

CHAPTER 6

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ARTICLE 1

Business Licenses

Sec. 6-1. Required – Exceptions.

(a) No person shall establish, engage or be engaged in the operation, conduct or carrying on of any trade, profession, business, privilege, occupation or calling of any kind within the city without having first obtained a general business license and such additional licenses as required by this chapter.

(b) If a person owns or operates more than one (1) business or has more than one (1) business location, a separate license for each business or location shall be obtained. A business which consists of related trades or activities, including but not limited to plumbing and heating or heating and air conditioning, shall not be required to obtain a separate license for each trade or activity.

(c) Activities performed by the city or under the sponsorship of the city are exempt from the requirements of this chapter.

(d) An individual having an occasional or isolated sale of tangible personal property is exempt from the requirements of this chapter. Such sales must be made from the private residence of such an individual, the aggregate dollar amount of such sales may not exceed one thousand dollars (\$1,000.00) for any one (1) calendar year, and neither the individual nor any member of the individual's household may be engaged in a trade or business selling items similar to those sold at such sales. (Prior code 5.04.010; Ord. 635 §1, 2004)

Sec. 6-2. Application.

Applications for all licenses required in this article shall be made in writing to the city clerk. Each application shall state the name of the applicant, the license desired, the location to be used, if any, the time covered and the fee to be paid; and each application shall contain such additional information as may be needed for the proper guidance of the city officials in issuing the permit or license applied for. (Prior code 5.04.020)

Sec. 6-3. Forms.

Forms for all licenses, and applications therefor, shall be prepared and kept in file by the city clerk. (Prior code 5.04.030)

Sec. 6-4. Signatures.

Each license issued shall bear the signature of the city clerk, in the absence of any specific provision to the contrary. Such license shall be in substantially the following form:

"No.____ STATE OF COLORADO

By Authority of
THE CITY OF DACONO

LICENSE

\$_____

"Permission is hereby given to _____ to maintain and carry on the following described business of _____ for the term of _____ months, being from the _____ day of _____ A.D. 20____, both days inclusive.

"IN TESTIMONY WHEREOF the signature of the clerk is hereunto affixed this _____ day of _____, A.D. 20_____.

City Clerk"

(Prior code 5.04.040)

Sec. 6-5. Investigation.

Upon the receipt of an application for a license where any provision of this article necessitates an inspection or investigation before the issuance of such license, the city clerk shall refer such application to the proper officer, board or commission for making such investigation within forty-eight (48) hours of the time of such receipt. The officer, board or commission charged with the duty of making the investigation or inspection shall make a report thereon, favorable or otherwise, within ten (10) days after receiving the application or copy thereof. All investigations, except where otherwise specifically provided, shall be made by the chief of police or by another officer designated by the mayor. (Prior code 5.04.050)

Sec. 6-6. Fees.

In the absence of any specific provision to the contrary, all fees and charges for licenses shall be paid in advance at the time application therefor is made to the city clerk. When an applicant has not engaged in the business until after the expiration of part of the current license year, the license fee shall be prorated by quarters in the absence of any specific provision to the contrary and the fee paid for each quarter or fraction thereof during which the business had been or will be conducted. Except as otherwise provided, all license fees shall become a part of the general fund. (Prior code 5.04.060)

Sec. 6-7. Bonds.

Whenever in this section or any section in this article a bond is required, the applicant shall file with the city clerk a bond running to the city in the sum of one thousand dollars (\$1,000.00), said bond insuring that the applicant will comply with all laws and will not engage in negligent, fraudulent or deceptive practices. (Prior code 5.04.070)

Sec. 6-8. Termination and renewal.

In the absence of any specific provision to the contrary, all annual licenses shall terminate on the last day of the calendar year. Unless specifically otherwise stated, all annual licenses may be renewed upon payment of the annual license fee to the city clerk without further examination or investigation. (Prior code 5.04.080)

Sec. 6-9. Building and premises.

No license shall be issued for the conduct of any business if the premises and building to be used for the purpose do not fully comply with the requirements of this article. No such license shall be issued for the conduct of any business or performance of any act which would involve a violation of the zoning code of the city. (Prior code 5.04.090)

Sec. 6-10. Inspections.

Whenever inspections of the premises used for or in connection with the operation of a licensed business or occupation are provided for or required by this article, or any ordinance, or are reasonably necessary to secure compliance with any provision of this article or any other ordinance, or to detect violations thereof, any authorized official of the city may, upon presentation of proper credentials, enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon him or her by ordinance; provided that except in emergency situations or when consent of the owner and/or occupant to the inspection has been otherwise obtained, he or she shall give the owner and/or occupant, if they can be located after reasonable effort, twenty-four (24) hours' written notice of the authorized official's intention to inspect. The notice transmitted to the owner and/or occupant shall state that the property owner has the right to refuse entry, and such refusal is not a violation of law. In the event such entry is refused, inspection may be made only upon issuance of a search warrant by a duly authorized magistrate, based upon probable cause. In the event the owner and/or occupant refuses entry after such request has been made, the official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry. (Prior code 5.04.100)

Sec. 6-11. Suspension, revocation and nonrenewal.

(a) Except as otherwise provided, the city council may, upon seven (7) days' written notice to a licensee stating the contemplated action and in general the grounds therefor, and after a reasonable opportunity to be heard, suspend, revoke or deny renewal of any license issued by the city pursuant to this article, if it finds:

- (1) The licensee has failed to pay the annual license fee;
- (2) The licensee has failed to file any reports or furnish any other information that may be required by the provisions relating to the specific license;
- (3) The licensee has allowed the violation of, or has violated any of the terms of the provisions pertaining to the license or any regulation or order lawfully made relating thereto; or
- (4) Any fact or condition exists which, if it had existed or had been known to exist at the time of the application for such license, would have warranted the refusal of the issuance of such license; or
- (5) The doing or omitting by the licensee of any act, or permitting by the licensee of any condition to exist in connection with any trade, profession, business, occupation or privilege for which a license is granted under the provisions of this code or upon any premises or facilities used in connection therewith, which act, omission or condition is:
 - a. Contrary to the health, safety or welfare of the public;

- b. Unlawful, irregular or fraudulent in nature;
- c. Unauthorized or beyond the scope of the license granted;
- d. Prohibited by the provisions of this chapter or any duly established rule or regulation of the city applicable to the trade, profession, business, occupation or privilege for which the license has been granted;
- e. In violation of this code or Charter; or
- f. In violation of any law, rule or regulation of the city, the county, the state or the federal government.

(b) Nothing in this section shall be deemed to prohibit the city from imposing other penalties authorized by this code for any violation thereof, or seeking any other relief as is available to the city, including but not limited to filing a summons and complaint in the municipal court. (Prior code 5.04.110; Ord. 268, §2, 1982; Ord. 504 §1, 1998)

Sec. 6-12. Posting.

It shall be the duty of any person conducting a licensed business in the city to keep his or her license posted in a prominent place on the premises used for such business at all times. (Prior code 5.04.120)

Sec. 6-13. Designated fees.

It is unlawful for any person to conduct in the businesses, occupations and enterprises defined in this chapter without first having obtained licenses therefor and paid the fees thereof. However, no license shall be issued to any person unless such person is over the age of eighteen (18) years and of good moral character and financial responsibility. No license shall be issued to any person who is currently delinquent in the remittance of any taxes, including sales and use taxes or admissions taxes. Licenses shall issue but no fees shall be paid, by volunteer, charitable and other nonprofit, public benefit activities. The fees are due annually before January 31 of each calendar year. A late charge of five dollars (\$5.00) will be assessed for every payment received after 5:00 p.m. on January 31. The fees for new licenses will be prorated from the approval of the license applications. (Prior code 5.04.130; Ord. 319 §1, 1986; Ord. 327 §3, 1987; Ord. 604 §6, 2002)

Sec. 6-14. Amusements.

Any enterprise or activity designed to give, conduct, manage or exhibit any show, theater, circus or exhibition of any kind; fees, twenty-five dollars (\$25.00) per day for circuses, carnivals and parades. For movie theaters, see Business Licenses, Section 6-16. (Prior code 5.04.132; Ord. 319 §1, 1986)

Sec. 6-15. Auction.

The public sale, or offer for sale, excepting by legal process, of any property, goods, wares, or merchandise, either new or secondhand, by auction; fee, twenty-five dollars (\$25.00) per day for each day of sale. (Prior code 5.04.133; Ord. 319 §1, 1986)

Sec. 6-16. Business licenses.

For each license issued or renewed under this chapter, a fee shall be paid in the amount established from time to time by resolution of the city council. (Ord. 409 §2, 1991)

Sec. 6-17. Christmas trees.

Any person who sells or offers for sale, at any location established exclusively for the sale of evergreen or fir trees, or trees commonly called Christmas trees, or any decorations made from or associated with the same, shall obtain a license for each such location. The fee for a license therefor shall be charged in the amount established from time to time by resolution of the city council. No such license shall be granted prior to November 1 of any year. The period of the license shall be from the date of issuance through December 31 of the year. It is unlawful for any licensee to allow such trees or decorations to be on its premises after January 10 of the year following the season for which the license was issued. (Ord. 419 §1, 1992)

Sec. 6-18. Reserved.

Editor's note: Former Sec. 6-18, Dances, was repealed by Ord. 419 §3, 1992.

Sec. 6-19. Games.

Any person who installs and allows the use, upon payment of any fee therefor, of one (1) or more of the following games, skills or entertainments, shall obtain a license for each such game, skill or entertainment: bowling, ice skating, roller skating, pool or billiards, foosball, miniature golf, shuffleboard, shooting gallery, pinball machine, video game or any other similar machine, table, game or activity. The fee for said license shall be in the amount established from time to time by resolution of the city council. (Ord. 419 §2, 1992)

Sec. 6-20. Home occupation.

For those occupations licensed as home occupations pursuant to Article 21 of Chapter 16 of this code, a home occupation license fee shall be charged in the amount established from time to time by resolution of the city council. (Prior code 5.04.137; Ord. 319 §1, 1986; Ord. 374 §1, 1990; Ord. 409 §6, 1991; Ord. 460 §2, 1995)

Sec. 6-21. Refuse haulers.

