a Pawnbroker in the course of its business of Tangible Personal Property for resale, other than newly manufactured Tangible Personal Property that has not previously been sold at retail, when such purchase does not constitute a Contract for Purchase.

Retail Pawnbroker means all Pawnbrokers except Internet Pawnbrokers.

Tangible personal property means all personal property other than choses in action, securities or printed evidences of indebtedness, which property is deposited with or actually delivered into the possession of a Pawnbroker in the course of its business in connection with a Contract for Purchase or Purchase Transaction. (Ord. 2011-O-24 §1)

Sec. 6-7-30. Signatures.

(a) Unless otherwise prohibited in this Article, all signatures required by this Article may be an electronic signature as defined by Sections 24-71-101(a) and 24-71.3-102(8), C.R.S.

(b) Signatures that are not notarized shall be presumed to be invalid unless they are presented in conjunction with the legibly printed first, middle and last name of the individual representing the signature as their own. (Ord. 2011-O-24 §1)

Sec. 6-7-40. Authorized methods of notification, transmittal and delivery.

Unless this Article prohibits or provides for a specific method of notification or delivery, all deliveries, written notices, notifications and communications required by this Article may be given by hand delivery, registered or certified mail, facsimile, by a delivery service that guarantees overnight delivery to a party at the address provided by the other party or as changed upon written notice to the other party, or by electronic mail or other electronic messaging system as authorized under the Uniform Electronic Transactions Act as adopted by the State of Colorado in Sections 24-71.3-101 through 24-71.3-121, C.R.S. (Ord. 2011-O-24 §1)

Division 2

Pawnbroker License Required

Sec. 6-7-110. Pawnbroker license required.

(a) It shall be unlawful for any Person to engage in the business of Pawnbrokering in the City without first having obtained a Pawnbroker's license in accordance with this Article in addition to all other licenses required by the City. Such licenses shall be kept current at all times, and failure to maintain a current license shall constitute a violation of this Article.

(b) It shall be unlawful for any Person to engage in the business of Pawnbrokering except as provided in and authorized by this Article. (Ord. 2011-O-24 §1)

Sec. 6-7-120. Zoning conformation and geographical limitations.

(a) No Licensee may be located within a one (1) mile radius of another Pawnbrokering business located within the City or outside the City limits. This geographic restriction shall not apply to Internet Pawnbrokers.

(b) For the purpose of this Section, the distance between Pawnbroker businesses shall be measured in a straight line, without regard to intervening structures, objects or City limits, from the closest exterior wall of one (1) building in which a Pawnbroker business is located to the closest exterior wall of the other building in which a Pawnbroker business is located.

(c) A Licensee shall conduct Pawnbrokering from only one (1) business location, which shall be the location listed on the Licensee's license. This provision shall not prohibit a Licensee from using warehouses or other storage locations away from the licensed place of business, but such other location shall be used only if the Licensee first submits written notice to the City Manager of such off-site locations. Such off-site locations shall be open to any Peace Officer, including those officers of the Law Enforcement Agency, for inspection as provided in Section 6-7-600 of this Article.

(d) All Licensees under this Article must conform to all applicable zoning and land use regulations of the Centennial Land Development Code. It shall be unlawful to engage in Pawnbrokering as a home-based business. (Ord. 2011-O-24 §1)

Sec. 6-7-130. Duty and authority of City Clerk.

The City Clerk shall be responsible for receiving all applications for and issuing all licenses pursuant to this Article, conducting or directing investigations of the character, responsibility and fitness of Applicants and Managers, assisting all Applicants and Licensees in the licensing process and maintaining adequate records of all licenses and applications therefor. (Ord. 2011-O-24 §1)

Sec. 6-7-140. Application for license.

(a) All Applicants for a Pawnbroker's license shall file an application for such license with the City Clerk on forms to be promulgated and provided by the Clerk. Such forms shall require information sufficient to establish conformance with this Article and the laws and regulations of the City and, at a minimum, shall require the following:

(1) The names of each individual Applicant, partner of a partnership, manager of a limited liability company, officers and directors of the Applicant, holders of twenty percent (20%) or more of the corporate stock of the corporate Applicant, holders of twenty percent (20%) or more interest in a limited liability company or any other Person with a financial interest of twenty percent (20%) or more in the Applicant;

(2) The names of all Managers of the Applicant;

(3) Proof of the name and date of birth of all natural persons named in the application, such as a birth certificate, alien registration card or other reasonable identification card;

(4) A photograph and a complete set of fingerprints of the individual Applicant, partner of a partnership, manager of a limited liability company, officers and Managers of the Applicant;

(5) A written certificate or other form of confirmation prepared by the Community Development Department that the Pawnbrokering business is a permitted use for the proposed location;

(6) Written proof of the Applicant's right to possession of the premises proposed for the Applicant;

(7) A Financial Questionnaire, Consent to Release Financial Information and a current personal financial statement or a balance sheet and income account statement for the preceding

twelve-month period prior to the date of the application for each individual Applicant, partner of a partnership, manager of a limited liability company, officer and Manager of the Applicant;

(8) For any corporate owner and/or operator of the Applicant, evidence that the corporation(s) is/are in good standing under the statutes of the State of Colorado, or in the case of a foreign corporation, evidence that it is currently authorized to do business in the State of Colorado; and

(9) Any other information that is requested on the application forms.

