

## CHAPTER 6

### Business Licenses and Regulations

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## ARTICLE 1

### Licensing Provisions

#### Sec. 6-1-10. Scope.

It is not intended by this Chapter to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this Chapter. Where this Chapter imposes a greater restriction upon persons, premises or personal property than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of this Chapter shall control. (Prior code 5-1-2)

#### Sec. 6-1-20. Definitions.

For the purposes of this Chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word *shall* is always mandatory and not merely directory.

*Business* means all kinds of vocations, occupations, professions, enterprises, establishments and all other kinds of activities and matters, together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for private profit or benefit, either directly or indirectly, on any premises in this Town, or anywhere else within its jurisdiction.

*Insignia* means any tag, plate, badge, emblem, sticker or any other kind of device which may be required for any use in connection with any license.

*License* or *licensee*, as used generally herein, includes respectively the words *permit* or *permittee*, or the holder for any use or period of time of any similar privilege, wherever relevant to any provision of this Chapter or other law or ordinance.

*License Officer* means the Town Clerk.

*Premises* means all lands, structures and places; the equipment and appurtenances connected or used therewith in any business; and any personal property which is either affixed to, or is otherwise used in connection with any such business conducted on such premises. (Prior code 5-1-3; Ord. 4 §1, 2009)

#### Sec. 6-1-30. Application of Code licensing provisions.

(a) Compliance required. It shall be unlawful for any person, either directly or indirectly, to conduct any business or to use in connection therewith any vehicle, premises, machine or device, in whole or in part, for which a license is required by any law or ordinance of this Town, without a license therefor being first procured and kept in effect at all such times as required by this Chapter or other law or ordinance of this Town.

(b) One act doing business. For the purpose of this Article, any person shall be deemed to be in business, and thus subject to the requirements of Subsection (a) above, when he or she does at least one (1) act of:

- (1) Selling any goods or service.
- (2) Soliciting business or offering goods or services for sale or hire.
- (3) Acquiring or using any vehicle or any premises in the Town for business purposes.

(c) Agents responsible for obtaining license. The agents or other representatives of nonresidents who are doing business in this Town shall be personally responsible for the compliance of their principals and of the businesses they represent with this Chapter.

(d) Separate license for branch establishments.

(1) A license shall be obtained in the manner prescribed herein for each branch establishment or location of the business engaged in, as if each such branch establishment or location were a separate business; provided that warehouses and distributing plants used in connection with and incidental to a business licensed under the provisions of this Chapter shall not be deemed to be separate places of business or branch establishments.

(2) Each rental real property shall be deemed a branch establishment or separate place of business for the purposes of this Chapter when there is a representative of the owner or the owner's agent on the premises who is authorized to transact business for such owner or owner's agent, or there is a regular employee of the owner or of the owner's agent working on the premises.

(e) Joint license. A person engaged in two (2) or more businesses at the same location shall not be required to obtain separate licenses for conducting each of such businesses but, when eligible, shall be issued one (1) license which shall specify on its face all such businesses.

(f) No license shall be required of any person for any mere delivery in the Town of any property purchased or acquired in good faith from such person at his regular place of business outside the Town where intent by such person is shown to exist to evade the provisions of this Article. (Prior code 5-1-4; Ord. 21 §§1—3, 2007; Ord. 4 §1, 2009)

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

Issue licenses. The License Officer shall collect all license fees and shall issue licenses in the name of the Town to all persons qualified under the provisions of this Article and shall:

(1) Promulgate and enforce all reasonable rules and regulations necessary to the operation and enforcement of this Article.

(2) Adopt all forms and prescribe the information to be given therein as to character and other relevant matter for all necessary papers.

(3) Require all applicants to submit all certifications of fact necessary to the administration of this Article.

(4) Submit all applications, in a proper case, to interested Town officials for their endorsements thereon as to compliance by the applicant with all Town regulations which they have the duty of enforcing.

(5) Investigate and determine the eligibility of any applicant for a license as prescribed herein.

(6) Examine the books and records of any applicant or licensee when reasonably necessary to the administration and enforcement of this Article.

(7) Notify any applicant of the acceptance or rejection of his or her application and, upon his or her refusal of any license or permit, at the applicant's request, state in writing the reasons therefor and deliver them to the applicant. (Prior code 5-1-5; Ord. 7 §1, 1998; Ord. 4 §1, 2009)

**Sec. 6-1-50. Qualifications of applicants.**

General standards to be applied. The general standards herein set out relative to the qualifications of every applicant for a license shall be considered and applied by the License Officer. The applicant shall:

(1) Not be in default under the provisions of this Article or indebted or obligated in any manner to the Town except for current taxes.

(2) Upon request of the Licensing Officer, present a certificate of occupancy furnished by the Building Inspector to the effect that the proposed use of any premises is not a violation of Chapter 16 of this Code. (Prior code 5-1-6; Ord. 4 §1, 2009)

**Sec. 6-1-60. Procedure for issuance of license.**

(a) Formal application required. Every person required to procure a license under the provisions of any ordinance or law of the Town shall submit an application for such license to the License Officer. The application shall:

(1) Require the disclosure of all information necessary for compliance with Section 6-1-50 above and of any other information which the License Officer shall find to be reasonably necessary to the fair administration of this Article.

(2) Be accompanied by the full amount of the fees chargeable for such license.

(b) Issuance of receipts. Whenever a license cannot be issued at the time the application for the same is made, the License Officer shall issue a receipt to the applicant for the money paid in advance, subject to the following conditions: Such receipt shall not be construed as the approval of the License Officer for the issuance of a license; nor shall it entitle or authorize the applicant to open or maintain any business contrary to the provisions of this Article.

(c) Renewal license procedure. The applicant for the renewal of a license shall submit an application for such license to the License Officer. The application shall Require the disclosure of such information concerning the applicant's demeanor and the conduct and operation of the applicant's business during the preceding licensing period as is reasonably necessary to the determination by the License Officer of the applicant's eligibility for a renewal license and to a possible adjustment of license fee.

(d) Duplicate license procedure. A duplicate license or special permit shall be issued by the License Officer to replace any license previously issued, which has been lost, stolen, defaced or destroyed, without any willful conduct on the part of the licensee, upon the filing by the licensee of an affidavit

sworn to before a notary public of this State attesting to such fact, upon and the payment to the License Officer of a fee as established by resolution of the Town Council.

(e) Supplemental license procedure. When a licensee places himself or herself in a new status as provided in Paragraph 6-1-70(2) below, the License Officer shall issue a supplemental license and such additional insignia as may be required.

(f) Nonapproval of license. The License Officer shall, upon disapproving any application submitted under the provisions of this Article, refund all fees paid in advance to the applicant, provided that the applicant is not otherwise indebted to the Town.

(g) Compliance pending legal action. When the issuance of a license is denied and any action is instituted by the applicant to compel its issuance, such applicant shall not engage in the business for which the license was refused unless a license is issued to him or her pursuant to a judgment ordering the same. (Prior code 5-1-7; Ord. 4 §1, 2009)

**Sec. 6-1-70. Determination of license fee.**

Fee established. License fees shall be in the amounts established in the this Article, and as further determined under this Section.

(1) The following rules shall apply to a person who, on the effective date of the initial ordinance codified herein, holds a valid unexpired license from the Town for any business required to be licensed hereunder:

a. Credit less than fee: In the event that the amount of the prorata of the license fee previously paid, based upon the unexpired portion of the period for which such previous license was issued, is less than the amount of fee imposed hereunder, the applicant shall receive credit on the new fee to the extent of such prorated amount.

b. Credit exceeds fee: In the event that prorated credit as computed in Subparagraph a. above is greater than the amount of fee imposed hereunder, the amount of license fee imposed by this Article shall be the amount of such prorated credit.

c. Where applicant indebted. In no case where an applicant is indebted in any manner to the Town shall he or she be entitled to a credit or rebate.

(2) The License Officer shall adjust the fee as follows:

a. Change in license status. Require the payment of an additional or higher license fee, to be prorated for the balance of the license period, when a licensee places himself or herself in such status under this Article by making any other lawful and material change of any kind in his or her business.

b. Prorated fee for new business. Any applicant obtaining a license for a business or other licensed activity commenced with less than three (3) months remaining in the applicable license period shall pay a license fee equal to one-third ( $\frac{1}{3}$ ) of the applicable yearly licensed fee.

(3) Rebate of fee.

a. General prohibition. Except as herein provided, no rebate or refund of any license fee or part thereof shall be made by reason of the nonuse of such license or by reason of a change of location or business rendering the use of such license ineffective.

b. Special cases. The License Officer shall have the authority to refund a license fee or prorated portion thereof where:

1. The license fee was collected through an error;

2. The licensee has been prevented from enjoying the full license privilege due to his or her death or incapacity to engage in such business;

3. The licensee has entered the armed services of the United States through induction or enlistment and is thereby rendered unable to conduct such business;

4. The licensed business is forced to close before the expiration of the license period by reason of the taking over of the business or licensed premises by the United States government, the State or the Town; or

5. The licensed business was destroyed by fire or other casualty through no fault of the licensee.

c. Basis of rebate. A rebate or refund as provided herein shall be based upon the number of days in the license period remaining after the occurrence of the event relied upon for rebate. (Prior code 5-1-8; Ord. 7 §1, 1998; Ord. 4 §1, 2009)

**Sec. 6-1-80. Contents of license.**

Each license issued hereunder shall state upon its face the following:

(1) The name of the licensee and any other name under which such business is to be conducted;

(2) The kind and address of each business so licensed;

(3) The amount of the license fee therefor;

(4) The dates of issuance and expiration thereof; and

(5) Such other information as the License Officer shall determine. (Prior code 5-1-9; Ord. 4 §1, 2009)

**Sec. 6-1-90. Forms of licenses.**

All license certificates shall be issued by the Town Clerk under the seal of the Town, signed by the Town Clerk. (Prior code 5-1-10; Ord. 4 §1, 2009)

**Sec. 6-1-100. Duties of licensee.**

(a) General standards of conduct. Every licensee under this Chapter shall:

(1) Permit all reasonable inspections of his or her business and examination of his or her books by public authorities so authorized by law.

(2) Ascertain and at all times comply with all laws and regulations applicable to such licensed business.

(3) Avoid all forbidden, improper or unnecessary practices or conditions which affect or may affect the public health, morals or welfare.

(4) Refrain from operating the licensed businesses on premises after expiration of his or her license and during the period his or her license is revoked or suspended.

(b) Display of license. Every licensee under this Chapter shall post and maintain such license upon the licensed premises in a place where it may be seen at all times.