(a) Persons deemed refuse haulers. Any person who collects or hauls, or causes to be collected or hauled, any refuse over any street, alley or other public place in the city shall, for the purposes of this article, be deemed a refuse hauler, except that no person removing refuse from his or her own property with his or her own vehicle shall be deemed a refuse hauler.

(b) License required. No person shall act as a refuse hauler without first applying for and obtaining a license from the city council as required by this section, and paying the annual license fee and the bond required by this section.

(c) License application. Application for a refuse hauler's license shall be made annually on forms furnished by the city clerk. The completed application shall be accompanied by payment of an annual

license fee and bond in the amounts established from time to time by resolution of the city council. The bond shall be conditioned on the performance by the licensee and the licensee's agents of all activities associated with refuse hauling in compliance with the ordinances, resolutions, rules and regulations of the city and in compliance with other applicable laws. The bond shall be in a form approved by the city clerk. In lieu of a bond, the city clerk may accept cash in the amount established from time to time by resolution of the city council.

(d) Refusal to issue or renew license; revocation of license. The city council may refuse to issue or renew a license, or may revoke a license, if it determines that:

(1) Any vehicle or other equipment of the applicant or licensee fails to comply with the requirements of the ordinances, resolutions, rules or regulations of the city or with other applicable laws, or is unsafe or unsanitary, or otherwise constitutes a hazard to the public health, safety or welfare;

(2) The applicant or licensee has failed to transport refuse to or deposit refuse at approved sites for the disposal of refuse; or

(3) The applicant or licensee has otherwise failed to comply with any ordinances, resolutions, rules or regulations of the city, or with other applicable laws.

(e) Vehicle requirements. On and after January 1, 1990, no refuse hauler shall operate any vehicle, for refuse hauling purposes, within any residentially zoned district of the city, unless the vehicle meets the following requirements:

(1) The vehicle must be a single axle vehicle;

(2) The vehicle must weigh not more than twenty-seven thousand (27,000) pounds when empty and no more than thirty-six thousand (36,000) pounds when fully loaded; and

(3) The vehicle must have a capacity of no more than twenty (20) cubic yards.

(f) Disposal only at approved sites. No person shall deposit any refuse at any location in the city except an approved site for the disposal of refuse.

(g) Conditions. The city council may impose such additional conditions upon the issuance or renewal of a license as the council determines necessary for the protection of the public health, safety or welfare.

(h) Rules and regulations. The city council may adopt such rules and regulations as it determines necessary or desirable to carry out the provisions of this article.

(i) Violations. No person shall fail to comply with any provision of this article, with any condition imposed in connection with the issuance or renewal of a license under this article, or with any rule or regulation adopted by the city council pursuant to this article. (Prior code 5.04.138; Ord. 319 §1, 1986; Ord. 363 §1, 1989; Ord. 371 §1, 1990; Ord. 409 §7, 1991)

Sec. 6-22. Exemptions.

Except as otherwise noted, the licenses required in this article shall not apply to newsboys and newsgirls, employees, home occupations or local residents who solicit sale of goods to supplement the family income. (Prior code 5.04.140; Ord. 231 §1, 1980)

Sec. 6-23. Separate premises – Transferability.

Every person doing business in more than one (1) store, stand or other place of business, shall obtain a separate license for each place of business, unless such place of business are contiguous to each other, and are operated as a unit. The business may be transferred from one (1) location to another without payment of an additional fee. (Prior code 5.04.150)

Secs. 6-24—6-39. Reserved.**ARTICLE 2****Contractor's License and Fees****Sec. 6-40. Designated.**

(a) It is unlawful for any person, firm or corporation to engage in any of the trades, callings, work, businesses or occupations set out in this article within the city without first obtaining a license therefor from the city. The license fee shall be for the calendar year or any portion thereof. Licenses are not assignable or transferable. It is the duty of each licensee to exhibit his or her license upon request of any city official.

(b) Notwithstanding the requirements of subsection (a), the city shall issue a city license of the same class to any person having a valid license from the city and county of Denver, Boulder, Aurora, Arvada or Colorado Springs upon such person's exhibiting the valid license, making and completing the city application and upon payment of the required fee and delivering a valid certificate of insurance, when required.

(c) The annual license fee for a contractor's license hereunder shall be in the amount established from time to time by resolution of the city council. (Prior code 5.16.010; Ord. 326 §1, 1987; Ord. 409 §8, 1991)

Sec. 6-41. Insurance requirements.

Each establishment or business, whether a sole proprietorship, partnership or corporation performing any of the work regulated by this article, shall provide information for verification of insurance having the following minimum coverage: general liability coverage of not less than fifty thousand dollars (\$50,000.00) for injury or death to one (1) person and one hundred thousand dollars (\$100,000.00) for injury to or death of more than one (1) person in any single accident or event and for not less than twenty-five thousand dollars (\$25,000.00) for damages to the destruction of property. The licensee shall keep the insurance in force at all times in order to maintain a city license. (Prior code 5.16.020; Ord. 326 §1, 1987)

Sec. 6-42. Suspension or revocation.

The mayor, upon the recommendations of the building official, for unskillfulness, carelessness, willful violation of his or her directions or a violation or violations of disobedience of the building code, plumbing code, mechanical code or other applicable ordinances of the city by a licensee under this article, may recommend to the city council the suspension or revocation of the license; and the city council, after full hearing of the changes, may revoke or suspend the license. The period of suspension or revocation shall be determined by the city council. The licensee shall be given notice of the hearing, which notice shall specify the time and place of the hearing, the violation(s) with which the licensee is charged and the fact that the licensee may be present and be fully heard. The notice shall be give at least seven (7) days prior to the hearing date. (Prior code 5.16.030)

Secs. 6-43—6-59. Reserved.**ARTICLE 3****Intoxicating Liquors****Sec. 6-60. Definitions.**

As used in this article, certain words, unless the context indicates otherwise, shall have the following meanings:

Malt liquors includes beer and is construed to mean any beverage obtained by the alcoholic fermentation of any infusion or decoction of barley, malt, hops or any other similar products or any combination thereof in water, containing more than 3.2% of alcohol by weight.

Medicinal liquors means any liquors sold by a duly licensed pharmacist or drugstore solely on a bona fide doctor's prescription.

Open container means any container that is either opened so that the contents can be removed or the seal, cork, pull tab or any type of cap applied by the manufacturer has been broken. A container shall be deemed an open container even if such container is resealed by any type of cap or seal.

Operator or licensed person or licensee means a person licensed by law to sell any malt, vinous or spirituous liquors, other than medicinal liquors, or to sell 3.2 percent beer.

Public place means any public or private place upon which the public has an express or implied license to enter or remain and includes, but is not limited to, public streets, alleys, roads or highways, property owned by the city, schools, places of amusement, parks and playgrounds. A place shall be deemed to be a *public place* within the meaning of this Article even if the express or implied license is subject to time or conduct restrictions and the entry to or remaining on the property is in violation of such restrictions.

Spirituous liquors is construed to mean any alcoholic beverage obtained by distillation mixed with water and other substances in solution, and includes, among other things, brandy, rum, whiskey, gin and every liquid or solid, patented or not, containing alcohol and which is fit for use for beverage purposes. Any liquid or solid containing beer or wine in combination with any other liquor except as

above provided shall not be construed to be malt or vinous liquors, but shall be construed to be spirituous liquors.

3.2% beer means malt liquor as defined in this section containing not more than 3.2% of alcohol by weight.

Vinous liquors includes wine and fortified wines not exceeding twenty-one percent (21%) of alcohol by volume, and shall be construed to mean alcoholic beverages obtained by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar. (Prior code 5.24.010, Ord. 369 §1, 1990; Ord. 674 §1, 2007)

Sec. 6-61. License to manufacture.

It is unlawful for any person to manufacture within the city, for sale, any malt, vinous or spirituous liquors, or 3.2% beer, without first having obtained a license therefor in accordance with the laws of the state. (Prior code 5.24.020)

Sec. 6-62. License to sell.

No person shall sell, barter, trade or offer to sell malt, vinous or spirituous liquors, or 3.2% beer within the city without first having obtained a license so to do from the local liquor licensing authority in accordance with the provisions of the laws of the state. (Prior code 5.24.030; Ord. 292 §1, 1984)

Sec. 6-63. Fees.

(a) Application fees shall be imposed, for each application for a license or permit under this chapter, in the amount established from time to time by resolution of the city council.

(b) Permit and license fees shall be imposed, to cover each permit or license issued or renewed under this chapter, in the amount established from time to time by the city council. (Ord. 409 §9, 1991)

Sec. 6-64. Sale – Malt, vinous and spirituous liquors.

(a) It is unlawful for any licensed person to sell at retail malt, vinous or spirituous liquors to any person under the age of twenty-one (21) years, to a habitual drunkard or to an intoxicated person, or to permit any malt or vinous liquors to be sold or dispensed by a person under eighteen (18) years of age, or spirituous liquors to be sold or dispensed by a person under twenty-one (21) years of age, or to permit any such person to participate in the sale or dispensing thereof. If a person who, in fact, is not twenty-one (21) years of age exhibits a fraudulent proof of age, any action relying on such fraudulent proof of age shall not constitute grounds for the revocation or suspension of any license issued under this article.

(b) It is unlawful to serve, sell or distribute any malt, vinous or spirituous liquors on any primary or general election day, as defined by Section 1-1-104, C.R.S., during polling hours; or on Sunday and Christmas. The provisions of this section shall not apply to any other election held in this state.

(c) It is unlawful to sell, serve or distribute any malt, vinous or spirituous liquors by the drink for consumption on the premises on weekdays, except Mondays which do not fall on January 1 of any year, between the hours of 2:00 a.m. and 7:00 a.m., or on Mondays, which do not fall on January 1 of any year, between the hours of 2:00 a.m. and 7:00 a.m.; or on Sundays or Christmas between the hours of

2:00 a.m. and 8:00 a.m. and after 8:00 p.m.; or to sell, serve or distribute any such liquors in sealed containers between the hours of 12:01 a.m. and 8:00 a.m., or on the days prohibited by the previous subsection; but nothing in this subsection shall prohibit the selling and serving of malt, vinous or spirituous liquors during such hours or on such days in the places and in the manner permitted by this section.