(b) Applicants shall only submit applications to the City Clerk by hand delivery, mail or by a delivery service. The City Clerk shall not accept applications submitted by facsimile, electronic mail, any other electronic messaging system or any other means not specifically permitted by this Section. (Ord. 2011-O-24 §1)

Sec. 6-7-150. Application and investigation fees.

Every Applicant shall pay an application fee at the time of filing an application. The City Council directs the City Manager to set such fee in accordance with Section 11.3 of the Centennial Home Rule Charter. In addition, the Applicant shall pay in full all other fees, including but not limited to fees imposed by the State of Colorado for processing of information, fingerprints, photographs and background investigations. (Ord. 2011-O-24 §1)

Sec. 6-7-160. Bond required.

(a) Every Applicant for a Pawnbroker's license shall furnish with its application an initial bond with a responsible surety, to be approved by the City Manager, in the amount of ten thousand dollars (\$10,000.00), for the benefit of the people of the City, conditioned upon the safekeeping or return of all Tangible Personal Property held by the Pawnbroker, as required by law and ordinance, and the due observance of the provisions of this Article. No license shall be issued or renewed absent such approved bond.

(b) Notwithstanding Subsection (a) above, the City Council may, by amendment of this Section, increase or decrease the amount of the bond required for any Applicant or Licensee. Any such change shall be effective on January 1 of the year following that year in which such change was enacted.

(c) Termination or cancellation of an approved bond shall be grounds for summary suspension of the license and for subsequent revocation if a new bond is not furnished within thirty (30) days after demand by the City Manager. (Ord. 2011-O-24 §1)

Sec. 6-7-170. Completed application.

An application shall not be deemed complete and shall not be processed until all information required by the application is completed in full, submitted to the City Clerk with all required signatures in original, handwritten form and all information and fees required pursuant to this Article are submitted. All signatures required in the application must be notarized in order to meet the requirements of this Section. Incomplete applications may be returned to the Applicant for completion or correction without any further action. The City shall not be responsible for the failure

of a license to be issued or renewed prior to an expiration date because of a late, incomplete or defective application. (Ord. 2011-O-24 §1)

Sec. 6-7-180. Investigation of certain Applicants required.

Upon receipt of a properly completed application, together with all information required in connection therewith, fingerprints and photographs, and the payment of all application and license fees, the City Clerk shall conduct an investigation of the background, character and financial responsibility of each individual Applicant, partner of a partnership, manager of a limited liability company, officer and Manager of the Applicant. Each Applicant shall pay a nonrefundable investigation fee at the time the application is filed in the amount then charged by the Colorado Department of Public Safety for each Person who will be investigated. The City Clerk shall provide the City Manager with a recommendation with respect to the granting or denial of the license, and reasons therefor. (Ord. 2011-O-24 §1)

Sec. 6-7-190. City Manager's approval required.

The City Manager shall have final authority to approve or deny any application or application for renewal, and to review any determination of the City Clerk made with respect thereto. The City Manager retains the discretion to issue the license or reject the application upon the basis of the criteria set forth herein, the recommendations and findings of the City Clerk, and a determination of whether the Applicant has made a sufficient showing of good moral character, financial responsibility, experience and general fitness to command the confidence of the public and to warrant the belief that the business will be operated lawfully, honestly and efficiently. (Ord. 2011-O-24 §1)

Sec. 6-7-200. Annual license fee.

All Applicants for a Pawnbroker license shall pay the City Clerk the annual license fee for such license at the time an initial application for a license is filed or at the time a renewal application is filed. Annual license fees shall be nonrefundable unless an application is denied. The City Council directs the City Manager to set such fee in accordance with Section 11.3 of the Centennial Home Rule Charter. (Ord. 2011-O-24 §1)

Sec. 6-7-210. Denial; suspension; revocation.

(a) Denial. The City Manager may administratively deny the application of any Applicant without a hearing if it is shown that the Applicant is not financially responsible, not in good standing or not authorized to do business in Colorado or not of good moral character as to reasonably assure that the operations of the Applicant will be conducted lawfully and in a manner that will not be detrimental to the public interest. Any appeal of such an administrative denial may be available in accordance with Colorado law.

(b) Suspension or revocation. The City Manager may suspend any license issued under this Article if, after notice to the Licensee and a hearing, the City Manager determines that the Licensee is not financially responsible, not in good standing or not authorized to do business in Colorado, is not of good moral character as to reasonably assure that the operations of the Licensee will be conducted lawfully and in a manner that will not be detrimental to the public interest or has violated any provision of this Article. The City Manager shall notify Licensees in writing of the time and place

fixed for a suspension or revocation hearing at least ten (10) days prior to the date on which such a hearing is scheduled. Any appeal of a suspension or revocation of a license issued under this Article shall be reviewed in accordance with Rule 106 of the Colorado Rules of Civil Procedure. The City Manager shall also retain the discretion to declare the Licensee ineligible for relicensing for the purpose of Pawnbrokering within the City limits at any future time.

(c) Good moral character. In determining the good moral character of any Applicant or Licensee, the City Manager may consider whether such Person or entity has been adjudged in any civil or criminal proceeding to have indulged in business or trade practices prohibited by law, or convicted of or entered a plea of nolo contendere for any felony or any other offense involving moral turpitude and pertinent circumstances connected therewith.

(d) Financially responsible. As used in this Article, *financially responsible* means having sufficient income and assets to defray expenses and provide for liabilities of the business as they become due.