(1) Where the licensed premises do not have a window facing a public way at street level or a glass door opening upon the public way, such insignia shall be affixed to the glass in the door, window or other prominent place in the nearest proximity to the principal public entrance to such establishment and shall be placed and maintained so as to be plainly visible from such public entrance.

(2) Vehicles.

a. Any general or special license fees, required for any kind of vehicle for the privilege of being operated upon the public highways by any statute or ordinance, shall not abrogate, limit or affect any further requirements of this Chapter, or of other ordinances or laws, for additional and separate licenses, permits and insignia and fees for such vehicles or other uses, for and relating to the privilege of using the same in the business so licensed.

b. The licensee shall affix any insignia delivered for use in connection with a licensed motor vehicle on the inside of the windshield of the vehicle or as may be otherwise prescribed by the License Officer or by law.

c. The licensee shall affix any metal or other durable type of insignia delivered for use in connection with a wagon or other vehicle not operated by motor power securely on the outside of such vehicle.

(3) The licensee shall carry such license on his or her person when he or she has no licensed business premises.

(4) The licensee shall affix any insignia delivered for use in connection therewith upon the outside of any coin, vending or other business machine or device, so that it may be seen at all times.

(5) The licensee shall not allow any license, special permit or insignia to remain posted, displayed, or used after the period for which it was issued has expired; when it has been suspended or revoked, or for any other reason becomes ineffective. The licensee shall promptly return such inoperative license, special permit or insignia to the License Officer.

(6) The licensee shall not loan, sell, give or assign to any other person or allow any other person to use or display, to destroy, damage or remove, or to have in his or her possession, except as authorized by the License Officer or by law, any license or insignia which has been issued to said licensee.

(c) New location desired. A licensee shall have the right to change the location of the licensed business, provided that he or she shall:

(1) Obtain written permission from the License Officer for such change of location.

(2) Pay a relocation fee in an amount established by resolution of the Town Council. (Prior code 5-1-11; Ord. 7 §2, 1998; Ord. 4 §1, 2009)

**Sec. 6-1-110. Transfer of license.**

(a) When authorized. A licensee hereunder shall have the right to transfer his or her license to another person, provided that he or she shall:

(1) Obtain written permission from the License Officer for such transfer.

(2) Execute the transfer in the form and under the conditions required by law and as prescribed by the License Officer.

(3) Promptly report the completed act of transfer to the License Officer.

(4) Promptly surrender any license certificate and, when required by the License Officer, all licensing insignia.

(b) New license issued. Upon the completion of a transfer of license in compliance with Subsection (a) above, the License Officer shall issue a new license and insignia to the transferee for the unexpired term of the old license.

(1) The new license issued hereunder shall authorize the transferee to engage in the same business at the same location or at such other place as shall be approved by the License Officer and named in the new license.

(2) The License Officer shall collect a transfer fee in an amount established by resolution of the Town Council from the transferee prior to the issuance of the new license. (Prior code 5-1-12; Ord. 7 §3, 1998; Ord. 4 §1, 2009)

**Sec. 6-1-120. Inspections; enforcement.**

(a) Persons authorized. The following persons are authorized to conduct inspections in the manner prescribed herein:

(1) The License Officer shall make all investigations reasonably necessary to the enforcement of this Chapter.

(2) The License Officer shall have the authority to order the inspection of licensees, their businesses and premises, by all Town officials having duties to perform with reference to such licensees or businesses.

(3) All police officers shall inspect and examine businesses to enforce compliance with this Chapter.

(b) Authority of inspectors. All persons authorized herein to inspect licensees and businesses shall have the authority to enter, with or without search warrant, at all reasonable times, the following premises:

(1) Those premises for which a license is required.

(2) Those premises for which a license was issued and which, at the time of inspection, are operating under such license.

(3) Those premises for which the license has been revoked or suspended.

(c) Reports by inspectors. Persons inspecting licensees, their businesses or premises as herein authorized shall report all violations of this Chapter or of other laws or ordinances to the License Officer, and shall submit such other reports as the License Officer shall order. (Prior code 5-1-13; Ord. 7 §4, 1998; Ord. 4 §1, 2009)

**Sec. 6-1-130. Penalties.**

The violation of any provision of this Chapter shall be a misdemeanor and, upon conviction thereof, the violator shall be punished in accordance with the provisions of Section 1-4-20 of this Code. (Prior code 5-1-14; Ord. 7 §5, 1998; Ord. 4 §1, 2009)

**ARTICLE 2**

**Business Occupation Licenses**

**Sec. 6-2-10. Purpose.**

The purpose of this Article shall be to require the licensing and regulation of business activities, occupations and enterprises conducted within the Town and provide the Town with necessary information relating to businesses and professions operating with the Town, in order to protect the health, welfare and safety of its inhabitants, to generate and raise additional revenues for the Town for the purpose of marketing the Town and its environs as a year-round resort, and to promote and market activities and events beneficial to the business community. (Prior code 5-2-1)

**Sec. 6-2-20. Definitions.**

For purposes of this Article, the following definitions shall apply:

*Accommodation space* means that space located within a lodge, including a bed, available for overnight occupancy by a person, otherwise commonly referred to in the ski industry as a pillow.

*Employee* means any person receiving compensation from a business subject to the provisions of this Article, subject only to the following: any person who works in excess of twenty (20) hours per week is considered a full-time employee. Any combination of persons who together work twenty (20) hours or more per week are counted as one (1) full-time employee for each increment of twenty (20) hours per week or fraction thereof worked. An *employee* includes an owner, manager, partner, associate or proprietor who works for and receives compensation from his or her business; and, further, includes commissioned agents or independent contractors performing services for the business or more than a temporary basis.

*Lodge* means any property or establishment which holds itself out to the public to rent rooms or accommodations for private profit or benefit, either directly or indirectly, on any premises in this Town for periods of less than thirty (30) days per rental period. Included within this definition are hotels, boarding houses, condominiums and short-term rental houses. (Prior code 5-2-2; Ord. 4 §1, 2009)

**Sec. 6-2-30. Prohibition.**

It is unlawful for any person to conduct business within the Town without having first obtained an occupational business license from the Licensing Officer. Any such license issued shall be for the calendar year for which it is issued, unless sooner revoked. (Prior code 5-2-3; Ord. 4 §1, 2009)

**Sec. 6-2-40. License tax.**

A business occupation licensing tax is hereby levied and there shall be collected and paid on any person doing business in the Town, in the amount as set forth in Appendix A to this Code, in the calendar and fiscal year 2010. (Prior code 5-2-4; Ord. 27, 2003; Ord 22, 2004; Ord. 16, 2005; Ord. 17, 2006; Ord. 31, 2007; Ord. 25, 2008; Ord. 4 §1, 2009; Ord. 20 §1, 2009)

**Sec. 6-2-50. Use of proceeds.**

It is hereby declared that the proceeds from the fee imposed pursuant to this Article shall be used for marketing and promotion of the Town's principal industry, for tourism and for payment of expenses related to promotion and marketing of events beneficial to the business community, including payment of reasonable costs incurred in connection with the administration of this Article. (Prior code 5-2-5)

**Sec. 6-2-60. Administration.**

(a) Except for those provisions of this Article concerning licensing specifically referring to the Licensing Officer, the administration of this Article is hereby vested in and shall be exercised by the Finance Director, who may prescribe forms and make reasonable rules and regulations in conformity with this Article for the making of returns, the ascertainment, assessment and collection of the fee imposed hereunder, and for the proper administration and enforcement thereof.

(b) An application for a license pursuant to this Article, renewals thereof and the general administration of business occupation licenses shall be conducted in accordance with the Town's general licensing procedures under Article 1 of this Chapter.

(c) Applicants must pay their license fees on or before January 31 of any year fees are owed.

(d) An applicant shall state, by certification as to truthfulness prepared by the Licensing Officer, at the time of application hereunder, the total number of full-time and part-time employees the applicant had for the subject business for the immediately prior year, and the number of such employees the applicant intends to have for the upcoming year. The fees payable under this Subsection shall be based upon the number of employees set forth for the upcoming year in such certification. The certification shall be based on the average number of employees employed during the months of operation. (Prior code 5-2-6; Ord. 27 §3, 1990; Ord. 7 §6, 1998)

**Sec. 6-2-70. Licensee duties.**

It shall be the duty of each person subject to compliance with this Article to do the following:

(1) Obtain a renewal of the license annually, if the licensee remains in business or is otherwise liable to account for the fee herein provided.

(2) Ascertain and continuously comply with all laws and regulations applicable to such licensed business, including compliance with the duties of a licensee set forth at Section 6-1-100 of this Chapter. (Prior code 5-2-7; Ord. 4 §1, 2009)

**Sec. 6-2-80. Enforcement; penalties.**

In addition to the general licensing provisions for enforcement and penalties contained in Article 1 of this Chapter, the following shall apply: Pursuant to Section 31-20-101, et seq., C.R.S., the Town may cause any delinquent charges or fees, including but not limited to attorney's fees and costs associated with enforcing this Article made or levied hereunder, to be certified to the County Treasurer, to be collected and paid over by the County Treasurer in the same manner as real or personal property taxes, including the provisions for the creation of a lien upon the subject property. (Prior code 5-2-8)

**ARTICLE 3**

**Liquor Licenses**

**Sec. 6-3-10. General provisions.**

(a) The provisions of the Colorado Liquor Code, Article 47 of Title 12, C.R.S., and the provisions of the Colorado Beer Code, Article 46 of Title 12, C.R.S., together with regulations of the Colorado Department of Revenue, Liquor Enforcement Division, which are applicable to local liquor license authorities and local liquor license applications, are hereby adopted as part of this Article and are incorporated herein by reference, except to the extent of any inconsistency with the other provisions of this Article. Nothing herein shall be construed to alter or amend powers to condition, suspend or revoke a license.

(b) The Town Council shall constitute the Local Liquor Licensing Authority.

(c) The Town Clerk shall function as Clerk to the Town Council as the Local Liquor Licensing Authority, and the Town Attorney shall function as its legal counsel. The Town Marshal shall perform investigative functions on behalf of the Local Liquor Licensing Authority.