(d) Notwithstanding, hotel and restaurant licensees, beer and wine licensees, tavern licensees and club licensees, upon the payment of an additional annual fee, in the amount established from time to time by resolution of the city council, to the local licensing authority, may obtain a special license to sell, serve or distribute malt, vinous and spirituous liquors by the drink after the hour of 8:00 p.m. and until 12:00 a.m. on Sundays and Christmas.

(e) Further, it is unlawful to fail to display at all times in a prominent place a printed card with a minimum height of fourteen (14) inches and a width of eleven (11) inches with each letter to be a minimum of one-half ($\frac{1}{2}$) inch in height, which shall read as follows:

WARNING

IT IS ILLEGAL TO SELL WHISKEY, WINE, OR
BEER TO ANY PERSON UNDER TWENTY-ONE YEARS OF AGE OR FOR ANY PERSON UNDER TWENTY-ONE
YEARS OF AGE TO POSSESS OR TO ATTEMPT TO PURCHASE THE SAME.

IT IS ILLEGAL IF YOU ARE OVER TWENTY-ONE YEARS OF AGE FOR YOU TO PURCHASE
WHISKEY, WINE, OR BEER FOR A PERSON
UNDER TWENTY-ONE YEARS OF AGE.

(f) It is unlawful for any person under the age of twenty-one (21) years, following notice, to be and remain or to enter and remain, after the hour of 9:00 p.m., in any establishment wherein so-called malt, vinous or spirituous liquor is sold and/or served. (Prior code 5.24.050; Ord. 251 §1, 1981; Ord. 409 §10, 1991)

Sec. 6-65. Sale – Beer.

(a) It is unlawful to sell fermented malt beverages with an alcoholic content of 3.2% or less

to any person under the age of twenty-one (21) years or to any person between the hours of 12:00 a.m. and 5:00 a.m.; it is unlawful to permit any fermented malt beverages with an alcoholic content of 3.2% or less to be sold or dispensed by a person under the age of eighteen (18) years or to permit any such person to participate in the sale or dispensing thereof.

(b) It is unlawful to fail to display at all times in a prominent place on premises licensed for retail sale a printed card with a minimum height of fourteen (14) inches and a width of eleven (11) inches with each letter to be a minimum of one-half ($\frac{1}{2}$) inch in height which shall read as follows:

WARNING

IT IS ILLEGAL TO SELL 3.2 BEER TO ANY PERSON UNDER TWENTY-ONE YEARS OF AGE
OR FOR ANY PERSON UNDER TWENTY-ONE YEARS OF AGE TO POSSESS OR TO
ATTEMPT TO PURCHASE THE SAME.

IT IS ILLEGAL IF YOU ARE OVER TWENTY-ONE YEARS OF AGE FOR YOU TO PURCHASE
3.2 BEER FOR A PERSON UNDER TWENTY-ONE YEARS OF AGE.

FINES AND IMPRISONMENT MAY BE
IMPOSED BY THE COURTS FOR VIOLATION
OF THESE PROVISIONS.

(c) It is unlawful for any person under the age of twenty-one (21) years, following notice, to be and remain or to enter and remain, after the hour of 9:00 p.m., in any establishment wherein so-called 3.2% beer is served. (Prior code 5.24.060; Ord. 251 §1, 1981; Ord. 390, 1991)

Sec. 6-66. Consumption.

(a) It is unlawful to drink or consume any malt, vinous or spirituous liquors or 3.2% beer, in any restaurant, pool hall, dance hall, retail liquor store, business house, school house public building or other place of public gathering for amusement or entertainment or upon any street, avenue, alley, sidewalk, vacant lot or other public place within the city; provided that malt and vinous liquors, and 3.2% beer, may be consumed upon the premises of a place duly licensed therefor by the city.

(b) It is unlawful for any person, being the owner, occupant or in charge of any dance hall, pool hall, restaurant, school house, recreation hall, public building or other place of public gathering for amusement or entertainment, to permit the consumption or drinking of said liquors and beer or any of them, upon said premises (except if it is a place duly licensed for sale thereof for consumption upon the premises), and any such person who knowingly permits those engaged in the violation of any of the provisions of this article to be in attendance at such place shall be deemed guilty of keeping a disorderly house and shall be subject to the penalties provided for the violation of this article. (Prior code 5.24.070)

Sec. 6-67. Open containers of alcoholic beverages.

(a) It is unlawful for any person to possess an open container of any malt, vinous or spirituous liquors or 3.2% beer in any public place within the city.

(b) It is unlawful for any person to drive, ride in or occupy any motor vehicle with an open container of malt, vinous or spirituous liquors or 3.2% beer at any place within the city.

(c) Notwithstanding any provision of this section to the contrary, a licensee duly licensed as a beer and wine licensee, hotel and restaurant licensee, tavern licensee, brew pub licensee or vintner's restaurant licensee under the provisions of this Article that has meals available for consumption on the licensed premises may permit a customer of the licensee to reseal and remove from the licensed premises one (1) opened container of partially consumed vinous liquor purchased on the premises so long as the originally sealed container did not contain more than seven hundred fifty (750) milliliters of vinous liquor.

(d) Notwithstanding any provision of this section to the contrary, a person may transport an open container of malt, vinous or spirituous liquor from one (1) place where it may lawfully be kept or consumed to another place where it may lawfully be kept or consumed, directly and without delay, if at all times during the transportation, the container of malt, vinous or spirituous liquor is capped, corked or otherwise reclosed with a firmly fixed waterproof lid. When transported in a motor vehicle, the beverage or liquor must be in the trunk of the motor vehicle or, if none, in a location not immediately accessible to the driver or any passenger (Ord. 674 §3, 2007)

Sec. 6-68. Special use permit.

Organized groups of six (6) or more persons of legal age may obtain special use permits, excepting prohibitions of sections 6-66 and 6-67, by making application for the same, and payment of a permit fee in the amount established from time to time by resolution of the city council, to the city clerk at least twenty-four (24) hours in advance of such use. No special use permit shall be allowed, however, for possession and consumption of an alcoholic beverage of any kind at the Dacono municipal pool or upon the premises of the pool parking lot, and the same is strictly prohibited. (Prior code 5.24.090; Ord. 409 §11, 1991)

Sec. 6-68.5. Optional premises license.

(a) An optional premises license may be granted for optional premises approved by the local licensing authority to persons selling malt, vinous and spirituous liquors by the drink only to customers for consumption on the optional premises and for storing malt, vinous and spirituous liquors in a secure area on or off the optional premises for future use on the optional premises.

(b) The fee for each optional premises license shall be as established from time to time by the city council by resolution.

(c) In addition to any other applicable laws, regulations, ordinances and resolutions, the provisions of section 12-47-135(7), C.R.S., shall apply to application for and issuance of any optional premises license.

(d) As used in this section, *optional premises* means:

(1) The premises specified in an application under this article and under the Colorado Liquor Code for a hotel and restaurant license with related outdoor sports and recreational facilities, for the convenience of its guests or the general public, located on or adjacent to the hotel or restaurant within which such licensee is authorized to sell or serve alcoholic beverages in accordance with the provisions of this article and the provisions of the Colorado Liquor Code and at the discretion of the state and local licensing authorities; or

(2) The premises specified in an application for an optional premises license located on an applicant's outdoor sports and recreational facility. For purposes of this section, an *outdoor sports and recreational facility* means a facility which charges a fee for the use of such facility. (Ord. 414 §1, 1992)

Sec. 6-69. Disturbances.

(a) It is unlawful for any licensee to permit any disturbance, undue noise or unlawful or disorderly act or conduct by any person or group of persons upon the premises.

(b) It is unlawful for any licensee, in any manner, to encourage or participate in any disturbance, unlawful act or disorderly conduct upon the premises; provided, however, that such licensee may use such lawful means as may be proper to protect his or her person or property from damage or injury.

(c) Any licensee shall immediately report to the police authority of the city any unlawful or disorderly act, disorderly conduct or disturbance committed on the premises.

(d) It shall not be a defense that the licensee was not personally present on the premises at the time of any violation of this section; provided, however, that an agent, servant or employee of the licensee shall not be liable under this article when absent from the premises while not on duty. (Prior code 5.24.100)

Sec. 6-70. Underaged persons obtaining alcohol.

(a) It is unlawful for any person under twenty-one (21) years of age to obtain or attempt to obtain malt, vinous or spirituous liquor or 3.2% beer by misrepresentation of age or by any other method in any place where such beverages are sold.

(b) It is unlawful for any person under twenty-one (21) years of age to possess malt, vinous or spirituous liquor or 3.2% beer in any store, in any public place or inside of vehicles any place within the city.

(c) It is unlawful for any person under twenty-one (21) years of age to make false statements; to furnish, present or exhibit any fictitious or false statements; to furnish, present or exhibit any fictitious or false registration card, identification card, driver's license or other document; or to furnish, present or exhibit such document or documents issued to a person other than the one presenting the same for the purpose of gaining admission to prohibited places or for the purpose of procuring the sale, gift or delivery of prohibited articles, including malt, vinous or spirituous liquor or 3.2% beer.

(d) It is unlawful for any person under the age of twenty-one (21) years to engage or utilize the services of any other person, whether for remuneration or not, to procure any article that such person under the age of twenty-one (21) is forbidden by law to purchase.

(e) It is unlawful for any person, whether for remuneration or not, to procure for any person under twenty-one (21) years of age any article that such person is forbidden by law to purchase. (Ord. 674 §4, 2007)

Sec. 6-71. Additional offenses.

(a) Except as otherwise permitted by law, it is unlawful for any person to sell, give away, or consume any malt, vinous or spirituous liquors, or 3.2% beer, upon any street, avenue, alley, park or other public place within the city, or upon any other property belonging to the city, or upon the premises of any place that is open to the public and is not licensed to sell such liquors or beer.