(e) Notwithstanding the provisions of this Subsection, a Pawnbroker may apply for relicensing and present evidence of rehabilitation at an administrative hearing before the City Manager. The City Manager may grant a Pawnbroker a new license provided that the City Manager finds adequate evidence of rehabilitation was presented to reasonably assure the City Manager that the Pawnbroker will conduct its operations lawfully and in a manner that will not be detrimental to the public interest.

(f) Any Applicant or Licensee wishing to appeal any ruling or decision pertaining to licenses issued under this Article that is not quasi-judicial shall appeal to the City Manager. All such appeals shall be in writing and shall be received by the City within fourteen (14) days of the decision or ruling that is the subject of the appeal. The City Manager shall notify the Pawnbroker in writing of the time and place fixed for such hearing.

(g) The City Manager shall render all decisions under this Subsection in writing, and shall provide a copy of the decision to the Pawnbroker within twenty (20) days after such hearing. All such decisions shall be final. (Ord. 2011-O-24 §1)

Sec. 6-7-220. Expiration and annual renewal.

Each license issued pursuant to this Article shall be valid for a period of one (1) year from the date of issuance, and an application for renewal shall be filed not less than thirty (30) days prior to the expiration of the period for which the license is issued. The City Manager may approve a late application for renewal if good cause is shown for the late filing. Each renewal application shall include copies of the Licensee's balance sheets and income statements for the preceding twelve-month period. When an application for renewal is received in proper form by the City Clerk, the City Clerk shall conduct an investigation and submit to the City Manager a recommendation with respect to the approval or denial of the renewal application unless the City Clerk deems an investigation unnecessary and elects to recommend approval without such investigation. (Ord. 2011-O-24 §1)

Division 3
Operational Requirements for Licensed Premises

Sec. 6-7-300. License display required.

Once the City has issued a license pursuant to this Article, it shall be unlawful for the Licensee to fail to display such license within the licensed premises in a location that is prominent and readily viewable by the public. (Ord. 2011-O-24 §1)

Sec. 6-7-310. Transferability; change of ownership; change of corporate structure.

(a) Licenses issued under this Article shall not be sold or transferred except in accordance with this Section.

(b) Any Licensee may transfer a license, provided that the transfer would not effectuate a change in fifty percent (50%) or more of the Licensee's owners or fifty percent (50%) or more of the Licensee's business interests within any one (1) year.

(c) Any change in the Licensee or transfer of the license shall result in termination of the license unless the Licensee files a written notice of such change with the City Clerk and pays a nonrefundable fee within thirty (30) days of any such change. The City Council directs the City Manager to establish such fee in accordance with Section 11.3 of the Centennial Home Rule Charter. Any such change shall be reported on forms promulgated and provided by the City Clerk and shall require the names of all new partners of a partnership, manager of a limited liability company, officers, directors, or holders of twenty percent (20%) or more of the corporate stock or holders of twenty percent (20%) or more interest in a limited liability company stock who were not previously holders of such amount of stock, or any Person with a financial interest of twenty percent (20%) or more in the Licensee, all of whom shall be required to furnish, together with such notice, all of the information required from such Persons in connection with an original application, and each Person shall be investigated by the City Clerk as provided in Section 6-7-180. Grounds for denial of any such transfer of corporate or limited liability ownership, change of corporate or limited liability company structure, partnership and termination of the license thereon, shall be the same as for denial of the license under Section 6-6-210. (Ord. 2011-O-24 §1)

Sec. 6-7-320. Manager; change of Manager.

(a) A Licensee shall employ a Manager to operate the Pawnbrokering business, provided, however, that the Licensee retains complete control of all aspects of the business, including but not limited to maintaining the Licensee's right to possession of the premises, responsibility for all debts and bearing all risk of loss or opportunity for profit from the business.

(b) In the event a Licensee changes a Manager of a Pawnbrokering establishment, the Licensee shall immediately report such change and register the new Manager on forms promulgated and provided by the City Clerk within thirty (30) days of the Manager's employment with the Licensee. The new Manager shall submit a photograph and a complete set of fingerprints and shall be investigated by the City Clerk as provided in Section 6-7-180. The Licensee shall pay a nonrefundable investigation fee in the amount then charged by the Colorado Department of Public Safety, as well as a Manager registration fee. The City Council directs the City Manager to set the

Manager registration fee in accordance with Section 11.3 of the Centennial Home Rule Charter. Failure of a Licensee to report such a change or failure of the Manager to meet the standards and qualifications as required in Section 6-7-190 shall be grounds for termination of the license. (Ord. 2011-O-24 §1)

Sec. 6-7-330. Permitted hours of operation for Retail Pawnbrokers.

It shall be unlawful for Retail Pawnbroker Licensees to be open for business or to operate the establishment wherein the business of Pawnbrokering is carried on before 8:00 a.m. or after 9:00 p.m. (Ord. 2011-O-24 §1)

Sec. 6-7-340. Relocation of business.

(a) No license shall be valid for any location other than the location for which it is issued, except as hereinafter provided.

(b) A Licensee may relocate its place of business under the same license in accordance with the following procedure:

(1) A Licensee wishing to relocate its place of business within the City shall give written notice thereof to the City Clerk no less than thirty (30) days prior to the date of relocation.

(2) The City Clerk shall enter an order permitting the relocation and amend the license accordingly upon a finding that the Licensee has the right to possession of the proposed location and that the location is reasonably accessible to the Licensee's existing Pledgors. Absent such findings, the City Clerk shall issue a written order denying the Licensee permission to relocate. The City Clerk shall provide a copy of such order to the Licensee along with written notice of the reason for the denial.