(d) The prohibition in state law against allowing liquor licensed premises within five hundred (500) feet of a school is eliminated pursuant to Section 12-47-138(1)(d)(IV), C.R.S., only as the same may be applied to hotel and restaurant liquor licenses within five hundred (500) feet of the Crested Butte Community School and the Crested Butte Academy. (Prior code 5-6-1; Ord. 9 §1, 1988; Ord. 11 §1, 1988; Ord. 2 §1, 1995; Ord. 3 §2, 1996)

**Sec. 6-3-20. Renewal applications.**

(a) The Town Clerk is hereby authorized to process and approve liquor license renewal applications on behalf of the Town Council, subject to the following conditions:

(1) No Colorado Liquor or Beer Code violations by the licensee or employees have occurred during the previous year;

(2) No modification of the licensed premises has taken place without prior written consent of the Town Council and State Licensing authority; and

(3) No written complaints concerning conduct of the licensee or his or her employees, or alleging violation of the Colorado Liquor or Beer Codes, have been received by the Town Clerk or Marshal's Department. The Town Clerk shall, within ninety (90) days prior to the date that any renewal is required, publish one (1) notice in the official Town newspaper which contains the following information:

a. The name and location of the licensed establishment subject to renewal;

b. That complaints concerning the conduct of the licensee or employees of the same should be directed, in writing, to the Town Clerk; and

c. The date, not sooner than ten (10) days after such publication, by which any such complaints should be submitted.

(b) In the event that a violation has occurred as provided in Paragraph (a)(1) above, a premises modification has taken place as provided in Paragraph (a)(2) above or a written complaint has been received as provided in Paragraph (a)(3) above, the application shall be brought to the Town Council for a public hearing. (Prior code 5-6-2; Ord. 9 §1, 1988; Ord. 4 §1, 2009)

**Sec. 6-3-30. Fines in lieu of suspension.**

The optional provisions of Sections 12-47-110(3)—(6) and 12-46-107(5)—(8), C.R.S., pertaining to payment of fines in lieu of suspension of a retail license, are hereby adopted. (Prior code 5-6-3; Ord. 9 §1, 1988)

**Sec. 6-3-40. Alcoholic beverage tastings.**

(a) Tastings allowed. Tastings may be conducted by retail liquor store or liquor-licensed drugstore licensees in accordance with this Section and pursuant to Section 12-47-301, C.R.S., as the term *tastings* is therein defined. It is unlawful for any person or licensee to conduct tastings within the Town unless authorized in accordance with this Section.

(b) Alcoholic beverage tastings license required. A retail liquor store or liquor-licensed drugstore licensee may conduct tastings only pursuant to a valid alcoholic beverage tastings license.

(c) Application. A retail liquor store or liquor-licensed drugstore licensee who wishes to conduct tastings shall submit an application to the Local Liquor Licensing Authority on forms supplied by the Local Liquor Licensing Authority. Such application shall be accompanied by a nonrefundable annual fee as established by resolution of the Town Council.

(d) Approval or denial of application. If the applicant demonstrates that he or she is able to conduct tastings without violating the provisions of this Section or Section 12-47-301(10)(a), C.R.S., and without creating a public safety risk to the neighborhood, the application shall be approved and the alcoholic beverage tastings license issued. Otherwise, the application shall be denied. The Town Clerk is hereby authorized to process and approve alcoholic beverage tastings licenses.

(e) Annual license. An alcoholic beverage tastings license shall be valid for one (1) year, and shall run concurrently with the retail liquor store or liquor-licensed drugstore license of the holder of the alcoholic beverage tastings license; provided, however, that the first alcoholic beverage tastings license issued to a retail liquor store or liquor-licensed drugstore licensee shall be valid only until the expiration of the then-current retail liquor store or liquor-licensed drugstore license.

(f) Limitations on tastings. Tastings conducted by the holder of an alcoholic beverage tastings license shall be subject to the limitations and requirements set forth in Section 12-47-301(10)(c), C.R.S., and limitations set forth in this Article. Compliance with the limitations and requirements set forth in Section 12-47-301(10)(c), C.R.S., and this Article shall be a term and condition of any alcoholic beverage tastings license, whether or not expressly set forth in the alcoholic beverage tastings license.

(g) Limitations on authorization. Tastings once authorized shall be subject to the following limitations:

(1) Tastings shall be conducted only by a person who has completed a server training program that meets the standards established by the Liquor Enforcement Division in 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, and only on a licensee's licensed premises.

(2) The alcohol used in tastings shall be purchased through a licensed wholesaler, licensed brew pub or winery licensed pursuant to Section 12-47-403, C.R.S., at a cost that is not less than the laid-in cost of such alcohol.

(3) The size of an individual alcohol sample shall not exceed one (1) ounce of malt or vinous liquor or one-half ( $\frac{1}{2}$ ) ounce of spirituous liquor.

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

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

(7) 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 tasting.

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

(9) The licensee shall not serve more than four (4) individual samples to a patron during a tasting.

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

(11) Tastings may occur on no more than four (4) of the six (6) days from a Monday to the following Saturday, not to exceed one hundred four (104) days per year.

(12) No manufacturer of spirituous 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) A violation of this Section or of Section 12-47-801, C.R.S., by a retail liquor store or liquor-licensed drugstore licensee, whether by his or her employees, agents or otherwise, shall be the responsibility of the retail liquor store or liquor-licensed drugstore licensee who is conducting the tasting.

(14) A retail liquor store or liquor-licensed drugstore licensee conducting a tasting shall be subject to the same revocation, suspension and enforcement provisions as otherwise apply to the licensee.

(15) Nothing in this Section shall affect the ability of a Colorado winery licensed pursuant to Section 12-47-402 or 12-47-403, C.R.S., to conduct a tasting pursuant to the authority of Section 12-47-402(2) or 12-47-403(2)(e), C.R.S.

(h) Written notice to Marshal's Department required. A written notice to the Marshal's Department must be provided at least seventy-two (72) hours before a licensee is allowed to conduct a tasting. The notice shall include the name of the liquor-licensed premises, the person who is submitting the notice and the date and time the tasting is to take place.

(i) Proof of qualifications of persons conducting tastings. Upon the request of any peace officer, the holder of an alcoholic beverage tastings license shall provide proof that tastings are to be conducted only by a person who has completed a server training program that meets the standards established by the Liquor Enforcement Division in the Colorado Department of Revenue, and who is either the retail liquor store licensee, a liquor-licensed drugstore licensee or an employee of such licensee. (Prior code 5-6-4; Ord. 18 §1, 2004; Ord. 4 §1, 2009)

### **Sec. 6-3-50. Educational requirements.**

Every hotel and restaurant licensee, registered manager and licensee's employee is encouraged to obtain a certificate of completion from an educational program of training for intervention procedures for

servers of alcohol. Those registered managers obtaining a certificate of completion may file a copy of the certificate of completion with the Authority with an application of renewal of a liquor license. (Ord. 4 §1, 2009)

## ARTICLE 4

### Vending Licenses and Special Events

#### Sec. 6-4-10. Definitions.

For purposes of this Article, the following definitions shall apply:

*Farmers' market vendor* means a vendor of food products or produce who vends exclusively on the public property area established for the farmers' market.

*Food cart* means a handcart from which food such as hot dogs, tacos, ice cream, candy, nonalcoholic beverages and other traditional, hand-carried ready-to-eat food and drink are sold. A *food cart vendor* is one who sells food and drink using a food cart and who meets the definition of *vendor* found in this Article. *Food cart vending* is the act of selling food and drink using a food cart by one who meets the definition of *vendor* found in this Article.

*Food supplier vendor* means a person who vends food products strictly to private places of business, does not vend on public property and does not use a handcart.

*Handcart* means a structure with at least two (2) operational wheels, that is mobile and is used for vending food or merchandise and that is no larger than three (3) feet in width, five (5) feet in length and seven (7) feet in height, excluding umbrellas and other similar devices.

*Merchandise cart* means a handcart from which merchandise, other than food, is sold. A *merchandise cart vendor* is one who sells merchandise using a merchandise cart and who meets the definition of *vendor* found in this Article. *Merchandise cart vending* is the act of selling merchandise using a merchandise cart by one who meets the definition of *vendor* found in this Article.

*Peddler* means one who sells merchandise or services or solicits orders for the sale and future delivery of merchandise or services on a door-to-door basis in or upon private residences in the Town, without prior invitation to do so by the owner or occupant of such private residence.

*Special event* means any performance, activity, parade, festival, athletic event or other public gathering held on Town property and sponsored by a nonprofit enterprise or for-profit organization.

*Street entertainer* or *musician* means a person engaged in free and public temporary, short-term musical performances, or other sorts of free, personalized entertainment.

*Vendor* means a business not having a fixed, physical location for its operation within the Town at any time during the calendar year, but which otherwise does business within the Town. (Prior code 5-5-1, 5-7-1; Ord. 27 §1, 1990; Ord. 7 §§2—8, 2003; Ord. 21 §4, 2007; Ord. 4 §1, 2009)

**Sec. 6-4-20. License required.**

It is unlawful for a vendor to do business or a street entertainer or musician to engage in entertainment without a business occupation license and an outdoor vending license, or to otherwise engage in activity in noncompliance with the provisions of this Chapter. (Prior code 5-7-2; Ord. 7 §9, 2003; Ord. 4 §1, 2009)

**Sec. 6-4-30. Outdoor vending license requirements.**

All outdoor vending activities shall occur from a handcart, unless otherwise specified in this Section. Outdoor vending activities shall be subject to each of the regulations set forth herein.

(1) Each applicant for a license shall obtain all required health, sales tax or other required permits or licenses from all applicable government departments. The vendor shall publicly display all such permits including, without limitation, a Town business occupation license.

(2) License applications shall be made on the form provided by the Town Manager for the license sought, and shall contain all the information required by the form, including any required attachments or exhibits. The Town Manager may reject incomplete applications.

(3) The holder of a license which authorizes the licensee to go upon public property shall indemnify and hold harmless the Town, its officers, employees and agents against any and all claims arising from any occurrence occasioned by the licensed use, and shall maintain, during the period of the license, comprehensive general public liability and property damage insurance, naming the Town, its officers, employees and agents as insureds; providing that the insurance is primary insurance, and no other insurance maintained by the Town will be called upon to contribute a loss covered by the Town; and providing for thirty (30) days' notice of cancellation or material change to the Town.

(4) A license issued under the provisions of this Section may be transferred or assigned as part of the sale of the assets of the business to which the license has been issued. Such license shall be subject to all other rules and regulations regarding licenses.

(5) A license is valid for a one-year period, beginning January 1 and ending December 31. A license is automatically renewable unless the license is revoked. A licensee who wishes to continue operating after the expiration of the license shall follow the application procedures required of a new applicant.

(6) Licenses shall be issued on a first-come, first-served basis. If applications are received simultaneously, the Town Manager shall determine priority by lot.

(7) A vendor shall vend no less than eighty (80) days per license year. In the event that a vendor vends less than eighty (80) days per license year, his or her license shall not be renewed for the following year.