(b) It is unlawful for any licensee to fail to conduct the licensed premises in a decent, orderly and respectable manner, or to permit upon the licensed premises profanity, rowdiness, undue noise or other disturbances or activity offensive to the senses of the average citizen.

(c) It is unlawful for any licensee to fail to report immediately to the city police department any unlawful act committed upon the licensed premises or any disturbance or disorderly conduct occurring upon the licensed premises.

(d) It is unlawful for any licensee to fail to permit inspection of the licensed premises by any person permitted by law to inspect the licensed premises during all business hours for the purpose of inspection or investigation or for examination of inventory, or books and records required to be kept by the licensee, or to fail, where any part of the licensed premises consists of a locked area, to make available such locked area for inspection upon demand by such person.

(e) It shall not be a defense to a prosecution of the licensee for an offense under subsection (b), (c) or (d) of this section that the licensee was not personally present on the premises at the time of the offense.

(f) Prosecution of or conviction for any offense under this chapter shall not prohibit enforcement, prosecution, punishment or conviction under any other applicable law or ordinance. The penalties provided under this chapter shall be cumulative and in addition to all other penalties incurred under such other applicable law or ordinance. (Prior code 5.24.105; Ord. 369 §2, 1990)

Sec. 6-72. Fine in lieu of suspension.

(a) Whenever a decision of the Local Licensing Authority suspending a retail liquor license for fourteen (14) days or less becomes final, whether by failure of the licensee to appeal the decision or by exhaustion of all appeals and judicial review, the licensee may, before the operative date of the suspension, petition for permission to pay a fine in lieu of having its retail license suspended for all or part of the suspension period. Whenever such a licensee petitions the Local Licensing Authority for payment of a fine in lieu of suspension, the licensee shall file its petition, along with a nonrefundable petition fee in the amount established from time to time by resolution of the city council, in the city clerk's office at least three (3) working days prior to the effective date of the suspension. Upon the receipt of the petition, the Local Licensing Authority may, in its sole discretion, grant the petition if it is satisfied that:

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

(2) The books and records of the licensee are kept in such a manner that the loss of sales can be determined with reasonable accuracy therefrom; and

(3) The licensee has not had its license suspended or revoked nor had any suspension stayed by payment of a fine during the two (2) years preceding the complaint which has resulted in a final decision to suspend the license.

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

(c) Payment of any fine pursuant to the provisions of this section shall be in the form of cash or in the form of a certified check or cashier's check made payable to the city. Any fine so paid shall be deposited into the general fund of the city.

(d) Upon payment of the fine pursuant to subsection (c) of this section, the Local Licensing Authority shall enter its further order permanently staying the imposition of the suspension.

(e) In connection with any petition pursuant to this section, the Local Licensing Authority may grant such stays as are necessary for it to complete its investigation and make its findings and, if it makes such findings, may grant an order permanently staying the imposition of the entire suspension of that portion of the suspension not otherwise conditionally stayed.

(f) If the Local Licensing Authority does not make the findings required by subparagraphs (1) through (3) of subsection (a) of this section and does not order the suspension permanently stayed, the suspension shall go into effect on the operative date finally set by the Local Licensing Authority. (Prior code 5.25.301; Ord. 369 §4, 1990; Ord. 409 §12, 1991)

Secs. 6-73—6-91. Reserved.

ARTICLE 4

Local Licensing Authority

Sec. 6-92. Members and alternates – Proscription on city council membership and certain financial interests.

(a) No person shall serve or continue to serve as a member of the local licensing authority who is or becomes a member of the city council.

(b) No person shall serve or continue to serve as a member of the local licensing authority who obtains any financial interest in the operation of any business issued a license relating to fermented malt beverages or alcoholic beverages pursuant to state law or who has a member of his or her immediate family who has or subsequently obtains such an interest. (Prior code 5.25.030; Ord. 292 §1, 1984)

Sec. 6-93. Members – Removal by city council.

Any member of the local licensing authority may be removed with or without cause by a majority vote of the city council. (Prior code 5.25.040; Ord. 292 §1, 1984)

Sec. 6-94. Vacancies – Filling.

Any vacancy occurring on the local licensing authority, for any reason, shall be filled for the unexpired term by the city council. (Prior code 5.25.050; Ord. 292 §1, 1984)

Sec. 6-95. Members – Compensation prohibited – Expense reimbursement authorized.

Members of the local licensing authority shall receive no compensation for their service; however, any necessary expenditures incurred in the performance of their duties shall be reimbursed by the city. (Prior code 5.25.060; Ord. 292 §1, 1984)

Sec. 6-96. City clerk – Licensing duties – Duties as authority secretary.

(a) The city clerk shall receive all applications for licenses and shall issue all licenses granted by the local licensing authority upon payment of fees required and approval of the appropriate licensing authority. The city clerk shall serve as the official secretary of the authority and shall designate a person or persons to provide the necessary notice of meetings to members, and secretarial and reporting services for the authority. The secretary shall prepare and keep minutes of the meetings of the licensing authority. The record of such meetings for each calendar year shall be submitted annually to the city council on or before February 15, and shall become permanent records of the city to be maintained by the city clerk.

(b) The secretary may approve an application for renewal when the licensee has not, within the preceding two (2) years, had its license suspended or paid a fine in lieu thereof. All other applications for renewal shall be approved by the authority. (Prior code 5.25.070; Ord. 292 §1, 1984; Ord. 650 §1, 2005)

Sec. 6-97. Chairman – Acting chairman – Selection – Duty.

The local licensing authority shall annually elect a chairman from its number. The chairman or person serving on the licensing authority designated by the chairman to serve as acting chairman in his or her absence, shall preside over all hearings and proceedings of the authority. (Prior code 5.25.080; Ord. 292 §1, 1984)

Sec. 6-98. Meetings – Organizational meeting after appointment – Scheduling and notice of regular meetings.

(a) Members of the local licensing authority shall hold an organizational meeting forthwith after their appointments. Thereafter the authority shall meet at such times as may be required to consider licensing functions or matters relating to the establishment of rules and regulations, procedural considerations or other matters permitted of the local licensing authority by state law.

(b) The city clerk shall schedule local licensing authority meetings by notifying the members as to any matter requiring the authority to act pursuant to law. Otherwise the local licensing authority may schedule meetings at its discretion and initiative in accordance with procedures established for itself. (Prior code 5.25.090; Ord. 292 §1, 1984)

Sec. 6-99. Quorum – Controlling majority.

A quorum of the local licensing authority shall consist of three (3) members, and a decision of a majority of the members of the authority; namely, three (3) members, shall control. (Prior code 5.25.100; Ord. 292 §1, 1984)

Sec. 6-100. Finality of decisions.

All decisions of the local licensing authority are final, subject only to appeal to a court of competent jurisdiction. (Prior code 5.25.110; Ord. 292 §1, 1984)

Sec. 6-101. Application and license fees – Establishment – Payment before licensing consideration.

The following fees shall be paid to the city clerk prior to consideration by the local licensing authority:

(1) All fees specified and set in an amount pursuant to Articles 46, 47 and 48 of Title 12, C.R.S.

(2) The local licensing authority shall determine application fees for fermented malt beverage and alcoholic beverage licenses to cover the actual and necessary expenses to the city of such application; subject, however to the limitations expressed by state law as to the maximum amounts which may be charged in conjunction with applications relating to new licenses or for renewal of licenses.

(3) The local licensing authority shall fix application fees in conjunction with special event permits for both investigation and issuances of such permit; subject, however to the limitations on fee amounts set forth in state law. (Prior code 5.25.120; Ord. 292 §1, 1984; Ord. 369 §3, 1990; Ord. 409 §13, 1991)

Sec. 6-102. Powers – Rules and regulations relating to the sale of fermented malt beverages.

The local licensing authority shall have the power to make reasonable rules and regulations with respect to the sale of fermented malt beverages as provided by Article 46 of Title 12, C.R.S.. (Prior code 5.25.130; Ord. 292 §1, 1984)

Sec. 6-103. Governance by state laws, rules and regulations.

The local licensing authority shall be governed by state law now in effect or subsequently amended, and the rules and regulations of the Executive Director of the Department of Revenue of the state, as the state Licensing Authority, which shall apply to the licensing of fermented malt beverages and malt, vinous and spirituous liquors within the city, where applicable. In the event of a conflict between the state laws and any provision set forth in this article, the state law, rule or regulation shall be observed. (Prior code 5.25.140; Ord. 292 §1, 1984)

Sec. 6-104. Licenses – Fingerprinting of applicant and employees.

Each applicant for a new liquor license and all employees of such licensee dispensing alcoholic beverages shall be fingerprinted by a member of the police department, and the fingerprints shall become and remain a permanent part of the record of the license applicant. (Prior code 5.25.150; Ord. 292 §1, 1984)

Secs. 6-105—6-119. Reserved.

ARTICLE 5**Alarm Systems Licenses****Sec. 6-120. Purpose.**

The purpose of this article is to establish standards and controls concerning sale and use of intrusion, robbery, fire and other alarm systems within the city. (Ord. 225 §1, 1980)

Sec. 6-121. Definition.

Alarm system means any mechanical or electrical device or system which is designed or used for the detection of an unauthorized entry into a building, structure or facility, or the detection of fire or other hazard to life or property, or used for mechanically or electronically alerting others to the commission of an unlawful act, whether installed within or without a building. (Ord. 225 §2, 1980)

Sec. 6-122. Standards, regulations.

(a) Promulgation of standards and regulations. Any alarm system installed within the city or any part of the same and all agencies acting under this ordinance shall conform to the requirements of the standards hereinafter adopted. The city building official shall inspect and approve all alarm systems installed within the city and the city clerk shall issue a certificate authorizing such systems under this article. Any system which does not meet the requirements of this ordinance shall not be approved and shall not be put in service until deficiencies have been corrected and such correction approved by the city building official.

(b) Construction standards (Residential). All intrusion detection alarm systems and components thereof used in residential applications shall meet or exceed the requirements of UL Standard No. 639 entitled "Standard for Safety, Intrusion Detection Units" promulgated by Underwriters Laboratories, Inc. Additionally, all such systems shall include a standby power source as specified in said UL Standard No. 1023, Section 19. All fire alarm systems used in residential application shall meet or exceed requirements of the National Fire Code as adopted by the city.