(3) If the City Clerk denies a Licensee permission to relocate its business, the Licensee may file a written request for review thereof with the City Clerk within ten (10) days following the date upon which the notice of denial was provided. The City Manager shall then review and either affirm or reverse the denial.

(4) If the City Clerk approves the relocation, the Licensee shall provide written notice of such relocation to each Pledgor with whom the Licensee has an existing Contract for Purchase. Such notices shall be transmitted at least fifteen (15) days prior to the date of relocation. The Licensee shall file an affidavit of such mailing with the City Clerk together with a sample copy of the notice of relocation. The Licensee shall retain in its records any undelivered notice returned to it; provided, however, that the Licensee shall retain any returned notice sent by mail in its unopened envelope. (Ord. 2011-O-24 §1)

Sec. 6-7-350. Property held; time limit; sale of unredeemed articles.

(a) A Licensee shall hold Tangible Personal Property that it has purchased through a Purchase Transaction for thirty (30) days following the date of purchase, during which time such property shall be held separate and apart from any other Tangible Personal Property, shall be held in compliance with Section 6-7-390 of this Article and shall not be changed in form or altered in any way.

(b) The Licensee shall hold all Tangible Personal Property pledged on a Contract for Purchase in its possession during the term of the Contract for Purchase, plus a period of ten (10) days following the maturity date of the Contract for Purchase, during which time such goods shall be held separate and apart from any other Tangible Personal Property, shall be held in compliance with Section 6-7-390 of this Article and shall not be changed in form or altered in any way.

(c) If the Pledgor fails or neglects to cancel the Contract for Purchase by repayment of the balance of the principal and payment of all accrued interest charges, the Licensee shall provide written notice to the Pledgor after the maturity date of the Contract for Purchase to the address designated in the Licensee's register as required by Subsection 6-7-520(a). The notice shall give the number of the Pawn Ticket and a description of the property pledged. The notice shall also notify the Pledgor that the Contract for Purchase must be canceled within ten (10) days from the date of the notice, specify the date upon which such cancellation must be made and shall state that upon the Pledgor's failure to cancel the Contract for Purchase by such date, the Pledged Property shall be deemed forfeited to the Licensee and the right of the Pledgor to cancel the Contract for Purchase shall be terminated. Such notice shall be in the form substantially as follows:

Centennial, Colorado, _____ 20__.

To: (Name) _____

(Street address) _____

(City, State, Zip Code) _____

You are hereby notified to cancel the Contract for Purchase on or before ten (10) days from the above date, to wit: (Date), or the Pledged Property will be forfeited to the Pawnbroker under the Contract for Purchase and your rights to the Pledged Property will thereafter be terminated. Your Pawn Ticket is No. _____, the property pledged by you as security is described as follows:

(General description of property) _____

(Licensee) _____

(Licensee's address) _____

(d) If the notice required by Subsection (c) above is returned to the Licensee, the Licensee shall retain the original notice returned to it; provided, however, that the Licensee shall retain any returned notice sent by mail in its unopened envelope. Notwithstanding the notice, if the Pledgor fails to cancel the Contract for Purchase within the ten-day period designated in the notice, the Pledgor shall forfeit all right, title and interest in and to the Pledged Property to the Licensee, the Pledgor's debt to the Licensee shall be satisfied and the Licensee shall acquire title to the property subject to the provisions of Section 6-7-380 of this Article. (Ord. 2011-O-24 §1)

Sec. 6-7-360. Unlawful transactions.

(a) It is unlawful for any Retail Pawnbroker Licensee to make a Contract for Purchase, acquire a Pawn Ticket by transfer or make a Purchase Transaction with the following:

- (1) Any Person under the influence of alcohol or any controlled substance;

(2) Any Person known by such Licensee to have been convicted of a felony, without first notifying the Law Enforcement Agency;

(3) Any Person appearing to the Licensee to be in an abnormal mental state;

(4) Any Person whose actions would give the Licensee probable cause to believe that the Tangible Personal Property that is the subject of a Contract for Purchase or Purchase Transaction with that Person was obtained illegally.

(b) It is unlawful for any Licensee to make a Contract for Purchase, acquire a Pawn Ticket by transfer or make a Purchase Transaction with any Person under eighteen (18) years of age or with any Person in possession of Tangible Personal Property that is the subject of a Contract for Purchase or Purchase Transaction with an identification number thereon which is obscured. For the purposes of this Section, *identification number* means a serial or motor number placed by the manufacturer or owner upon an article as a permanent individual identifying mark and *obscured* means destroyed, removed, altered, concealed or defaced so as to render illegible by ordinary means of inspection.

(c) With respect to a Contract for Purchase, no Licensee may permit any Pledgor to become obligated on the same day in any way under more than one (1) Contract for Purchase agreement with the Licensee that would result in the Licensee obtaining a greater amount of money than would be permitted if the Licensee and Pledgor had entered into only one (1) Contract for Purchase covering the same Tangible Personal Property.

(d) No Licensee shall violate the terms of any Contract for Purchase. (Ord. 2011-O-24 §1)

Sec. 6-7-370. Unlawful to pawn certain items.