(8) No more than a single vending license may be held by any person or by any one (1) entity or association. (Prior code 5-7-3; Ord 7 §10, 2003; Ord. 4 §1, 2009)

**Sec. 6-4-40. Peddling prohibited.**

It is unlawful for solicitors, peddlers, hawkers or itinerant merchants to peddle in or upon private residences in the Town without prior invitation to do so by the owner or occupant of such residence. This prohibition shall not be applicable to persons representing charitable, religious or civic enterprises, who possess proof of such status. Peddling is prohibited as a nuisance pursuant to Section 7-2-190 of this Code. (Prior code 5-7-4; Ord. 7 §11, 2003)

**Sec. 6-4-50. Maintaining cart vending areas.**

A cart vendor is responsible for maintaining the area within and in proximity to the cart, display apparatus or permitted vending location area in a neat, clean and hazard-free condition, including, without limitation, the disposal of all trash and the storage of all carts and display apparatus off public rights-of-way when not in operation. Vendors shall provide for the disposal of trash by customers. (Prior code 5-7-4; Ord. 7 §11, 2003; Ord. 4 §1, 2009)

**Sec. 6-4-60. Food cart regulations.**

Food carts, food cart vendors and food cart vending are subject to each of the following regulations:

(1) Food cart vendors may only operate at the farmers' market, the Town parking lot at 1st Street and Elk Avenue, or other areas as the Town Manager may designate.

(2) Food cart vendors are permitted at Town-owned recreational facilities during Town-sponsored or Town-managed activities.

(3) Any food cart operating on public property or private property may be required to move at the request of Town officials for health, sanitation and safety reasons, upon verifiable complaint from the public related to unfair or improper business practices, or for failure to comply with the requirements of this Chapter.

(4) All food vendors operating on public property must provide proof of liability insurance to the Town, and may be required to provide such information and complete such applications in connection with a license to vend as the Town may determine is necessary.

(5) A food cart operating on private property must have written permission from the property owner to vend on the site, operate from a stationary position and maintain high standards of site cleanliness.

(6) A food cart operating on private property must comply with the parking requirements set forth in Chapter 16, Article 16 of this Code.

(7) Food cart vendors may not attract attention by noise-making devices, voice calls, flags, banners, balloons or other such devices.

(8) Signs must be limited to the cart itself and may not extend beyond the cart (except for the area of the umbrella).

(9) Advertising is limited to the product sold, the name of the business and a price list.

(10) No more than a single cart (whether a food cart or a merchandise cart) may operate on any individual Town lot. In the event a property has a legal description describing it in terms as other than a lot, in order to determine what is a lot for purposes of this Section, reference shall be made to the official plat of the Town. Where property is depicted thereon as a lot, such property shall be considered a lot.

(11) A food cart may not be stored on public property or rights-of-way when not in operation. The area in which a food cart is stored must be kept in a neat, clean and hazard-free condition; food must be properly stored or disposed of; and all items must be secured in a manner so as to not attract animals or vermin.

(12) Nonfood items may not be sold from a food cart.

(13) Food sold by food cart vendors must be prepared at a location other than the food cart.

(14) No food cart may operate between the hours of 2:30 a.m. and 6:00 a.m.

(15) No more than four (4) licenses for food carts may be issued in any one (1) calendar year. (Prior code 5-7-4; Ord. 7 §11, 2003; Ord. 4 §1, 2009)

**Sec. 6-4-70. Merchandise cart regulations.**

Merchandise carts, merchandise cart vendors and merchandise cart vending are subject to the following regulations:

(1) Merchandise carts may not occur on public streets, sidewalks, alleys or other public rights-of-way.

(2) A merchandise cart may only operate on private property, must have written permission from the property owner to vend on the site, must operate from a stationary position and must maintain high standards of site cleanliness.

(3) A merchandise cart may be required to move at the request of Town officials for health, sanitation and safety reasons, upon verifiable complaint from the public related to unfair or improper business practices, or for failure to comply with the requirements of this Chapter.

(4) A merchandise cart must comply with the parking requirements set forth in Chapter 16, Article 16 of this Code.

(5) Merchandise cart vendors may not attract attention by noise-making devices, voice calls, flags, banners, balloons or other such devices.

(6) Signs must be limited to the cart itself and may not extend beyond the cart (except for the area of the umbrella).

(7) Advertising is limited to the product sold, the name of the business and a price list.

(8) No more than a single cart (whether a food cart or merchandise cart) may operate on any individual Town lot. In the event a property has a legal description describing it in terms as other than

a lot, in order to determine what is a lot for purposes of this Section, reference shall be made to the official plat of the Town. Where property is depicted thereon as a lot, such property shall be considered a lot.

(9) No more than two (2) licenses for merchandise cart licenses may be issued in any one (1) calendar year. (Prior code 5-7-4; Ord. 7 §11, 2003; Ord. 4 §1, 2009)

**Sec. 6-4-80. Street musician and entertainer regulations.**

Street musicians and entertainers are subject to each of the following regulations:

(1) They may operate only on designated areas of public property, including the farmers' market area at 6th Street and Elk Avenue, the Town parking lot at 1st Street and Elk Ave, a designated spot at 3rd Street and Elk Avenue or any other place on public property, provided that no complaints are being lodged by nearby business proprietors.

(2) They may work for tips, but may not overtly solicit tips, beg, barter or otherwise engage passersby for money.

(3) They may not employ mechanically enhanced or electronically amplified sound, and may not otherwise interfere with the normal peace and tranquility of the area.

(4) They may not be representatives of any licensed for-profit business, nor may they advertise products, events, concerts or businesses other than themselves.

(5) They may not block the public right-of-way or impede public access to any street, alley, sidewalk or private business entrance or exit.

(6) They may not reach out to, touch or physically contact passersby in any manner, without first obtaining permission from the person to be contacted.

(7) They may operate from 11:00 a.m. to 10:00 p.m. daily.

(8) They shall be required to pay a license fee as set by resolution of the Town Council. (Prior code 5-7-4; Ord. 7 §11, 2003; Ord. 4 §1, 2009)

**Sec. 6-4-90. Farmers' market vendor regulations.**

Those vendors meeting the definition of a farmers' market vendor may vend at the public property at the corner of Elk Avenue and 6th Street. Farmers' market vendors may vend other than from a handcart. (Prior code 5-7-4; Ord. 7 §11, 2003)

**Sec. 6-4-100. Food supplier regulations.**

Those vendors meeting the definition of a *food supplier vendor* may vend on private property, other than in the residential zones of the Town. Food supplier vendors may vend other than from a handcart. (Prior code 5-7-4; Ord. 7 §11, 2003)

**Sec. 6-4-110. Special event permit required.**

It shall be unlawful for any person to organize, maintain, operate or otherwise sponsor a special event without receiving prior approval from the Town. Events sponsored by the Town are exempt from the requirement for a special event permit. (Prior code 5-5-2; Ord. 27 §1, 1990; Ord. 21 §5, 2007; Ord. 4 §1, 2008)

**Sec. 6-4-120. Denial of licenses.**

(a) The Town Manager may deny an application for a license under this Section upon determination that:

- (1) The applicant has failed to supply any of the information required on the application;
- (2) The applicant has failed to obtain required insurance;
- (3) The applicant has failed to pay the required license fee;

(4) The applicant is not qualified by experience, training or education to engage in the activity authorized by the license; or

(5) The applicant has been finally convicted of an offense and would create danger to the public health, safety or welfare if the applicant were to engage in such offensive conduct after the license were issued.

(b) If the Town Manager denies a license application under this Section, the Town Manager shall notify the applicant in writing stating the specific grounds for the denial. The applicant may thereafter appeal the denial of the application to the Town Manager under the procedures otherwise set forth in this Code. (Prior code 5-7-5; Ord. 7 §12, 2003)

**Sec. 6-4-130. Revocation of licenses.**

(a) In addition to any other provisions of this Code or other ordinances of the Town, the Town Manager may suspend or revoke a license issued under this Article if:

- (1) The licensee fails to meet the qualifications required of an applicant;
- (2) The licensee violates any provision of this Code or other ordinance of the Town governing the activities permitted by the license;
- (3) The licensee obtained the license by fraud or misrepresentation; or

(4) The licensee is convicted of an offense and would create a danger to the public health, safety and welfare if the licensee were to engage in such conduct after the license was issued.

(b) If the Town Manager finds one (1) of the grounds in Subsection (a) above or any other ground for suspension or revocation in this Code, the Town Manager shall determine whether to revoke the license for the remainder of its term or suspend it for any shorter period according to the severity of the

disqualification, its effect on public health, safety and welfare, and the time during which the disqualification can be remedied, if at all.

(c) Before the hearing required by Subsection (d) below, the Town Manager may suspend a license for up to thirty (30) days, if the Town Manager determines that the suspension is in the interest of public health, safety and welfare. The Town Manager may include in the temporary suspension reasonable orders or conditions with which the licensee shall comply to protect any work in progress and the public health and safety. Any breach of such conditions or orders is an independent ground for suspension or revocation of the license.

(d) Except for such emergency suspension authorized by Subsection (c) above, no such suspension or revocation is final until the licensee has been given the opportunity for a hearing to contest the suspension or revocation under the hearing procedures otherwise set forth in this Code.

(e) If, after a hearing, the suspension or revocation is upheld, the Town Manager may include reasonable orders or conditions with which the person whose license has been suspended or revoked shall comply to protect any work in progress and the public health, safety and welfare.

(f) No person whose license is revoked under this Section may receive a refund of any part of the license fee paid for the license.

(g) No person who has had a license suspended or revoked under this Section is entitled to obtain the same or any similar license under this Chapter during the period of suspension or revocation, either in the person's own name or as a principal in another business that applies for a license.

(h) Nothing in this Section shall be deemed to prohibit the Town Manager from imposing other penalties authorized by this Code or other ordinance of the Town, including filing a complaint in the Municipal Court for a violation of this Code or other ordinance of the Town. (Prior code 5-7-5; Ord. 7 §12, 2003; Ord. 4 §1, 2009)

**Sec. 6-4-140. Vending activities allowed without a license.**

The following vending activities are allowed without an outdoor vending license, provided that the activity or use does not constitute a hazard to public health, safety or welfare or property or does not violate any other law of the Town.

(1) Free distribution of information, flyers, pamphlets, brochures or petitions and sale of raffle tickets for the benefit of nonprofit or charitable organizations without the use of a booth, structure, cart or other equipment; provided, however, that a table and chair may be used for this purpose in a location to be designated by the Town Manager from time to time and without obstructing pedestrian passage.