(c) Construction standards (Mercantile/Commercial). All intrusion detection alarm systems and components thereof used in mercantile or commercial building applications shall meet or exceed the requirements of the following standards promulgated by Underwriters Laboratories, to-wit: UL Standard No. 609 entitled "Standard for Safety, Local Burglar-Alarm Units and System," UL Standard No. 634 entitled "Standard for Safety, Connectors and Switches for Use with Burglar Alarm Systems," UL Standards No. 639 entitled "Standard for Safety, Intrusion-Detection Units," as such standards are applicable to the particular application. All such systems shall include a standby power source as specified in said UL Standard No. 636, Section 35.

All fire and/or smoke detection alarm systems and components thereof used in mercantile or commercial building applications shall meet or exceed the requirements of the National Fire Code, as adopted by the city.

(d) Installation Standards. All installation of alarm systems and components thereof shall be in accordance with the provisions and requirements of the Uniform Building Code, the National Electrical

Code, and the National Fire Code, as all of such codes are in effect in the city, and the installation specifications set forth in the applicable standards set forth in Parts (b) and (c) above.

All installations or protective wiring and devices connected to intrusion detection systems on mercantile or commercial premises and on mercantile, commercial or bank safes and vaults shall meet or exceed the requirements of UL Standard No. 681 entitled "Standard for Safety, Installation and Classification of Mercantile and Bank Burglar-Alarm Systems," promulgated by Underwriters Laboratories, Inc.

(e) Performance standards. All alarm systems shall be afforded a thirty (30) day adjustment period commencing with the date of activation in order that the system may be brought to maximum efficiency. During that period of time, on false alarms shall be charged against the system, however, emergency response by appropriate agencies of the city may be restricted or curtailed if in the determination of the chief of that agency the number of false alarms becomes excessive.

After the adjustment period ends, the criteria for determining the reliability of an alarm system shall be its performance. Any alarm system may be deemed "unreliable" should it signal more than:

- (1) Two (2) false alarms in any thirty (30) day period; or
- (2) Four (4) false alarms in any ninety (90) day period; or
- (3) Six (6) false alarms in any one hundred eighty (180) day period; or
- (4) Eight (8) false alarms in any three hundred sixty (360) day period.

In the event of an excessive number of false alarms, as herein indicated, the chief of the police department or fire department may declare the alarm "unreliable" and restrict or curtail the response of that department to that alarm system until such time as the subscriber or alarm business can show a material change in circumstances.

In the event that the alarm system deficiencies have not been corrected within thirty (30) days from the date the system was declared "unreliable," the city may suspend the system's Certificate of Compliance.

(f) Maintenance standards. The Maintenance Contract may be required for each alarm system for the duration of the Certificate of Compliance, which Maintenance Contract shall provide for the following minimum services:

- (1) Repairs which may be necessary from time to time to maintain the reliability and efficiency of the systems, such as replacement of worn components, deteriorated batteries, etc.;
- (2) Repairs which may be necessary due to an attack on the system, or an initiation of the system, which results in damage to system components; and
- (3) Operational testing of all system components at least once every six (6) months, with a complete report thereof being maintained on file by the alarm business maintaining the system. Said report shall be made available for inspection upon the request of any police officer, fireman or building official.

All operational testing of alarm systems and/or components thereof shall be undertaken only after the monitoring agency has been notified of the impending test.

(g) Audible alarms. Every person utilizing an audible alarm shall notify the police department or fire department of the names and telephone numbers of the persons to be notified to render repairs or service and secure the premises during any hour of the day or night that the alarm may be actuated. Such notice shall be provided before the system is activated, and all such information shall be kept current.

(h) License. Every person engaged in the business of selling, repairing, servicing, altering, replacing, removing, designing, leasing, maintaining, testing or installing alarm systems in the city shall carry on his or her person at all times a city license to conduct such business, obtainable from the city clerk at an annual fee in the amount established from time to time by resolution of the city council.

(i) Standards adopted. The standards set forth in subsections of this ordinance, promulgated by Underwriters Laboratories, Inc., are hereby adopted by reference, pursuant to the power conferred upon the city council. Such standards do not contain any separate penalty provisions. All of such standards are promulgated by Underwriters Laboratories, Inc., 207 East Ohio Street, Chicago, Illinois, 60611. The edition, impression date and other pertinent information relating to the standard adopted is as follows:

<u>Standard No.</u>	<u>Edition</u>	<u>Impression Date</u>	<u>Other</u>
UL 634	3rd	June 29, 1973	
UL 609	7th	January, 1972	
UL 681	8th	June, 1972	
UL 639	3rd	December, 1971	As revised by errata sheet dated April 16, 1973
UL 1023	1st	Second (as revised to September 12, 1972) November, 1972	
UL 636	6th	July 27, 1973	

At least three (3) copies of each standard herein adopted, all certified by the mayor and clerk to be true copies of such standards as adopted by this article, shall be kept on file in the office of the clerk, available for public inspection. One (1) copy of each such standard shall be kept in the office of the building official of the city and one (1) copy shall be kept in the office of the chief of the fire department and one (1) copy in the office of the chief of the police department of the city. The city clerk shall maintain a reasonable supply of copies of the standards adopted by this article to be available for purchase by the public at a moderate price. (Ord. 225 §3, 1980; Ord. 409 §14, 1991)

Sec. 6-123. License/Certificate.

(a) License. No person shall engage in the sale, installation or maintenance of alarm systems without first applying for and receiving an alarm business license therefor in accordance with provisions of this article.

(b) Certificate of compliance. No person shall use an alarm or alarm system as defined in this article unless said alarm or alarm system has been inspected by the city building official and a certificate of compliance has been issued, and upon payment of an annual fee in the amount established from time to time by resolution of the city council.

(c) Exceptions. The provisions of this article to audible alarms affixed to motor vehicles or trailers, other than mobile homes or to devices designed or used to register audible or visible alarms on the interior of protected buildings, structures or areas.

(d) Approving authority. The approving authority for any license or certificate issued hereunder by the city clerk shall be the Building Inspector. (Ord. 225 §4, 1980; Ord. 374 §1, 1990; Ord. 409 §15, 1991)

Sec. 6-124. Suspension/Revocation.

Upon determination of the building official that a violation has occurred, a license and/or certificate may be suspended or revoked, but such suspension or revocation shall be appealable to the city, provided a notice of appeal is filed with the city clerk within ten (10) days. The city clerk shall transmit such appeal to the city council. Upon receipt of the appeal, the city council shall set a time for hearing of the appeal and shall give notice to the person making the appeal of the time and place of the same. Appeals shall be heard and decided as determined by the council from time to time.

Any order of suspension or revocation made by the building official shall be effective upon delivery of the same personally to the person holding the license, or certificate or if the same is served by deposit in the mails, then forty-eight (48) hours after the time of the deposit in the mail. All revocations or suspensions shall remain effective pending determination of any appeal to the city council. All appeals shall be heard by the city council within thirty-one (31) days after the date of the city council meeting at which the appeal was presented. (Ord. 225 §5, 1980)

Sec. 6-125. Violation – Penalty – Alarm systems license.

Notwithstanding suspension and revocation authority of the building official, failure to comply with any provision of this article shall, upon conviction, be punishable by a fine of up to three hundred dollars (\$300.00). (Ord. 225 §6, 1980)

Secs. 6-126—6-139. Reserved.

ARTICLE 6

Security Services Licenses

Sec. 6-140. Definitions.

Except as otherwise clearly indicated by the context, the following definitions shall apply in the interpretation and enforcement of this article:

Agent means any person employed by or acting in the behalf of a security service company in the conduct of its business, except that such definition shall not include:

- a. A clerical employee, administrative employee or other person who performs similar functions and who is not engaged in providing security services;
- b. A maintenance worker, janitor, repairperson or other person who performs similar functions and who is not engaged in providing security services; and

c. A police officer employed by the Dacono Police Department who accepts private security duties through officially adopted regulations of the department.

Company means any person, firm, association, corporation or other entity engaged in the business of providing security services.

Director means the police chief of the city or the police chief's designee.

Hearing officer means the mayor of the city or the mayor's designees.

Security services means the service of patrolling, inspecting, guarding or otherwise protecting persons or property of another from unlawful acts, preserving the order and peace of an activity or facility or otherwise providing protection services. (Prior code 5.30.010; Ord. 361 §1, 1989)

Sec. 6-141. License required.

(a) It is unlawful for any company to provide security services within the city unless such company has received and at all times maintains a current and valid security services license issued by the city.

(b) It is unlawful for any person to provide or perform security services within the city unless such services will be provided or performed at all times under the authority of a company operating under a current and valid security services license issued by the city.

(c) It is unlawful for any company to permit or facilitate any person in its employ to provide security services unless such company has received and at all times maintains a current and valid security services license issued by the city.

(d) It is unlawful for any company to fail to give the city written notice, within three (3) business days after any employee or agent of the company ceases to be employed by or to be acting on behalf of the company, of such ceasing of employment or action on behalf of the company. (Prior code 5.30.020; Ord. 361 §1, 1989; Ord. 456 §1, 1995)

Sec. 6-142. Application for security services license.

A company seeking to obtain a security services license shall complete an application on forms provided by the city and shall file the application with the city clerk. The application shall contain the following information attested to under oath:

(1) The name and business address of the applicant company.

(2) The name, residential address, social security number and date of birth of each owner of the company, and if a corporation, the corporate name and corporate address, the name, residential address, social security number and date of birth of all officers and directors of the corporation, and each shareholder of the corporation owning ten percent (10%) or more of the outstanding shares of the corporation.

(3) The name, residential address, social security number and date of birth of the person designated as license signatory. This person shall be the company's correspondent to and from the city for all matters related to this article.