It is unlawful for any Licensee to accept in pledge, buy, sell or display in its place of business any switchblade knife, any knife whose blade is detachable from its handle, any knife whose blade opens by any mechanical means, any gravity knife, any throwing star, any brass or metallic knuckles or other items commonly used for and designed for the purpose of beating or striking others, any nunchaku, blackjack or billy club, property with missing or altered serial numbers on items that are likely to or commonly known to have serial numbers, or any other property that is illegal to possess. (Ord. 2011-O-24 §1)

Sec. 6-7-380. Accepting lost or stolen articles.

A Licensee that accepts in pledge any Tangible Personal Property pursuant to a Contract for Purchase from a Person who is not the owner thereof does not obtain title to the property, either by reason of a Pledgor's failure to cancel the Contract for Purchase or by the Pledgor's transference of the Pawn Ticket to the Licensee. Ignorance of the fact that the Pledged Property was lost or stolen shall not be construed to affect the question of title; and if the Licensee shall sell such property to a third Person, the Licensee shall remain liable to the original owner in any appropriate legal action. The lawful owner may, upon proving ownership of the lost or stolen property, claim the same from the Licensee or recover the same by means of any appropriate legal action. (Ord. 2011-O-24 §1)

Sec. 6-7-390. Safekeeping; insurance.

All Licensees shall provide a safe place for the keeping of Pledged Property it has received, and shall maintain sufficient insurance on the Pledged Property held for the benefit of the Pledgor to pay fifty percent (50%) of the real value thereof in case of fire, theft or other casualty loss. The City Manager shall not approve an application for a license under this Article unless and until the Applicant has provided such insurance policies to the City Manager. Neither the Licensee nor surety shall be relieved from their responsibility by reason of such fire, theft or other casualty loss, nor from any other cause unless they have rendered full performance in accordance with the Contract for Purchase. (Ord. 2011-O-24 §1)

Sec. 6-7-400. Liability for Pledged Property.

A Licensee shall be liable for the loss of Pledged Property or part thereof, or for injury thereto, whether caused by fire, theft, burglary or otherwise, as a result of its failure to exercise reasonable care in regard to such property. A Licensee shall not be liable, in the absence of an express agreement to the contrary, for the loss of or injury to Pledged Property that could not have been avoided by the exercise of due care. Nothing herein shall affect the right of the Pledgor to insurance proceeds on such property. (Ord. 2011-O-24 §1)

Sec. 6-7-410. Intermediate payments; receipts.

The Licensee shall accept intermediate payments, without penalty, upon contracts for purchase that have not yet matured when presented with the Pawn Ticket, and shall treat the amount tendered as a payment upon the existing Contract for Purchase. The Licensee shall give a receipt for all moneys received on account of or in payment of the Contract for Purchase, and such receipt shall show the date and the amount of the payment received. Retail Pawnbroker Licensees shall enter the date and amount of each such payment upon the appropriate serially numbered stub in the bound book required to be kept by Section 6-7-520 at the time of each such payment. Internet Pawnbroker Licensees shall keep a record of the date and amount of each such payment in the register required to be kept by Section 6-7-520 at the time of each such payment. The total amount of money presented shall be applied against the amount of the Pledgor's indebtedness. In no event shall any late charges, collection fees or other such service charges be deducted from the amount of the payment tendered to the Licensee. (Ord. 2011-O-24 §1)

Sec. 6-7-420. Interest rate; commission.

No Licensee shall ask, demand, or receive any greater rate of interest, commission and compensation than the total rate of one-fifth (1/5) of the original purchase price for each month, plus the original purchase price. The Licensee shall not assess any other charges against the Pledgor upon renewal of any contracts for purchase or at any other time. If a Licensee assesses any such charges, the Pledgor's contract with the Licensee shall be void. Any contract that requires a Pledgor to pay the Licensee a commission for making a Contract for Purchase on Tangible Personal Property shall be null and void. (Ord. 2011-O-24 §1)

Sec. 6-7-430. No deficiency or offsets permitted.

(a) Licensees shall rely solely on the property pledged for payment of the Contract for Purchase, and Licensees are prohibited from seeking such payment from the following sources:

- (1) The personal credit of the Pledgor; or
- (2) The surplus or deficit arising out of another Contract for Purchase between the parties.

(b) Licensees shall not collect any deficiency balances, and any attempt to do so by a Licensee shall void the contract. (Ord. 2011-O-24 §1)

Division 4

Recordkeeping Requirements for Licensees

Sec. 6-7-510. Videotape and photograph requirements.

Retail Pawnbroker Licensees shall video record all transactions, including those that do not result in a Contract for Purchase or Purchase Transaction, and shall digitally photograph the face of each Pledgor who enters into a Purchase Transaction or Contract for Purchase with the Retail Pawnbroker Licensee. The video recording and photograph shall be in a format approved by the Law Enforcement Agency and shall be of such quality that it clearly displays an identifiable frontal image of the Pledgor. The Retail Pawnbroker Licensee shall keep all such video recordings for a minimum of ninety (90) days from the date upon which it was created and shall be subject to review by Peace Officers or the Law Enforcement Agency. The Retail Pawnbroker Licensee shall keep the digital photograph of all Pledgors for one hundred eighty (180) days from the date upon which it was created, regardless of whether that photograph was captured by still camera or video recording. (Ord. 2011-O-24 §1)

Sec. 6-7-520. Books and records.