(2) Sale or free distribution of newspapers or other similar printed materials from unattended vending machines no larger than two (2) feet in width, three (3) feet in length, and four (4) feet in height in locations designated by the Town Manager and without obstructing pedestrian passage.

(3) Yard sales, meaning sale of personal goods and effects on private property, excluding any sale of new merchandise or any sales constituting an ongoing commercial enterprise.

(4) Vendors fourteen (14) years of age or under may utilize a temporary booth for no longer than three (3) consecutive days. (Prior code 5-7-6; Ord. 27 §1, 1990; Ord. 7 §12, 2003; Ord. 4 §1, 2009)

## ARTICLE 5

### Medical Marijuana Dispensaries Licenses

#### Sec. 6-5-10. Purpose.

Recognizing that there is a potential conflict between federal and state law with respect to the operation of medical marijuana dispensaries, the following are the purposes of this Article:

(1) Impose specific requirements and limitations for those individuals registering with the State as a "patient" or "primary caregiver," as those terms are defined in Amendment 20, and the statutes and administrative regulations implementing Amendment 20.

(2) Require that a medical marijuana dispensary, as defined in this Article, be operated in a safe manner that does not endanger the public welfare.

(3) Mitigate potential negative impacts that a medical marijuana dispensary might cause on surrounding properties and persons.

(4) Regulate the conduct of persons owning, operating and using a medical marijuana dispensary in order to protect the public health, safety and welfare.

(5) Establish a nondiscriminatory mechanism by which the Town can control, through appropriate regulation, the location and operation of medical marijuana dispensaries. (Ord. 15 §7, 2009)

#### Sec. 6-5-20. Authority.

The Town hereby finds, determines and declares that it has the power to adopt this Article pursuant to: (1) the Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.; (2) Part 3 of Article 23 of Title 31, C.R.S., (concerning municipal zoning powers); (3) Section 31-15-103, C.R.S., (concerning municipal police powers); (4) Section 31-15-401, C.R.S., (concerning municipal police powers); (5) Section 31-15-501, C.R.S., (concerning municipal authority to regulate businesses); and (6) the authority granted to home rule municipalities by Article XX of the Colorado Constitution. (Ord. 15 §7, 2009)

#### Sec. 6-5-30. Definitions.

(a) For purposes of this Article, the following definitions shall apply:

*Adjacent or adjoining* means, for purposes of this Article only, adjacent to or contiguous with the proposed location of a medical marijuana dispensary. Adjacency shall not be deemed to exist where a platted or dedicated public street or alley exists between the proposed medical marijuana dispensary and another property. Adjacency shall also not be deemed to exist where the medical marijuana dispensary shares a common ceiling or floor with another premises and where the medical marijuana dispensary and the other property are not otherwise adjacent within the meaning of this definition.

*Alcoholic beverage* shall have the meaning ascribed to such term in Section 10-7-10 of this Code.

*Amendment 20* means that certain voter-initiated amendment to the Colorado Constitution adopted November 7, 2000. Amendment 20 added Section 14 of Article 18 to the Colorado Constitution.

*Applicant* means any person who has submitted an application for a permit pursuant to this Article. An applicant must be twenty-one (21) years of age or older. If an applicant is an entity, the term *applicant*, as applied in this Article, shall include all those persons that are the members, managers, officers and directors of such entity.

*Application* means an application for a permit submitted pursuant to this Article.

*Board* means the Board of Zoning and Architectural Review.

*Building Official* means the Town Building Official as defined and referred to elsewhere in this Code.

*Cultivation* means the process by which a person promotes the germination and growth of a seed to a marijuana plant.

*Good cause*, for the purpose of refusing or denying a permit under this Article, means: (1) the permittee has violated, does not meet or has failed to comply with any of the terms, conditions or provisions of this Article and any rule and regulation promulgated pursuant to this Article; (2) the permittee has failed to comply with any special terms or conditions that were placed on its permit at the time the permit was issued, or that were placed on its permit in prior disciplinary proceedings or that arose in the context of potential disciplinary proceedings; or (3) the permittee's medical marijuana dispensary has been operated in a manner that adversely affects the public health, welfare or safety of the immediate neighborhood in which the medical marijuana dispensary is located. Evidence to support such a finding can include, without limitation: (1) a continuing pattern of disorderly conduct, as defined in Section 10-5-10 of this Code; (2) a continuing pattern of drug-related criminal conduct within the premises of the medical marijuana dispensary or in the immediate area surrounding the medical marijuana dispensary; or (3) a continuing pattern of criminal conduct directly related to or arising from the operation of the medical marijuana dispensary.

*Medical marijuana* means marijuana or cannabis approved under state law to treat persons suffering from debilitating medical conditions, as defined in the Constitution and other laws and regulations of the State (e.g., cancer, glaucoma, human immunodeficiency virus, chronic or debilitating diseases such as seizures, severe pain, severe nausea, persistent muscle spasms and epilepsy).

*Medical marijuana dispensary* or *dispensary* means the use of any property, structure, unit, facility or location where one (1) or more primary caregivers distributes, delivers, transmits, gives, dispenses or otherwise provides medical marijuana in any manner to patients, at all times in accordance with the Constitution and other laws and regulations of the State. A medical marijuana dispensary may not be used as a physician's office to examine or consult with patients. A *medical marijuana dispensary* does not include a patient or primary caregiver that provides medical marijuana to only one (1) patient. A medical marijuana dispensary may not cook or otherwise prepare foodstuffs of any kind on the premises of the dispensary. Prepacked foodstuffs that contain medical marijuana shall be permitted to

be sold on the premises, however, and such foodstuffs shall fall within the definition of medical marijuana for purposes hereof.

*Medical marijuana paraphernalia* or *paraphernalia* means devices, contrivances, instruments and paraphernalia for inhaling or otherwise consuming medical marijuana, including but not limited to rolling papers and related tools, water pipes and vaporizers.

*Patient* has the meaning provided in Amendment 20, Section 14 of Article 18 to the Colorado Constitution.

*Permit* means a permit to operate a medical marijuana dispensary issued by the Town pursuant to this Article.

*Permittee* means the applicant to whom a permit has been issued pursuant to this Article.

*Person* shall have the meaning provided in Section 1-2-10 of this Code.

*Primary caregiver* has the meaning provided in Amendment 20, Section 14 of Article 18 to the Colorado Constitution.

(b) In addition to the definitions provided in the foregoing Subsection (a), the other defined terms in Amendment 20, Section 14 of Article 18 to the Colorado Constitution, are hereby incorporated into this Article by this reference. (Ord. 15 §7, 2009)

#### **Sec. 6-5-40. Permit required.**

No person shall operate a medical marijuana dispensary within the Town without a valid medical marijuana dispensary permit issued in accordance with this Article. (Ord. 15 §7, 2009)

#### **Sec. 6-5-50. Requirements of application for permit; ongoing requirements.**

(a) A person seeking to obtain a permit pursuant to this Article shall file an application with the Town Manager in the office of the Town Clerk. The form of the application shall be provided by the Town Manager, as approved by the Town Attorney, and shall be on file in the office of the Town Clerk.

(b) No application forms may be provided to an applicant by the Town Clerk until February 1, 2010.

(c) Applications may not be submitted to the Town Clerk until February 1, 2010. Notwithstanding the foregoing, all applications and associated submittals required under this Section shall be submitted to the Town Clerk on or before March 1, 2010. Any application submitted after March 1, 2010, shall not be accepted by the Town Clerk and shall be returned to the applicant, along with the application fee as described in Section 6-5-60 below.

(d) An application for a permit under this Article shall contain, at a minimum, an executed application form which shall include the following information therein or appended thereto, as applicable:

(1) The application fee, as described in Section 6-5-60 below;

(2) The applicant's personal information and social security number and, where the applicant is not a natural born person, information regarding the entity and its members, managers, officers and directors;

(3) The street address of the proposed medical marijuana dispensary;

(4) If the applicant is not the owner of the proposed location of the medical marijuana dispensary, a notarized statement from the owner of such property authorizing the submission of the application pursuant to this Article;

(5) A copy of any deed and/or lease reflecting the ownership and right to possess the property that is the subject of the medical marijuana dispensary;

(6) A statement of the applicant's personal, financial and business backgrounds;

(7) A completed set of the applicant's fingerprints, as taken by the Marshal's Department;

(8) A sworn statement, to be acknowledged by the applicant's signature, that the owner of the premises, applicant and the employees of the medical marijuana dispensary may be subject to prosecution under state, federal and local controlled substance laws;

(9) A sworn statement, to be acknowledged by the applicant's signature, that the owner of the premises, applicant and employees of the medical marijuana dispensary acknowledge that the Town accepts no legal liability in connection with the approval and subsequent operation of the medical marijuana dispensary;

(10) An acknowledgement and consent that the Town will conduct a background investigation as specified in this Article;

(11) Evidence of a state sales tax license;

(12) If the medical marijuana dispensary will be providing foodstuffs as allowed by this Article and the other requirements of this Code with medical marijuana therein, evidence of a foodstuffs establishment license issued by the State, if required by the State;

(13) A diagram of the premises and all entryways and exits thereto;

(14) Tax payment history of the applicant;

(15) Those items required in the application form; and

(16) Any additional information that the Town Manager reasonably determines to be necessary in connection with the investigation and review of the application.

(e) Medical marijuana dispensaries shall submit the following at the time of submittal of the application for approval by the Town Manager:

(1) A comprehensive business plan for the medical marijuana dispensary, which shall contain, without limitation: (i) a security plan that reflects the dispensary's compliance with Section 6-5-340 of

this Article; (ii) hours of operation; (iii) number of employees; (iv) a description of all products to be sold; and (v) supporting acknowledgements, appropriate plans for implementation and supporting documents that ensure that the dispensary will operate in a manner consistent with state law and this Article, including, without limitation, Amendment 20; Section 18-18-406.3, C.R.S.; and the administrative regulations issued by the Colorado Department of Public Health and Environment (CDPHE), located at 5 C.C.R. § 1006-2, and Sections 6-5-240 through 6-5-370 of this Article, all as amended from time to time.

(2) A complete lighting plan that is in compliance with the applicable requirements contained in this Code.

(3) A complete signage plan that is in compliance with the applicable requirements contained in this Code.

(4) A plan for the disposal of unwanted medical marijuana, related by-products and paraphernalia, as contemplated in Section 6-5-350 of this Article.

(5) Any additional supporting documentation that the Town Manager reasonably determines to be necessary in evaluating the application.