- (4) Whether any of the persons identified in paragraphs (2) and (3) of this section have ever been convicted of a felony or of any crime involving violence against persons, moral turpitude or narcotic or dangerous drugs or controlled substances.
- (5) A description of the nature and type of security services to be provided, the area of coverage within the city, and the maximum number of agents it will engage.
- (6) A list and description of:
 - a. Each vehicle and vehicle license number to be used in connection with the business;
 - b. Vehicle identification logos or markings; and
 - c. Types of security equipment to be used in conjunction with the vehicles.
- (7) A description of all other equipment to be used in conjunction with the provision of security services, including:
 - a. Types of uniforms, and identification logos or markings;
 - b. The specifications of all types of equipment to be used as the radio communications system and all frequencies to be used;
 - c. Types of weapons and restraining or control devices to be used; and
 - d. Animals to be trained or used for guard or K-9 purposes.
- (8) Two (2) sets of inked fingerprints of each person identified in paragraphs (2) and (3) of this section.
- (9) Whether any professional license of any person identified in paragraphs (2) and (3) of this section has ever been revoked or suspended, and if so, the nature of the license, the entity that revoked or suspended the license and the reason for the revocation or suspension.
- (10) Such other information as the city determines necessary. (Prior code 5.30.030; Ord. 361 §1, 1989)

Sec. 6-143. Reserved.

Sec. 6-144. Application review and investigation.

(a) Upon receipt of an application for license pursuant to Section 6-142, the application shall be referred to the director who shall cause an investigation of the applicant's business and moral character to be performed.

(b) If, as a result of such investigation, the character and fitness of the applicant for a license pursuant to Section 6-142 are found to be satisfactory, the director shall approve the application and return it to the city clerk who shall mail notice of such approval to the applicant at the address of the company contained in the application. If the applicant fails to request and obtain issuance of the license

from the city clerk within six (6) months of such mailing, the application and approval shall become null and void.

(c) If, as a result of the investigation, the character or fitness of the applicant for a license pursuant to Section 6-142 is not found to be satisfactory, the director shall disapprove the application and shall make written findings of such disapproval. The director shall then return the application with the written findings to the city clerk who shall mail notice of the disapproval and the written findings to the applicant at the address of the company contained in the application. (Prior code 5.30.050; Ord. 361 §1, 1989; Ord. 456 §3, 1995)

Sec. 6-145. Eligibility – Grounds for denial.

No license under Section 6-142 shall be issued to any company or person identified in Section 6-142(2) and (3) who:

- (1) Is determined by the director to be under the age of eighteen (18) years.
- (2) Is determined by the director to be of bad character or reputation, based on:
 - a. Acts of business fraud or deceit;
 - b. Substance abuse or addiction; or
 - c. Other factors which the director decides would render the applicant unfit to provide security services.
- (3) Is determined by the director to have been convicted of a felony offense involving violence against any person or moral turpitude within the five (5) years immediately preceding the date of the application or to have completed any sentence therefor within three (3) years of such conviction, whichever event later occurs.
- (4) Is determined by the director to have falsified information on the application. (Prior code 5.30.060; Ord. 361 §1, 1989; Ord. 456 §4, 1995)

Sec. 6-146. Fees.

(a) Application and investigation fees shall be imposed, for each application for a license under this chapter, in the amount established from time to time by resolution of the city council.

(b) License fees shall be imposed, for each license issued or renewed under this chapter, in the amount established from time to time by resolution of the city council. (Ord. 409 §16, 1991)

Sec. 6-147. Insurance requirements – Indemnification.

(a) No security services license shall be issued until the company has secured a policy or policies of general liability and property insurance coverage which protects the company and its officers, employees and agents from claims of bodily injury, death, property damage, auto liability and auto physical damage which may arise from the conduct of security services, in at least the amount of one million dollars (\$1,000,000.00) per person in any one (1) occurrence and one million dollars

(\$1,000,000.00) per any one (1) occurrence, and which includes the city, its officers, employees, and agents as additional insureds, and until the company has provided the city with a certificate of insurance for such policy or policies.

(b) By the company's application for and the city's issuance of any license under this article, the company agrees to indemnify, defend and save harmless the city and all of the city's officers, employees and agents from and against any and all liability, suits, actions, claims or demands, including attorney's fees, arising out of the performance or nonperformance of security services or predicated in whole or in part on any act or omission of the company, its officers, agents or employees. (Prior code 5.30.080; Ord. 361 §1, 1989)

Sec. 6-148. Uniforms and badges.

No person providing security services shall wear any uniform, badge or other accoutrement which is worn by or is similar to that worn by any public safety enforcement agency, including the Dacono Police Department, Weld County Sheriff's Office and Colorado State Patrol. The director shall determine compliance with the standards of this section prior to any public use or display thereof by a company. (Prior code 5.30.090; Ord. 361 §1, 1989)

Sec. 6-149. Vehicles – Markings and equipment.

(a) No vehicle used in conjunction with providing security services shall contain or exhibit colorings, markings, insignias or equipment so similar to marked or official patrol vehicles of any public law enforcement agency that, in the judgment of the director, the general public could confuse such a vehicle with a patrol vehicle of any public law enforcement agency, and no such vehicle shall be equipped with or employ any lights or sirens violating any applicable law or be equipped with any color of light bar except yellow.

(b) Any company using a vehicle during patrol activities shall have it clearly marked on the sides and back with the word "SECURITY" with letters not smaller than two and one-half (2 ½) inches in height, and which obviously contrast with the vehicle's principal color. (Prior code 5.30.100; Ord. 361 §1, 1989)

Sec. 6-150. Restricted use of words.

The words *police*, *police officer*, *officer of the law*, *peace officer*, *sheriff*, *deputy* or *state patrol* shall not be used in any advertising, upon the premises, upon any equipment or upon any uniform, badge or other accoutrement of any security services company. The word *officer* may be used only when used in conjunction with the work *security* such as *security officer*. Any other use of the word *officer* is expressly forbidden. (Prior code 5.30.110; Ord. 361 §1, 1989)

Sec. 6-151. Firearms.

(a) No security services agent shall carry, display or use any firearm in conjunction with providing security services unless the agent has a current and valid written authorization therefor from the director. Such authorization shall be valid only during the calendar year of issuance. No such authorization shall be issued unless the agent has met the following requirements:

- (1) The agent shall demonstrate to the director proof of current training in a basic twelve (12) hour NRA approved course or an equivalent course acceptable to the director;
 - (2) The agent shall register with the director the make, model, barrel length, caliber and serial number of any firearm to be utilized by the agent; and
 - (3) The agent shall pay the required authorization fee as provided in subsection (4) of this section.
- (b) To renew the written authorization provided for in subsection (2) of this section, the agent shall:
- (1) Demonstrate to the director proof of current training in an NRA approved refresher course or an equivalent course acceptable to the director; and
 - (2) Pay the required authorization renewal fee as provided in subsection (4) of this section.
- (c) If an agent who has been issued written authorization as provided for in this section subsequently acquires any other firearm for utilization in conjunction with providing security services, the agent shall register the firearm with the director prior to such utilization.
- (d) Authorization issuance fees and renewal fees shall be imposed pursuant to this section in amounts established from time to time by resolution of the city council.
- (e) No agent shall utilize, in conjunction with providing security services, any firearm other than a .38 Special revolver.
- (f) The director may suspend or revoke an agent's authorization to utilize firearms in conjunction with providing security services for failure to meet the criteria in this section. The director may also, when the director determines necessary to avoid jeopardizing the immediate public health, safety or welfare, summarily suspend the authorization of any or all agents of any company to utilize firearms in conjunction with providing security services. (Prior code 5.30.120; Ord. 361 §1, 1989; Ord. 409 §17, 1991)

Sec. 6-152. Identification cards.

The director shall issue to each licensee under this article an identification card approximately two and one-half (2½) inches by four (4) inches in size. All identification cards are the property of the city and shall be surrendered to the city clerk upon, and during the effective period of, any suspension or revocation, whether or not such suspension or revocation is being administratively or judicially appealed. The license shall contain the following information:

- (1) The security services license under which the card is issued and whether the agent has written authorization for firearm utilization in accordance with Section 6-151.
- (2) The company's name and business address, and the licensee's or signatory's name, residential address, physical description and photograph.
- (3) The signature of the licensee or signatory and the signature of the city clerk and replica of the official seal of the city.

(4) The words "PRIVATE SECURITY AGENCY" stamped in red on the card in letters at least one-fourth (¼) inch in height.

(5) The date of expiration of the license. (Prior code 5.30.130; Ord. 361 §1, 1989; Ord. 456 §5, 1995)

Sec. 6-153. Radio communications.

No person employed in any capacity for a company providing security services shall transmit on any radio frequency assigned to a public law enforcement agency within the zone or area of radio wave propagation in the city. (Prior code 5.30.140; Ord. 361 §1, 1989)

Sec. 6-154. Change of address – Notice of other changes.

Whenever a company, agent or person otherwise subject to this article changes the place of residence or business or any other fact, circumstance or condition as set forth in an application for any initial or renewal license under this article, such change shall be reported in writing with updated information no later than five (5) city business days after the occurrence of such change. (Prior code 5.10.150; Ord. 361 §1, 1989)

Sec. 6-155. Nontransferability of license.

No license issued under this article shall be transferable. (Prior code 5.10.160; Ord. 361 §1, 1989)

Sec. 6-156. Unlawful acts – Penalty.

It is unlawful for any person or company to violate any of the provisions of this article. In addition, it is unlawful for any licensee under this article to:

(1) Fail to immediately remand to the police department or other appropriate public law enforcement agency, the custody of any person seized or arrested within the city pursuant to the laws of the state. Nothing herein shall be construed to confer on a licensee any of the authority vested in peace officers to make any arrest, and such licensee shall possess only those rights and limitations available to a person who is not a peace officer.

(2) Conceal or possess within the city a firearm not otherwise permitted by the laws and regulations of the state or United States which are applicable to a person who is not a peace officer.

(3) Fail to immediately report any known incident of firearm discharge within the city other than a firearm discharge which occurs at a designated shooting or target range.

(4) Fail to immediately, truthfully and fully report to the police department and other appropriate law enforcement agencies knowledge of the possible violation of any city ordinance or state or federal penal law occurring wholly or partly within the city.

(5) Represent in any manner within the city to be an officer of or to be associated in any way with the police department or any other public law enforcement agency.