(a) All Licensees shall keep an alphabetical index of the names of Pledgors and a numerical register or automated format approved by the Law Enforcement Agency in which the Licensee shall legibly record the following information in the English language, in ink or in such a manner as to comply with the Uniform Electronic Transactions Act, Sections 24-71.3-101 through 24-72.3-121, C.R.S., and contemporaneously with each Contract for Purchase or Purchase Transaction:

- (1) The name of the Pledgor;
- (2) The address and phone number of the Pledgor;
- (3) The date of birth of the Pledgor;
- (4) A photocopy or scanned copy of either the Pledgor's valid Colorado driver's license, or of one (1) of the following alternative forms of identification:
 - a. Valid Colorado identification card;

b. A valid driver's license with photograph, issued by another state;

c. Military identification card;

d. Valid passport;

e. Alien registration card;

f. An identification document with no photograph, issued by the state or federal government;

(5) The date, time and place of the Contract for Purchase or Purchase Transaction;

(6) An accurate, detailed and legible account and description of each item of Tangible Personal Property, including but not limited to any trademark, identification number, serial number, model number, brand name or identifying marks on such property.

(7) The signature of the Pledgor; and

(8) A clear and identifiable imprint of the Pledgor's right index finger or, if such an imprint cannot be obtained, a clear and identifiable imprint of the Pledgor's left index finger or other fingerprint sufficient to identify the Pledgor.

(b) Internet Pawnbroker Licensees may alternatively obtain and verify the information required in Subsection (a) above at the time of inquiry and at the time of funding of the transaction. Such verification may include, but shall not be limited to, the validity of a driver's license or other form of identification, telephone numbers, mailing and electronic addresses, bank account information and any other such information as may be obtained via electronic identification check. If the Internet Pawnbroker Licensee obtains such verification, it shall be legibly recorded in the Licensee's numerical register or automated format approved by the Law Enforcement Agency.

(c) All Licensees shall obtain a signed written declaration of the Pledgor's ownership which shall state that the Pledgor owns each item of Tangible Personal Property in its entirety, how long the Pledgor has owned the property, whether the Pledgor or someone else has found the property, and if the property was found, the details of the finding. The Pledgor shall sign his or her name on the register or other tangible or electronic record and on the individual declaration of ownership for each item of Tangible Personal Property pledged and shall receive a copy of the Contract for Purchase or a receipt of the Purchase Transaction.

(d) All Licensees shall keep the register or other tangible or electronic record for at least three (3) years after the date of the last transaction entered in the register, and shall keep all registers in a place that is reasonably safe from destruction or theft.

(e) Such registers and other books and records of the Licensee, including all electronic records or databases, shall be open to inspection in accordance with Section 6-7-600. Upon demand by any authorized agent, the Licensee shall produce and show any Tangible Personal Property given to the Licensee in connection with any Contract for Purchase or Purchase Transaction. The Licensee's

records shall note the date on which each Contract for Purchase was canceled, redeemed or forfeited and sold.

(f) All Licensees shall provide the Law Enforcement Agency on a weekly basis with two (2) records, in a format acceptable to the Law Enforcement Agency, of all Tangible Personal Property that the Licensee accepted pursuant to a Contract for Purchase or a Purchase Transaction during the preceding week, and one (1) copy of each Pledgor's declaration of ownership. The records shall contain the same information required to be recorded in the Licensee's register or other tangible or electronic record pursuant to this Article. The Law Enforcement Agency shall designate the day of the week on which the records and declarations shall be submitted. (Ord. 2011-O-24 §1)

Sec. 6-7-530. Pawn Tickets.

(a) At the time of making a Contract for Purchase or upon the subsequent renewal of any Contract for Purchase, a Licensee shall deliver to the Pledgor a Pawn Ticket that shall contain the following information:

- (1) The name and address of the Licensee;
- (2) A description of the Pledge sufficient to adequately identify the Pledge;
- (3) The date of the transaction; and
- (4) The amount, duration and terms of the Contract for Purchase.

(b) Language that represents suitably Sections 6-7-530 through and including 6-7-550 of this Article shall appear on the Pawn Ticket.

(c) The Licensee may insert on the Pawn Ticket any other terms, conditions and information not inconsistent with the provisions of this Article. (Ord. 2011-O-24 §1)

Sec. 6-7-540. Cancellation of Contract for Purchase; transfer of Pawn Ticket generally; transfer to Pawnbroker.

(a) The holder of the Pawn Ticket shall be presumed to be the Person entitled to cancel the Contract for Purchase.

(b) Except as otherwise provided in this Article, the Licensee shall deliver the Pledge to the Person presenting the Pawn Ticket upon receipt of payment of principal and charges and upon surrender of the Pawn Ticket.

(c) The holder of any Pawn Ticket may transfer such ticket to the issuing Licensee by writing upon the ticket "Transferred to (name of Licensee)" and signing his or her name under such writing. The effect of transferring a Pawn Ticket to the issuing Licensee shall be to vest in the Licensee such ownership and title to the Pawn Ticket and the Pledged Property represented thereby as the holder had. The Licensee may thereafter sell the Pledged Property in accordance with the provisions of Section 6-7-590. (Ord. 2011-O-24 §1)

Sec. 6-7-550. Loss of Pawn Ticket.