(f) Following receipt of a permit for a medical marijuana dispensary from the Town, as described in Section 6-5-150 of this Article, and a conditional use from the Board, the permittee shall apply for and obtain a Town sales tax license and a Town business license before commencing operations.

(g) The permittee shall at all times maintain an active, up-to-date and valid state sales tax license, foodstuffs establishment license (if required by the State), Town sales tax license and Town business license.

(h) The permittee shall at all times keep and maintain the application and all associated submittals and supporting documentation up to date and current during the permit term and any renewal.

(i) A permit issued pursuant to this Article does not eliminate the need for the permittee to obtain other required Town permits related to the operation of the approved medical marijuana dispensary, including, without limitation, any additional required conditional use permits (i.e., in addition to the conditional use for a medical marijuana dispensary), development approvals and building permits required by this Code. (Ord. 15 §7, 2009)

#### **Sec. 6-5-60. Application fee.**

An applicant shall pay the Town a nonrefundable application fee when the application is filed and then annually thereafter as part of any renewal as an inspection fee. The purpose of the fee is to cover the administrative costs of processing the application and to defray the costs and expenses incurred by the Town in regulating the medical marijuana dispensary and enforcing the requirements of this Article. For applications filed in 2010, the application fee shall be one thousand dollars (\$1,000.00). Once the application fee has been paid, it shall be deemed nonrefundable and liquidated. Thereafter, the amount of the application fee shall be increased or decreased by the Town Council as part of its annual budget process. (Ord. 15 §7, 2009)

**Sec. 6-5-70. Determination of completeness of application; lottery; review by Town Manager.**

(a) Following March 1, 2010, but on or before March 5, 2010, the Town Manager shall commence the review of all of the applications submitted to the Town to determine if such applications are complete. The Town Manager's review of such applications for completeness shall be in the order of receipt of such applications by the Town Clerk. The Town Manager shall review each submitted application on or before March 25, 2010. A determination of completeness by the Town Manager shall require that the requirements of Section 6-5-50 above be met. In the event that an application is determined by the Town Manager to be incomplete, the incomplete application shall be returned to the applicant with a notice of explanation given to the applicant by March 25, 2010, stating what items in the application are incomplete. Thereafter, no further action shall be taken by the Town Manager on such incomplete application until the applicant completes such incomplete items and resubmits the application with such incomplete items therein completed pursuant to the Town Manager's notice of explanation of incompleteness. All resubmissions shall be delivered to the Town Clerk and shall not require the payment of any additional application fees. Each subsequent review of the application shall be conducted by the Town Manager within twenty (20) days of resubmission to the Town Clerk, each resubmission being deemed to be a receipt of the application by the Town Clerk. Such resubmissions shall be reviewed by the Town Manager in the order of receipt by the Town Clerk. All resubmissions shall be delivered to the Town Clerk on or before April 10, 2010; otherwise, such applications shall be deemed incomplete, and no further notice to the applicant shall be given and no further action shall be taken by the Town Manager with respect to such resubmitted applications. Any application that is determined by the Town Manager to be incomplete two (2) times shall be deemed conclusively incomplete by the Town Manager and returned to the applicant with a notice of explanation as to the incomplete items therein, and no further action shall be taken by the Town Manager with respect to such application. A determination of incompleteness by the Town Manager shall not be subject to appeal. Upon determination by the Town Manager that an application is complete, the Town Manager shall deliver to the applicant a written notice of determination of completeness. Such notice of determination of completeness shall be delivered by the Town Manager by April 30, 2010. Where the Town Manager fails to provide a written notice of explanation of incomplete application items or a notice of determination of completeness to an applicant by March 25, 2010, or April 30, 2010, respectively, the subject application shall be deemed to be complete; except where the Town Manager otherwise finds an application or resubmission incomplete and so notifies the applicant on or before April 30, 2010. All notices sent by the Town Manager under this Section shall be given by mailing a copy to the applicant by regular mail, postage prepaid, at the address shown in the application. Notice is deemed to have been properly given upon deposit in the U.S. mail. Any resubmission of an application submitted after April 10, 2010, shall be deemed to be incomplete, and no further action shall be taken on such application by the Town Manager. If deemed incomplete, the application fee shall not be refunded and shall be deemed liquidated.

(b) On May 1, 2010, the Town Manager shall compile all applications that have been found to be complete or have been deemed to be complete and shall certify the same to the Town Clerk within five (5) days. Thereafter, the Town Clerk shall conduct a lottery for the right of the applicants with applications found or deemed to be complete by the Town Manager to continue to the application review phase as outlined in this Article. Said lottery shall be conducted by the Town Clerk within fifteen (15) days of receipt of the complete or deemed to be complete applications from the Town Manager. At the lottery, the Town Clerk shall select no more than five (5) applications for continued review. Prior to said lottery, the date, time and place of the lottery will be published in the legal publications section of the official newspaper of the Town for at least one (1) week prior to said lottery. Once an application is chosen, such application shall then be certified to the Town Manager for review in accordance with this

Article. In the event that an application is not selected in the lottery, no further action shall be taken by the Town Manager on such application. If an application is not selected by the Town Clerk in the lottery, the application fee shall not be refunded to the applicant and shall be deemed liquidated.

(c) Upon receipt of the applications chosen at the lottery described in Subsection (b) hereinabove, the Town Manager shall transmit copies of the application to: (1) the Marshal's Department; (2) the Building and Zoning Director; (3) the Director of Planning; and (4) any other person or agency that the Town Manager determines should properly investigate and comment on the application.

(d) Upon receipt of an application, the Marshal's Department shall obtain and review a criminal background records search on the applicant from the Colorado Bureau of Investigation.

(e) Within twenty (20) days of receipt of the application from the Town Manager, those Town departments described in Subsection (c) above shall provide the Town Manager with comments concerning the application. (Ord. 15 §7, 2009)

**Sec. 6-5-80. Standards for issuance of permit.**

The Town Manager shall issue a permit under this Article only when, following a consideration of the application and from such other information as may otherwise be submitted or otherwise obtained, the Town Manager determines that:

(1) The application does not contain any material falsehood or misrepresentation.

(2) The application complies with all of the requirements of this Article.

(3) The applicant has good moral character. In making this determination or when considering a criminal conviction, the Town Manager shall be governed by the provisions of Section 24-5-101, C.R.S. The Town Manager shall confer with the Town Attorney respecting such determination. If the Town Manager takes into consideration information concerning the applicant's criminal history record, the Town Manager shall also consider any information provided by the applicant regarding such criminal history record, including but not limited to evidence of rehabilitation, character references and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and consideration of the application for a permit. Notwithstanding the foregoing, no permit shall be given to an applicant for a medical marijuana dispensary whose criminal history reflects a prior conviction for a felony offense. In the case where an applicant is a business entity, the applicant shall provide the name(s) of all natural persons owning an interest in the entity, and no permit shall be issued if any such person has a criminal history that reflects a prior conviction for a felony offense.

(4) The proposed location of the medical marijuana dispensary is allowed as a conditional use, assuming granted by the Board, as set forth in Section 16-5-530 of this Code. (Ord. 15 §7, 2009)

**Sec. 6-5-90. Denial of issuance of permit.**

The Town Manager shall deny an application for a permit under this Article if the Town Manager determines that: (1) information contained in the application, or supplemental information requested from the applicant, is false in any material respect; or (2) the application fails to meet any of the standards or

requirements set forth in Section 6-5-80 above. If an application is denied, the application fee shall not be refunded and shall be deemed liquidated. (Ord. 15 §7, 2009)

**Sec. 6-5-100. Authority to impose conditions on permit.**

The Town Manager shall have the authority to impose any and all such reasonable terms and conditions on a permit as may be necessary to protect the public health, safety and welfare, and to obtain compliance with the requirements of this Article and applicable law. (Ord. 15 §7, 2009)

**Sec. 6-5-110. Decision by Town Manager.**

(a) The Town Manager shall approve, deny or conditionally approve an application within thirty (30) days of the Town Manager's receipt of the same from the Town Clerk following the lottery described in Section 6-5-70 of this Article unless, by written notice to the applicant, the decision period is extended for an additional thirty (30) days if necessary for the Town Manager to complete his or her substantive review of the application.

(b) If an application is denied, the Town Manager shall clearly set forth in writing the grounds for denial.

(c) In the event an application is conditionally approved, the Town Manager shall clearly set forth in writing the conditions of approval. (Ord. 15 §7, 2009)

**Sec. 6-5-120. Notice of decision.**

The Town Manager shall notify the applicant of the decision on the application by mailing a copy of the Town Manager's decision to the applicant by regular mail, postage prepaid, at the address shown in the application within the thirty-day period described in Section 6-5-110 above. Notice is deemed to have been properly given upon mailing. Such notice of decision shall be subject to the Board's issuance of a conditional use, if at all, as provided in Section 6-5-140 below. (Ord. 15 §7, 2009)

**Sec. 6-5-130. Appeal of denial or conditional approval of permit; appeal to Town Council.**

(a) An applicant has the right to appeal the Town Manager's denial or conditional approval of an application to the Town Council.

(b) An applicant's appeal of the Town Manager's denial or conditional approval of an application shall be filed with the Town Clerk within ten (10) days after the date of mailing of the Town Manager's decision on the application.

(c) At the Town Council's next regularly scheduled meeting, the Town Council shall set a date for public hearing of the appeal. The applicant shall be provided with not less than ten (10) days' prior written notice of the appeal hearing to be held by the Town Council.

(d) The burden of proof in an appeal filed under this Section shall be on the applicant.

(e) At the appeal hearing the Town Council shall consider the application and render a decision based upon the requirements and considerations of this Article. If the Town Council finds by a preponderance of the evidence that the decision of the Town Manager was correct, the Town Council

shall uphold the decision of the Town Manager. If the Town Council finds by a preponderance of the evidence that the decision of the Town Manager was incorrect, the Town Manager's decision shall be set aside and the permit issued (if it was previously denied) or the conditions of approval stricken or modified, as applicable.

(f) Any decision made by the Town Council pursuant to this Section shall be a final decision and may be appealed to the district court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure (C.R.C.P.). The applicant's failure to timely appeal the decision is a waiver of the applicant's right to contest the denial or conditional approval of the application.