(6) Carry, display or use within the city any illegal or deadly weapon, including any firearm, in violation of the laws and regulations of the United States or the state or in violation of any ordinance of the city, including this article. (Prior code 5.30.170; Ord. 361 §1, 1989)

Sec. 6-157. Rules and regulations.

The director may promulgate rules and regulations, when not otherwise set forth herein, which are necessary to clarify or implement the requirements of this article. (Prior code 5.30.180; Ord. 361 §1, 1989)

Sec. 6-158. Penalty – Security services license.

It is a violation of this article for any person to do any act which is forbidden or declared to be unlawful or declared to be a nuisance or to fail to do or perform any act required in this article. Such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any provision of this article is committed, continued or permitted. Upon conviction thereof, such person shall be punishable by a fine of not more than three hundred dollars (\$300.00), by imprisonment for not more than ninety (90) days or by both such fine and imprisonment. (Prior code 5.30.190; Ord. 361 §1, 1989)

Sec. 6-159. Suspension and revocation of license.

(a) The director shall have the authority to revoke or suspend for a period not exceeding one hundred eighty (180) days, any license granted pursuant to this article upon written notice specifying one (1) or more of the following reasons:

(1) Submission of materially false information in any application for license, renewal thereof or supplement thereto or other document or information required to be submitted to the city pursuant to this article;

(2) Violation of any provision of this article;

(3) Violation of any penal law, ordinance or regulation of the city, state or United States which compromises or diminishes the fitness of the licensee to provide security services; or

(4) Other circumstances that the director determines to be detrimental to the public health, safety or welfare.

(b) The director may order any such license temporarily and immediately suspended without a hearing if the director determines that an emergency exists that jeopardizes the immediate public health, safety or welfare. (Prior code 5.30.200; Ord. 361 §1, 1989)

Sec. 6-160. Reapplication for license – Limitations.

No person or company whose license has been denied or revoked under this article shall be considered for any license under this article during a period of time sooner than five (5) years immediately following the denial or revocation. (Prior code 5.30.210; Ord. 361 §1, 1989)

Sec. 6-161. Renewal.

Any license granted and in good standing pursuant to this article may be renewed by paying required renewal fees, and by providing a completed renewal application stating that all information contained in the original application is true and correct or stating all new or changed matters. Such renewal shall be granted unless the any new or changed matter disclosed would provide the basis for denial upon initial application. (Prior code 5.30.220; Ord. 361 §1, 1989)

Sec. 6-162. Appeal procedures.

Any license denial, suspension or revocation by the director in accordance with this article, any instance of which hereafter shall be referred to as the *action taken*, may be appealed according to the following procedures:

(1) The party against whom the action was taken may request a hearing before the hearing officer by filing a written appeal with the city clerk prior to twenty (20) business days after the action taken. Such appeal must specify each and every basis for the appeal. Unless an appeal is filed within the specified twenty (20) day period, the action taken shall become final and nonappealable. In the event an appeal is timely filed, a hearing shall be had before the hearing officer within a reasonable time after receipt of the appeal by the city clerk. The burden of proof shall be on the party against whom the action taken was contrary to the provisions of this article. The hearing officer shall make written findings and, based on the evidence, may sustain, amend or reverse the action taken.

(2) The decision of the hearing officer may be appealed to the district court, pursuant to Rule 106(a) (4), C.R.C.P. (Prior code 5.30.230; Ord. 361 §1, 1989)

Sec. 6-163. Civil enforcement – Injunctive relief.

In addition to the penal remedies set forth in Section 6-158, and the procedures herein contained authorizing suspension or revocation of any license, the city attorney shall have the authority to seek judicial relief to enjoin the violation of the provisions hereof and related costs and reasonable attorney's fees incurred, in any court having jurisdiction in the matter. (Prior code 5.30.240; Ord. 361 §1, 1989)

Secs. 6-164—6-179. Reserved.**ARTICLE 7****Peddlers, Solicitors and Transient Merchants****Sec. 6-180. Definitions.**

When used in this article, the following terms shall have the following meanings:

Chief of police or *police chief* means the chief of police of the city or the designee of said chief.

City clerk means the city clerk of the city or the designee of said clerk.

Peddler means any person, whether a resident of the city or not, who goes from house to house, from place to place, or from street to street, conveying or transporting goods, wares or merchandise or offering or exposing the same for sale, or making sales and delivering articles to purchasers.

Solicitor means any person, whether a resident of the city or not, who goes from house to house, from place to place, or from street to street, soliciting or taking or attempting to take orders for sale of goods, wares or merchandise, including magazines, books, periodicals or personal property of any nature whatsoever for future delivery, or for service to be performed, whether or not such individual has, carries or exposes for sale a sample of the subject of such order, or whether or not he or she is collecting advance payments on such orders. Such definition includes any person who, for himself or herself, or for another person, firm or corporation, hires, leases, uses or occupies any building, motor vehicle, trailer, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop or other place within the city for the primary purpose of exhibiting samples and taking orders for future delivery.

Transient merchant includes any person, firm or corporation, whether as owner, agent, consignee or employee, whether a resident of the city or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within the city, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, trailer, tent, railroad boxcar, boat, public room in hotels, lodging houses, apartments, shops, or any street, alley or other place within the city for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction, provided that such definition does not include any person, firm or corporation who, while occupying such temporary location, does not sell from stock, but exhibits samples for the purpose of securing orders for future delivery within the provisions of this article merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business, in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer. (Ord. 405 §1, 1990)

Sec. 6-181. License required.

It is unlawful for any peddler, solicitor or transient merchant to engage in any such business within the city without first obtaining a license therefor in compliance with the provisions of this article. (Ord. 405 §1, 1990)

Sec. 6-182. Exemptions.

The requirements of this article shall not apply to the acts of persons selling personal property at wholesale to dealers in such articles, nor to newsboys or newsgirls, nor to the acts of merchants or their employees in delivering goods in the regular course of business. Nothing contained in this article prohibits any sale required by statute or by order of any court, or prevents any person from conducting a bona fide auction pursuant to law. (Ord. 405 §1, 1990)

Sec. 6-183. License application.

Applicants for a license under this article shall file with the city clerk a sworn application in writing on a form to be furnished by the city clerk, which shall give the following information:

- (1) Name and physical description of applicant;

- (2) Complete permanent home and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made;
- (3) A brief description of the nature of the business and the goods to be sold;
- (4) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship;
- (5) The length of time for which the right to do business is desired;
- (6) The source of supply of the goods or property proposed to be sold, or orders taken for the sale thereof, where such goods or products are located at the time said application is filed, and the proposed method of delivery;
- (7) A recent photograph of the applicant, which picture shall be approximately two (2) inches by two (2) inches, showing the head and shoulders of the applicant in a clear and distinguished manner; and
- (8) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, other than traffic violations, the nature of the offense and the punishment or penalty assessed therefor. (Ord. 405 §1, 1990)

Sec. 6-184. Religious and charitable organization exemptions.

(a) Any organization, society, association or corporation desiring to solicit or have solicited in its name money, donations or money or property, or financial assistance of any kind or desiring to sell or distribute any item of literature or merchandise for which a fee is charged or solicited from persons other than members of such organization upon the streets, in offices or office buildings, by house-to-house canvass, or in public places for a charitable, religious, patriotic or philanthropic purpose shall be exempt from provisions of Sections 6-183, 6-188 and 6-190; provided that there is filed a sworn application in writing on a form to be furnished by the city clerk, which shall give the following information:

- (1) Name and purpose of the cause for which permit is sought;
- (2) Names and addresses of the officers and directors of the organization;
- (3) Period during which solicitation is to be carried on; and
- (4) Whether or not any commission, fees, wages or emoluments are to be expended in connection with such solicitation and the amount thereof.

(b) Upon being satisfied that such organization, association or corporation is a religious, charitable, patriotic or philanthropic organization, the clerk shall issue a permit without charge to such organization, association or corporation to solicit in the city. Such organization, association or corporation shall furnish all of its members, agents or representatives conducting solicitation, credentials in writing stating the name of the organization, name of agent and purpose of solicitation. (Ord. 405 §1, 1990)

Sec. 6-185. Investigation.

Upon receipt of each application, it shall be referred to the chief of police who shall immediately institute such investigation of the applicant's business and moral character as he or she deems necessary for the protection of the public good, and shall endorse the application in the manner prescribed in Sections 6-186 or 6-187 within seventy-two (72) hours after it has been filed by the applicant with the city clerk. (Ord. 405 §1, 1990)

Sec. 6-186. Application disapproval.

If as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the chief of police shall endorse on such application his or her disapproval and his or her reason for the same, and return the application to the city clerk, who shall notify the applicant that his or her application is disapproved and that no license will be issued. (Ord. 405 §1, 1990)

Sec. 6-187. Application approval.

If as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the chief of police shall endorse on the application his or her approval and return the application to the city clerk, who shall upon payment of the prescribed license fee deliver to the applicant his or her license. Such license shall contain the signature of the issuing officer and shall show the name, address, the class of license issued and the kind of goods to be sold thereunder, the amount of the fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in such licensed business. Each peddler, solicitor or transient merchant must secure a personal license. No license shall be used at any time by any person other than the one to whom it is issued. The city clerk shall keep a permanent record of all licenses issued. (Ord. 405 §1, 1990)

Sec. 6-188. License fee.

The fee for each license issued hereunder shall be established from time to time by resolution of the city council. (Ord. 405 §1, 1990)

Sec. 6-189. Adjustment of fee causing undue burden on interstate commerce.

The license fees provided for by this article shall not be so applied as to occasion an undue burden upon interstate commerce. In any case where a license fee is believed by a licensee or applicant for license to place an undue burden upon such commerce, he or she may apply to the city council for an adjustment of the fee so that it shall not be discriminatory, unreasonable or unfair as to such commerce. Such application may be made before, at or within six (6) months after payment of the prescribed license fee. The applicant shall, by affidavit and supporting testimony, show his or her method of business and the gross volume of business and such other information as the city council may deem necessary in order to determine the extent, if any, of undue burden on such commerce. The city council shall then conduct an investigation, comparing applicant's business with other businesses of like nature and shall make findings of fact from which it shall determine whether the fee fixed by this article is unfair, unreasonable or discriminatory as to the applicant's business and shall fix as the license fee for the applicant an amount that is fair, reasonable and nondiscriminatory, or if the fee has already been paid, shall order a refund of the amount over and above the fee so fixed. In fixing the fee to be charged,

the city council shall have the power to use any method which will assure that the fee assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the fees as prescribed by Section 6-188. (Ord. 405 §1, 1990)

Sec. 6-190. Bond.