If a Pawn Ticket is lost, destroyed or stolen, the Pledgor shall so notify the issuing Licensee in writing. Before permitting the cancellation of the Contract for Purchase or issuing a duplicate Pawn Ticket, the Licensee may, in addition to satisfying itself of the validity of the claim, require the Pledgor to make an affidavit of the alleged loss, destruction or theft of the ticket. Upon receipt of such affidavit or statement in writing as the case may be, the Licensee shall permit the Pledgor to cancel the Contract for Purchase or the Licensee shall deliver to the Pledgor a duplicate ticket and the Licensee shall incur no liability for doing so unless it had previously received written notice of an adverse claim to the Pledge. The form of the affidavit shall be substantially as follows:

AFFIDAVIT OF LOSS OF PAWN TICKET

STATE OF COLORADO)

) SS:

COUNTY OF ARAPAHOE)

I, _____ being first duly sworn, do depose and say:

1. I am the Pledgor of a Pawn Ticket issued by (name of Licensee), numbered _____, ("Unknown" if number is not known), and dated ("Unknown" if date is not known).

2. The above-described Pawn Ticket has not been sold, negotiated, or transferred in any other manner by me.

3. The above-described Pawn Ticket was (lost, destroyed, or stolen) as follows: _____.

4. The Pledge represented by this Pawn Ticket is (description of Pledge).

Further affiant sayeth not.

Affiant

Subscribed and sworn to before me this ___ day of _____,
20__

Notary Public

My Commission expires: _____

Sec. 6-7-560. Adverse claims.

If more than one (1) Person claims the right to cancel a Contract for Purchase, a Licensee shall incur no liability for refusing to deliver the Pledge until the respective rights of the claimants are

adjudicated. If no party brings an action against the Licensee prior to the expiration of the period for which the Licensee is required to hold the Pledge under Section 6-7-350 of this Article, the Licensee may sell the Pledge in accordance with this Article. (Ord. 2011-O-24 §1)

Sec. 6-7-570. Altered Pawn Ticket.

The alteration of a Pawn Ticket shall not excuse the Licensee that issued it from liability to deliver the Pledge according to the terms of the ticket as originally issued, but shall relieve such Licensee from any other liability to the Pledgor of the ticket. (Ord. 2011-O-24 §1)

Sec. 6-7-580. Seizure of counterfeit or reportedly lost Pawn Ticket; seizure of counterfeit or fraudulent identification.

(a) A Licensee may, without any liability whatsoever to the holder thereof, seize and retain any Pawn Ticket presented that purports to be a Pawn Ticket issued by that Licensee but that is found to be counterfeit or that has been reported to it as lost, stolen or destroyed. All Licensees shall immediately notify the Law Enforcement Agency upon such seizure.

(b) Upon notice of a seizure of a Pawn Ticket pursuant to this Subsection, the Law Enforcement Agency shall place a hold order on the Pawn Ticket so seized, as required by Section 6-7-610. The Licensee shall hold all Pledged Property that is identified in the seized Pawn Ticket until such time as the lawful disposition of the Pledged Property is either agreed upon, determined by a court action, directed by ordinance or statute or the hold order is either ordered released by the Law Enforcement Agency or has expired.

(c) If a Licensee has reason to believe a Pledgor is exhibiting counterfeit or fraudulent identification, the Licensee may seize such identification without incurring civil or criminal liability if such seizure is made in good faith and upon probable cause based upon reasonable grounds therefor, provided that the Licensee immediately delivers such identification to the Law Enforcement Agency. (Ord. 2011-O-24 §1)

Sec. 6-7-590. Sale of articles represented by Pawn Tickets transferred to Licensee.

A Licensee may sell any Tangible Personal Property deposited with it pursuant to a Contract for Purchase if the Pawn Ticket representing such property has been transferred to the Licensee in accordance with Section 6-7-540 thirty (30) days after such transference. (Ord. 2011-O-24 §1)

Division 5

Investigations and Disposition of Property

Sec. 6-7-600. Investigation; right of entry.

(a) For the purpose of investigating violations of this Article, any authorized agent of the Law Enforcement Agency, any Person, agency or entity authorized to enforce municipal law or any Peace Officer may at any reasonable time investigate the business and its inventory, and examine the books, accounts, papers and records of any Licensee or any Person, partnership, limited liability corporation or corporation that engages in the business of Pawnbrokering within the City.

(b) Application for or acceptance of a license by a Pawnbroker under the terms and provisions of this Article shall constitute a continuing consent to entry by any authorized agent of the Law Enforcement Agency, any Person, agency or entity authorized to enforce municipal law or any Peace Officer upon the Licensee's premises for the purpose of investigating the business and its inventory, and examining the books, accounts, papers and records used therein, at any time during the term of the license, during regular business hours or whenever the Licensee, its employee or agent is upon the premises. Willful failure or refusal by a Licensee, its agent, or employee to permit entry upon the premises by any authorized individual as provided herein, after presentation of credentials and demand for entry, is a violation of this Article and shall be grounds for revocation of the Licensee's license. (Ord. 2011-O-24 §1)

Sec. 6-7-610. Hold order.

(a) Any authorized agent of the Law Enforcement Agency may verbally order a Licensee to hold any Tangible Personal Property deposited with or in the custody of such Licensee for purposes of further investigation by the Law Enforcement Agency. A hold order shall be effective upon verbal notification to the Licensee by an authorized agent of the Law Enforcement Agency and shall be for a period of ninety (90) days. The Law Enforcement Agency may extend the hold order for an additional period of ninety (90) days for good cause.