(g) If there is any conflict between the provisions and requirements of this Section and the provisions and requirements of Article 1 of this Chapter, the provisions and requirements of this Section shall in all cases control. (Ord. 15 §7, 2009)

**Sec. 6-5-140. Permit conditional upon granting of conditional use by Board.**

Notwithstanding anything contained in this Article, the issuance of the permit shall be conditioned upon the Board granting a conditional use permit for the medical marijuana dispensary. Should the Board not grant a conditional use permit for the medical marijuana dispensary, the permit shall be void ab initio. Should a permit expire or be terminated, the conditional use for the medical marijuana dispensary shall similarly expire or be terminated. If the conditional use permit is denied by the Board, the application fee for the permit shall not be returned to the permittee but shall instead be deemed liquidated. (Ord. 15 §7, 2009)

**Sec. 6-5-150. Contents of permit.**

A permit shall contain, without limitation, the following information: (1) the name of the permittee; (2) the effective date of the permit, which shall coincide with the date of the conditional use permit issued by the Board; (3) the address at which the permittee is authorized to operate the medical marijuana dispensary; (4) any conditions of approval imposed upon the permit by the Town Manager pursuant to Section 6-5-100 of this Article; (5) the incorporation of the requirements and conditions of this Article; (6) reference to the contents of Section 6-5-430 of this Article; (7) the date of the expiration of the permit; and (8) an acknowledgement of the conditions and requirements contained in this Article, including, without limitation, Sections 6-5-390 through 6-5-420. A permit must be signed by both the applicant and the Town Manager to be valid. The permit shall incorporate the application once approved or approved with conditions, inclusive of, without limitation, all the application submittals, acknowledgements, requirements and otherwise. (Ord. 15 §7, 2009)

**Sec. 6-5-160. Inspection of premises.**

Prior to the issuance of a conditional use permit, the premises at which the medical marijuana dispensary will be operated shall be inspected by the Building Official to determine compliance with the Town's building and technical codes. No conditional use permit shall be issued if the premises at which the medical marijuana dispensary will be operated do not or will not comply with the Town's building and technical codes. Throughout the term of the permit the Building Official may inspect the premises at which the medical marijuana dispensary is operated to determine continuing compliance with the Town's building and technical codes. Access to such premises may be obtained by the Building Official in accordance with the applicable provisions of this Code. (Ord. 15 §7, 2009)

**Sec. 6-5-170. Permit license in gross; permit not transferrable.**

The permit shall be deemed to be a license in gross. A permit is nontransferable and nonassignable. Any attempt to transfer or assign a permit shall void the permit and the associated conditional use permit, ab initio. (Ord. 15 §7, 2009)

**Sec. 6-5-180. Notice of issuance of permit.**

Immediately upon the issuance of a permit, the Town Manager shall send a communication copy of the permit, along with the completed application, to: (1) the Marshal's Department; (2) Building and Zoning Director; (3) Town Clerk; (4) Director of Planning; (5) Finance Director; and (6) any other person as determined by the Town Manager as being reasonably appropriate to receive a copy of the permit. A communication copy of the same shall also be delivered to the Town Council; however, the Town Council may not act on such communication. (Ord. 15 §7, 2009)

**Sec. 6-5-190. Review by Building and Zoning Director.**

Following the issuance of the permit by the Town Manager, the Town Manager shall certify the final application and the permit to the Building and Zoning Director. The Director shall review the application and the permit and determine if the same are in general conformance with this Article and Section 16-8-85 of this Code. Following such determination, the Director shall refer the application, along with any other conditional use application requirements required by Article 8 of Chapter 16 of this Code, completed by the applicant, to the Board for its review and approval pursuant to Article 8 of Chapter 16, including, without limitation, Section 16-8-85, within ninety (90) days of receipt from the Town Manager of the issued permit, or such other later date as required under this Code. As part of the Director's referral of the application, the Director shall provide a staff report which shall include, without limitation, feedback and recommendations as to the feasibility of the medical marijuana dispensary and any potential issues that the Director determines are important or relevant to the medical marijuana dispensary at issue and its approval or disapproval as a conditional use. The application shall be placed on the Board's agenda for its review in accordance with Articles 8 and 22 of Chapter 16. (Ord. 15 §7, 2009)

**Sec. 6-5-200. Duration of permit; renewal.**

(a) Each permit issued pursuant to this Article shall be valid for one (1) year from the date of issuance, and may be renewed only as permitted in this Article. All renewals of a permit shall be for no more than one (1) year.

(b) Subject to the Town Council's prior extension of this Article as contemplated in Section 6-5-340 of this Article, an application for the renewal of an existing permit shall be made to the Town Manager not more than sixty (60) days and no less than thirty (30) days prior to the date of expiration of said permit. No application for renewal shall be accepted by the Town Manager prior to or after such date.

(c) The provisions of Subsections 6-5-50(g), (h) and (i), Section 6-5-60, Subsections 6-5-70(c), (d) and (e) and Sections 6-5-80 through 6-5-180 of this Article shall apply to the processing of an application to renew a permit. The timely filing of a renewal application shall extend the current permit until a final decision is made on the renewal application, including any appeal of the Town Manager's decision to the Town Council.

(d) At the time of the filing of an application for the renewal of an existing permit, the applicant shall pay the application fee set forth in Section 6-5-60 of this Article.

(e) The Town Manager may refuse to renew a permit for, without limitation, good cause or failure to comply with this Article or other applicable regulations, including but not limited to Amendment 20; Section 18-18-406.3, C.R.S.; and the administrative regulations issued by the Colorado Department of Public Health and Environment (CDPHE), located at 5 C.C.R. § 1006-2, all as amended from time to time. (Ord. 15 §7, 2009)

**Sec. 6-5-210. Duties of permittee.**

It is the duty and obligation of each permittee to:

(1) Comply with all of the terms and conditions of the permit and any special conditions on the permit imposed by the Town Manager pursuant to Section 6-5-100 of this Article;

(2) Comply with all of the requirements of this Article;

(3) Comply with all other applicable provisions of this Code, Town ordinances and other Town requirements;

(4) Comply with all state laws and administrative regulations pertaining to the medical use of marijuana, including but not limited to Amendment 20; Section 18-18-406.3, C.R.S.; and the administrative regulations issued by the CDPHE, located at 5 C.C.R. § 1006-2, all as amended from time to time;

(5) Comply with all applicable federal laws, rules and regulations, other than a federal law, rule or regulation concerning the possession, sale or distribution of marijuana that conflicts with Amendment 20; and

(6) If the Town Manager has a reasonable suspicion that the permittee is or has violated the terms and conditions of the permit, allow inspection of its records, building or structure and operation by the Town Manager for the purpose of determining the permittee's compliance with the terms and conditions of the permit. However, nothing in this Section shall abrogate or affect: (i) any applicable confidentiality provision of state or federal law; or (ii) any applicable statutory or constitutional prohibition against unreasonable searches and seizure of property. In the event of any conflict between this Section and any applicable state or federal law, the applicable provision of state or federal law shall in all cases prevail and control. (Ord. 15 §7, 2009)

**Sec. 6-5-220. Posting of permit.**

A permit shall be continuously posted in a conspicuous location at the medical marijuana dispensary. (Ord. 15 §7, 2009)

**Sec. 6-5-230. Suspension or revocation of permit.**

(a) A permit issued pursuant to this Article may be suspended or revoked by the Town Manager for any of the following reasons:

(1) Fraud, misrepresentation or a false statement of material fact contained in the permit application;

(2) A violation of any Town, state or federal law or regulation, other than a federal law or regulation concerning the possession, sale or distribution of marijuana that conflicts with Amendment 20;

(3) A violation of any of the terms and conditions of the permit, including any special conditions of approval imposed upon the permit by the Town Manager pursuant to Section 6-5-100 of this Article;

(4) A violation of any of the provisions of this Article;

(5) Operations have ceased at the medical marijuana dispensary for more than ninety (90) days, including during a change of ownership of the dispensary; or

(6) Operations or ownership of the medical marijuana dispensary has been transferred without the new owner obtaining a permit pursuant to this Article.

(b) In connection with the suspension of a permit, the Town Manager may impose reasonable conditions.

(c) In deciding whether a permit should be suspended or revoked and in deciding what conditions to impose in the event of a suspension, if any, the Town Manager shall consider:

(1) The nature and seriousness of the violation;

(2) Corrective action, if any, taken by the permittee;

(3) Prior violations, if any, by the permittee;

(4) The likelihood of recurrence;

(5) All circumstances surrounding the violation;

(6) Whether the violation was willful; and

(7) Previous sanctions, if any, imposed against the permittee.

(d) If the Town Manager suspends a permit, the permittee may appeal the suspension or revocation to the Town Council in accordance with Section 6-5-130 of this Article. The burden of proof in such an appeal is on the permittee. If the Town Council finds by a preponderance of the evidence that the Town Manager acted correctly in suspending or revoking the permit, the Town Council shall uphold the Town Manager's order of suspension or revocation. If the Town Council finds by a preponderance of evidence that the Town Manager acted improperly in suspending or revoking the permit, the appeal shall be sustained and the Town Manager's order of suspension or revocation shall be set aside. Any decision made by the Town Council pursuant to this Section shall be a final decision and may be appealed to the district court pursuant to Rule 106(a)(4), C.R.C.P. The applicant's failure to timely appeal the decision is a waiver of the applicant's right to contest the suspension or revocation of the permit.

(e) No fee previously paid by a permittee in connection with the application and any renewal of the permit shall be refunded if such permit is suspended or revoked. (Ord. 15 §7, 2009)

**Sec. 6-5-240. Limitation on sale, distribution and possession of medical marijuana.**

(a) No medical marijuana may be sold, given away or transferred at a medical marijuana dispensary, except to patients by primary caregivers. Primary caregivers may sell, give away, distribute, transfer and possess medical marijuana and then only at medical marijuana dispensaries and then only to patients, except that a patient may obtain medical marijuana from a primary caregiver only at a dispensary, and a patient may possess medical marijuana for his or her own medicinal needs; provided that, in all cases, such activities of both the primary caregiver and the patient shall at all times be in strict compliance with state laws and administrative regulations pertaining to the medical use of marijuana, including but not limited to Amendment 20; Section 18-18-406.3, C.R.S.; and the administrative regulations issued by the CDPHE, located at 5 C.C.R. § 1006-2, all as amended from time to time. Failure to comply with this requirement shall be a violation of this Article.

(b) A permittee may not dispense more than two (2) ounces of an ingestible form of medical marijuana per patient at any given time.

(c) Only patients and caregivers may access a medical marijuana dispensary. (Ord. 15 §7, 2009)

**Sec. 6-5-250. Limitation on sale of paraphernalia.**

Devices, contrivances, instruments and paraphernalia for inhaling or otherwise consuming medical marijuana, including but not limited to rolling papers and related tools, water pipes and vaporizers, may lawfully be sold at a medical marijuana dispensary; provided that such items may only be sold or provided to patients or primary caregivers and as are reasonably necessary for the consumption of medical marijuana (as opposed to the consumption of marijuana inconsistent with state laws and administrative regulations pertaining to the medical use of marijuana, including but not limited to Amendment 20; Section 18-18-406.3, C.R.S.; and the administrative regulations issued by the CDPHE, located at 5 C.C.R. § 1006-2, all as amended from time to time). (Ord. 15 §7, 2009)

**Sec. 6-5-260. Restrictions on sale of foodstuffs.**

Medical marijuana dispensaries may not be co-located with food cooking and preparation facilities preparing, producing or assembling food, whether for medical or nonmedical purposes. A medical marijuana dispensary may not sell nonmedical food products which are similar to the medical marijuana food products being sold in the medical marijuana dispensary, such as but not limited to medical marijuana brownies or lollypops. This does not include medicine products such as tinctures. Alcohol may not be sold at a medical marijuana dispensary. (Ord. 15 §7, 2009)

**Sec. 6-5-270. Hours of operation.**

Medical marijuana dispensaries may be open for the sale of medical marijuana during the hours of 9:00 a.m. to 7:00 p.m. only, seven (7) days per week. (Ord. 15 §7, 2009)

**Sec. 6-5-280. Signage.**

All signage for a medical marijuana dispensary shall comply with the requirements of Article 18 of Chapter 16 of this Code. In addition, no signage shall use the word "marijuana," "cannabis" or any other word or phrase commonly understood to refer to marijuana, unless such word or phrase is immediately preceded by the word "medical," nor shall such signage display a graphic or image of any portion of a marijuana plant. (Ord. 15 §7, 2009)

**Sec. 6-5-290. Required warnings to be posted.**

There shall be posted in a conspicuous location in each medical marijuana dispensary a legible sign containing warnings that: (1) the distribution of marijuana for nonmedical purposes is a violation of state law; (2) the use of medical marijuana may impair a person's ability to drive a motor vehicle or operate machinery and it is illegal under state law to drive a motor vehicle or to operate machinery when under the influence of or impaired by marijuana; (3) loitering in or around the medical marijuana dispensary is prohibited by state law; and (4) possession and distribution of marijuana is a violation of federal law. (Ord. 15 §7, 2009)

**Sec. 6-5-300. On-site consumption of medical marijuana.**

The consumption, ingestion or inhalation of medical marijuana on or within the premises of a medical marijuana dispensary is prohibited. (Ord. 15 §7, 2009)

**Sec. 6-5-310. On-site consumption of alcohol.**

The sale, ingestion or consumption of an alcoholic beverage within a medical marijuana dispensary is prohibited. (Ord. 15 §7, 2009)

**Sec. 6-5-320. Restrictions on cultivation, growing and processing; storage.**

(a) The growing, cultivation and processing of marijuana of any kind on or within the premises of a medical marijuana dispensary is strictly prohibited.

(b) All medical marijuana dispensing activities shall be conducted indoors.

(c) All medical marijuana product storage shall be indoors. All medical marijuana and paraphernalia shall be in a sealed or locked cabinet and out of plain sight view from within the medical marijuana dispensary, except when being accessed for distribution.

(d) Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting the medical marijuana dispensary must be provided at all times. In the event that any odors, debris, items, dust, fluids or other substances shall exit the medical marijuana dispensary, the owner or the subject premises and the permittee shall be jointly and severally responsible for such conditions and shall be responsible for full cleanup and/or correction of this condition immediately. The dispensary shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner. (Ord. 15 §7, 2009)

**Sec. 6-5-330. Display of medical marijuana; deliveries.**

(a) No medical marijuana shall be displayed so as to be visible through glass, windows or doors by a person of normal visual acuity standing at the outside perimeter of the medical marijuana dispensary. Products, accessories and associated paraphernalia shall not be visible from a public sidewalk or right-of-way.

(b) All deliveries of medical marijuana and products, accessories and associated paraphernalia to medical marijuana dispensaries shall be conducted discreetly and out of plain sight of all other persons not associated with the medical marijuana dispensary. (Ord. 15 §7, 2009)

**Sec. 6-5-340. Security requirements.**

(a) The permittee shall provide adequate security on the premises of a medical marijuana dispensary, including but not limited to the following:

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

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

(3) A locking safe permanently affixed to the premises that is suitable for storage of all of saleable inventory of medical marijuana if marijuana is to be stored overnight on the premises.

(4) Exterior lighting that illuminates the exterior walls of the business and is compliant with the Town's lighting requirements, including, without limitation, Article 17 of Chapter 16 of this Code.

(5) All medical marijuana dispensaries shall maintain deadbolt locks.

(6) No person under the age of eighteen (18) shall be allowed in any portion of a medical marijuana dispensary.

(b) All security systems and measures shall be inspected and approved by the Marshal's Department.

(c) All currency in excess of one thousand dollars (\$1,000.00) shall be stored within a separate safe (no marijuana in the safe), securely fastened to a wall or floor, as approved by the Building Official. (Ord. 15 §7, 2009)

**Sec. 6-5-350. Disposal.**

The disposal of, without limitation, unwanted medical marijuana, byproducts and paraphernalia shall be done in accordance with procedures approved in advance by the Marshal's Department. (Ord. 15 §7, 2009)

**Sec. 6-5-360. Sales tax.**

Each permittee shall collect and remit Town sales tax on all medical marijuana, products, accessories, associated paraphernalia and other tangible personal property sold by the permittee at the medical marijuana dispensary. (Ord. 15 §7, 2009)

**Sec. 6-5-370. Recordkeeping; ledger required.**

(a) Each permittee shall maintain an accurate and complete record of all medical marijuana, products, accessories, associated paraphernalia and other tangible personal property sold or dispensed at the medical marijuana dispensary.

(b) The permittee's records described in Subsection (a) above shall be available for inspection by the Marshal's Department pursuant to Rule 41, C.R.C.P., or Rule 241 of the Colorado Municipal Court Rules of Procedure.

(c) Nothing in this Section shall abrogate or affect: (1) any applicable confidentiality provision of state or federal law; or (2) any applicable statutory or constitutional prohibition against unreasonable searches and seizure of property. In the event of any conflict between this Section and any applicable state or federal law, the applicable provision of state or federal law shall control.

(d) A permittee shall keep a ledger which shall record the following information, and which shall be made available to the Town upon request:

(1) The quantity of medical marijuana dispensed in each transaction;

(2) The date and time the medical marijuana was sold or dispensed;

(3) The type and source of medical marijuana dispensed;

(4) The total amount paid by the patient for the transaction for all goods, products and services provided or sold at the medical marijuana dispensary;

(5) Each patient's medical marijuana identification card number and any other identifying information permitted by law; and

(6) Confirmation that the permittee confirmed the identity of the patient receiving the medical marijuana with a valid photo identification. (Ord. 15 §7, 2009)

**Sec. 6-5-380. Violation and penalty; remedies cumulative.**

Any person who violates any of the provisions of this Article shall be subject to the violation and penalty provisions set forth in Article 4 of Chapter 1 of this Code. All remedies contemplated in this Section shall be deemed cumulative and concurrent. (Ord. 15 §7, 2009)

**Sec. 6-5-390. No waiver of governmental immunity.**

In adopting this Article, the Town Council is relying on, and does not waive or intend to waive by any provision of this Article, the monetary limitations (presently one hundred fifty thousand dollars

[\$150,000.00] per person and six hundred thousand dollars [\$600,000.00] per occurrence) or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S., or any other limitation, right, immunity or protection otherwise available to the Town, its officers or its employees, at law and/or in equity. (Ord. 15 §7, 2009)

**Sec. 6-5-400. No Town liability.**

By accepting a permit issued pursuant to this Article, a permittee waives and releases the Town, its officers, elected officials, employees, attorneys and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of dispensary owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations. The Town Manager shall require a permittee to execute a written instrument acknowledging the provisions of this Section. (Ord. 15 §7, 2009)

**Sec. 6-5-410. Indemnification of Town.**

By accepting a permit issued pursuant to this Article, a permittee, jointly and severally if more than one (1), agrees to indemnify, defend and hold harmless the Town, its officers, elected officials, employees, attorneys, agents, insurers and self-insurance pool against all liability, claims and demands on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other loss of any kind whatsoever, which arises out of or is in any manner connected with the operation of the medical marijuana dispensary that is the subject of the permit. The permittee further agrees to investigate, handle, respond to and provide defense for and defend against, any such liability, claims or demands at its expense, and to bear all other costs and expenses related thereto, including court costs and attorneys' fees. The Town Manager may require a permittee to execute a written instrument acknowledging the provisions of this Section. (Ord. 15 §7, 2009)

**Sec. 6-5-420. Other laws remain applicable.**

The provisions of this Article do not, and are not intended to, protect permittees, operators, employees, customers, property owners and clients of a permitted medical marijuana dispensary from prosecution pursuant to any laws that may prohibit the growing, cultivation, sale, use, distribution or possession of controlled substances. In addition, as of the date of the adoption of this Article, the growing, cultivation, sale, possession, distribution and use of marijuana remain violations of federal and state law (except for conduct covered by Amendment 20), and this Article affords no protection against prosecution under such federal and state laws. Permittees, operators, employees, customers, property owners and clients of the permitted medical marijuana dispensary assume any and all risk and any and all liability arising or resulting from the operation of the dispensary under any state or federal law. Further, to the greatest extent permitted by law, any actions taken under the provisions of this Article by any public officer or officers, elected or appointed officials, employees, attorneys and agents of the Town shall not become a personal liability of such person or of the Town. (Ord. 15 §7, 2009)

**Sec. 6-5-430. Effective date; sunset.**

(a) The provisions of this Article shall become effective on January 6, 2010. Following the conclusion of one (1) year from said effective date, unless the provisions of this Article are otherwise extended, inclusive of any amendments, this Article shall be of no further force and effect.

(b) Notwithstanding the preceding Subsection (a), the terms and requirements of this Article shall remain in full force and effect with respect to compliance and enforcement requirements and the payment of Town sales taxes, in conjunction with any permitted medical marijuana dispensary, until the last permitted dispensary's permit has expired or otherwise been terminated or revoked with no appeals pending.

(c) In the event that the Town Council fails to extend the ordinance codified herein, inclusive of any amendments, by December 31, 2010, no renewal applications of any existing permits shall be accepted and no renewals of exiting permits shall be permitted.

(d) The grant of any conditional use for a medical marijuana dispensary shall be conditioned upon the requirement that such conditional use shall terminate automatically should the Town Council not extend the provisions of this Article as described in Subsection (a) of this Section. (Ord. 15 §7, 2009)