(b) The Law Enforcement Agency shall provide the Licensee with written notice of the hold order within seventy-two (72) hours of the verbal notification, unless the end of the seventy-two-hour period falls on a Saturday, Sunday or holiday, in which event the written notification of the hold order shall be provided to the Licensee on the following Monday or the next business day following a holiday. A hold order shall supersede the provisions of Sections 6-7-350 and 6-7-590, and no Licensee may sell or dispose of any Tangible Personal Property deposited with it or in its custody while the hold order remains in effect. Any sale or other disposition of the property after the Pawnbroker has been notified by the Law Enforcement Agency of a hold order shall be unlawful and a violation of this Article. (Ord. 2011-O-24 §1)

Sec. 6-7-620. Seized property held by Law Enforcement Agency; administrative hearing to determine possession.

(a) When the Law Enforcement Agency no longer requires stolen property that was seized from a Licensee without its written consent to serve as evidence and there is no court order that concerns the disposition of the stolen property, the Law Enforcement Agency shall deliver the stolen property to the City. In conjunction with and simultaneous to delivering the stolen property to the City, the Law Enforcement Agency shall provide written notice to the City of the following information:

- (1) A thorough and accurate description of the stolen property in question, including serial numbers, if any;
- (2) The date upon which the Law Enforcement Agency seized the stolen property;
- (3) The reason the property was seized and the reason that the Law Enforcement Agency no longer requires the property; and
- (4) The name and last known mailing address of the following Persons:

- a. The Licensee from whom the stolen property was seized;
- b. Any Person claiming to be the lawful owner of the property;
- c. Any Person who has notified the Law Enforcement Agency in writing of his or her claim of an interest in the property; and
- d. Any other Person who the law enforcement reasonably knows may have an interest in the stolen property.

(b) The City Manager shall send to all Persons identified in the written notice specified in Subsection (a) of this Section written notice of the right to an administrative hearing to determine who is entitled to possession of the stolen property. Such notice shall be sent to such Persons by certified mail, return receipt requested at their last mailing address known to and provided by the Law Enforcement Agency.

(c) Any Person seeking an administrative hearing to determine the lawful owner of stolen property shall file a written request for such hearing with the City Manager within fourteen (14) days after the date on which the City Manager mailed the notice of the right to an administrative hearing. The written request must include the current address and a daytime telephone number of the Person seeking the hearing, or in the case of a Licensee, its business address and telephone number.

(d) If the City Manager does not receive any request for a hearing regarding possession of the property in question within the time set forth in this Section, the City Manager shall return the property to the Person claiming to be the lawful owner of such property, not to the Licensee. (Ord. 2011-O-24 §1)

Sec. 6-7-630. Conduct of hearing regarding right to possession of seized property.

(a) If the City Manager receives a timely request for a hearing regarding possession of the property in question, the City Manager shall provide written notice of the time and place fixed for such a hearing to all parties identified in the written notice specified in Section 6-7-620(a) of this Article.

(b) A hearing to determine the right to possession shall be conducted before a hearing officer designated by the City Manager within seventy-two (72) hours of the City Manager's receipt of a written request for a hearing, unless the Person requesting the hearing waives the right to a speedy hearing. Weekends and holidays are excluded from the calculation of the seventy-two-hour period.

(c) The hearing officer shall conduct the hearing in an informal manner and shall not be bound by formal rules of evidence. The hearing officer may receive all or any part of the evidence in written form. The Person demanding the hearing shall carry the burden of establishing by a preponderance of the evidence that such Person has the right to possession of the property.

(d) At the conclusion of the hearing, the hearing officer shall prepare a written decision stating who is entitled to possession of the property. The hearing officer's decision does not constitute a warranty of title to the property in dispute. The hearing officer shall provide a copy of the written decision to all parties identified in the written notice specified in Subsection 6-7-620(a) above. The

decision of the hearing officer shall be final. The City Manager shall return the property to the Person determined to have the right to possession within thirty (30) days after the date of the hearing officer's decision or, in the event that any party files an appeal of the hearing officer's decision, such property shall be returned at such time as any appeals have been exhausted.

(e) Any Person who is aggrieved at the final decision of the hearing officer may seek review of such decision by the Arapahoe County District Court in accordance with Rule 106 of the Colorado Rules of Civil Procedure. (Ord. 2011-O-24 §1)

Division 6
Penalties and Remedies

Sec. 6-7-700. Enforcement and fines.

(a) A Licensee's noncompliance with any provision of this Article shall be cause for revocation of the Licensee's Pawnbroking license, or shall be cause for suspension or other enforcement provisions as otherwise apply to the Licensee's license.

(b) This Article may be enforced in the Municipal Court or any court of competent jurisdiction. Any Person who violates the requirements of this Article may be punished in accordance with the general penalty provisions set forth in Section 1-4-10 of this Code. (Ord. 2011-O-24 §1)

Division 7
Special Provisions for Internet Pawnbrokers

Sec. 6-7-810. Exemptions from certain provisions of this Article.

Internet Pawnbrokers shall be exempt from Paragraph 6-6-520(a)(8) of this Article. (Ord. 2011-O-24 §1)

Sec. 6-7-820. Additional provisions applicable to Internet Pawnbrokers only.

It shall be unlawful for any Internet Pawnbroker Licensee, its employee, agent or any other Person acting on its behalf to make a Contract for Purchase or make a Purchase Transaction with any Person whose actions or documentation would give the Licensee probable cause to believe that the Person with whom the Licensee is entering such transaction lacks legal capacity for such transaction. (Ord. 2011-O-24 §1)