Every applicant not a resident of the city, or who being such resident, represents a firm whose principal place of business is located outside the state, shall file with the city clerk a surety bond, running to the city, in the amount of one thousand dollars (\$1,000.00), with surety acceptable to and approved by the city clerk conditioned that the applicant shall comply fully with all provisions of this code and the statutes of the state regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants or itinerant vendors, as the case may be, guaranteeing to any citizen of the city that all money paid as a down payment will be accounted for and applied according to the representations of the licensee, and further guaranteeing to any citizen of the city doing business with said solicitor that the property purchased will be delivered according to the representations of the solicitor. Action on such bond may be brought by the person aggrieved and for whose benefit, among others, the bond is given, but the surety may, by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which suit is commenced, be relieved without costs of all further liability. (Ord. 405 §1, 1990)

Sec. 6-191. Use of streets.

No licensee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where such operation might impede or inconvenience the public use of such streets. For the purpose of this article, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (Ord. 405 §1, 1990)

Sec. 6-192. Exhibition of license.

Licensees shall exhibit their certificate of license at the request of any citizen or any employee of the city. (Ord. 405 §1, 1990)

Sec. 6-193. Records.

The chief of police shall report to the city clerk all convictions for violation of this article, and the city clerk shall maintain a record for each license issued and record the reports of violation therein. (Ord. 405 §1, 1990)

Sec. 6-194. Revocation of license; notice of hearing; appeal; reapplication.

(a) In addition to all other causes provided by law, licenses issued under the provisions of this article may be revoked by the city council after notice and hearing, for any of the following causes:

- (1) Fraud, misrepresentation or incorrect statement contained in the application for license;

(2) Fraud, misrepresentation or incorrect statement made in the course of carrying on of his or her business as solicitor, canvasser, peddler, transient merchant, itinerant merchant or itinerant vendor;

(3) Any violation of this article;

(4) Conviction of any crime or misdemeanor; or

(5) Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant or itinerant vendor, as the case may be, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

(b) Notice of the hearing for revocation of a license shall be given by the city clerk in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notices shall be mailed, postage prepaid, to the licensee at his or her last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons, at least three (3) days prior to the date set for hearing.

(c) Any person aggrieved by the action of the chief of police or the city clerk in the denial of a permit or license as provided in Section 6-186 may appeal to the city council. Such appeal shall be taken by filing with the city council within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The city council shall set a time and place for a hearing on such appeal, and notice of such hearing shall be given to the appellant in the same manner as provided in Section 6-195 for notice of hearing on revocation. At the time set for hearing herein, the city council shall either affirm or reverse the action aggrieved of, and the city council's decision shall be final.

(d) No licensee whose license has been revoked shall make further application until at least six (6) months have elapsed since the last previous revocation. (Ord. 405 §1, 1990)

Sec. 6-195. Posting notice.

Every person shall have the right to post a notice or notices on his or her property to the effect that no peddlers or solicitors shall enter said premises. Any person licensed hereunder shall comply with said notice, whether or not they are specifically included in the notice. (Ord. 405 §1, 1990)

Secs. 6-196—6-209. Reserved.

ARTICLE 8

**Outdoor Pushcarts, Mobile
Vending/Food Carts and Kiosks**

Sec. 6-210. Purpose.

The purpose of this article is to regulate vending from pushcarts, mobile vending/food carts and kiosks located outdoors in any private or public location in the city. (Ord. 486 §1, 1997)

Sec. 6-211. Definitions.

As used in this article, certain words, unless the context indicates otherwise, shall have the following meanings:

Food means food and beverages for immediate consumption, not including any malt, spirituous or vinous liquors or fermented malt beverages.

Kiosk means a small, quasi-permanent booth-like structure that is located outdoors and is used for vending.

Mobile vending/food cart means a cart that has at least two (2) wheels, is designed to be attached to and drawn by a motor vehicle and is used for vending.

Pushcart means a lightweight cart that is designed to be pushed or pulled by hand and is used for vending. (Ord. 486 §1, 1997)

Sec. 6-212. License required.

(a) No person shall engage in the sale of food from any pushcart, mobile vending/food cart or kiosk on public or private property without first obtaining and keeping in force a license under this article, which license shall be in addition to any other licenses or permits required by law.

(b) The city clerk shall be the licensing authority under this article, except with regard to a special use permit under Section 6-214(c), for which the city council shall be the licensing authority.

(c) Before approving or renewing any license under this article, the application shall be circulated to affected city departments for review and comment, which shall include design review by the city's engineer and planner.

(d) The city clerk may impose reasonable conditions, not inconsistent with this article, on the issuance or renewal of a license under this article.

(e) Any applicant who is aggrieved by a licensing action taken by the city clerk under this article shall have the right to an appeal hearing before the city council. The applicant shall have the burden of establishing, in any such hearing, that the licensing action being complained of was improper or unlawful.

(f) No license issued under this article shall have a duration of more than one (1) year. (Ord. 486 §1, 1997)

Sec. 6-213. Application – License.

(a) An application for a license under this article shall be made on forms prepared by the city clerk and shall provide at least the following information:

(1) Name and address of applicant.

(2) Names of all beneficial owners of the applicant if the applicant is other than a sole proprietorship.

(3) A description of all structures, implements and equipment to be used in connection with the conduct of the applicant's business if the license is granted, including blueprints, drawings, sketches and such other detailed information as reasonably required by the city clerk.

(4) The specific location for which the license is requested, the zoning classification applicable to the location and proof of the applicant's right to occupy such location, such as a lease or rental agreement.

(5) The specific types of food or other items which the applicant intends to sell.

(6) Proof of required approvals from other governmental agencies. Such required approvals shall include but not be limited to any required licenses, certificates or other approvals of the county health department pertaining to food handling requirements.

(7) Proof of insurance as required by Section 6-214(a)(11).

(b) The fee for a license under this article shall be established from time to time by resolution. (Ord. 486 §1, 1997)

Sec. 6-214. Requirements.

(a) Each license issued under this article shall be subject to the following requirements:

(1) No kiosk shall occupy an area larger than four hundred (400) square feet. No pushcart shall exceed six (6) feet in length or four (4) feet in width. No mobile vending/food cart shall exceed fourteen (14) feet in length or ten (10) feet in width.

(2) The licensee shall promptly pick up and properly dispose of any and all paper, cardboard, containers, wrappers, utensils, litter and other items deposited or discarded within twenty-five (25) feet of the approved location designated on the license; shall provide suitable containers for the disposal of trash; and shall provide for the proper emptying and hauling of all trash deposited in such containers.

(3) No licensee shall place any pushcart, mobile vending/food cart or pushcart at any location other than that designated in the license, sell any items at any location other than that designated in the license or place or use at the location any structures, implements or equipment other than that which has been disclosed in the application and approved in the license.

(4) No licensee shall conduct any business at any pushcart, mobile vending/food cart or kiosk between the hours of 12:00 a.m. and 7:00 a.m.

(5) No licensee shall sell any items from any pushcart, mobile vending/food cart or kiosk other than the specific types of items disclosed in the application and approved in the license.

(6) No licensee shall make any amplified sound of any kind from any pushcart, mobile vending/food cart or kiosk except in accordance with the provisions of Article 7 of Chapter 10.

(7) No licensee shall fail to remit any and all sales taxes due on any sales made from any pushcart, mobile vending/food cart or kiosk.

(8) No licensee shall permit any obstruction of a public street, sidewalk or other right-of-way, or conduct any activity in a manner as to interfere with vehicular or pedestrian travel.

(9) No licensee shall conduct business in violation of any other ordinance or law.

(10) No licensee shall operate any pushcart, mobile vending/food cart or kiosk on any property other than that which is zoned commercial (C-1) or light industrial (I-1).

(11) The licensee shall, at all times while the license is in effect, maintain a policy of liability insurance in the minimum amount of six hundred thousand dollars (\$600,000.00) per occurrence for personal injuries and property damage arising out of the licensed operation. The policy shall include the city, its officers and its employees as additional insureds and shall provide that the insurance will be primary. The policy shall further provide at least thirty (30) days' written notice of cancellation, termination or material change to the city clerk. A certificate of insurance, or other evidence acceptable to the city, of insurance coverage complying with the requirements of this paragraph shall be provided before any license is issued.

(12) The licensee shall indemnify and hold harmless the city, its officers and its employees from any and all liability, claims or demands arising out of or in any way connected with the licensed operations.

(b) In addition to any other applicable penalty, any violation of this article shall be grounds for the suspension, revocation or nonrenewal of a license.

(c) The city council may, by special use permit, grant a variance from any of the requirements of this section if, in the judgment of the council, such a variance will not be detrimental to the public health, safety or welfare. The procedures in Section 16-371 shall apply to an application for such a permit. Such a permit shall be in addition to the license required by this article and shall identify the specific requirement for which a variance is being required and any terms, conditions and limitations applicable to the variance. (Ord. 486 §1, 1997)

Secs. 6-215—6-229. Reserved.

ARTICLE 9

Circus, Carnival and Traveling Show License

Sec. 6-230. Required.

It shall be unlawful for any person to conduct or permit to be conducted within the city a circus, carnival or other type of traveling show except in accordance with the provisions of this article and without having first obtained a license from the city. Activities performed by the city or under the sponsorship of the city are exempt from the requirements of this chapter. (Ord. 636 §1, 2004)

Sec. 6-231. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Amusement ride means a mechanical device that carries passengers along, under, around, through or over a fixed course, or within a limited area, for the amusement of the passengers, and includes but is not limited to a merry-go-round or ferris wheel.

Carnival means a traveling or temporary enterprise that entertains the public by the provision of one (1) or more amusement rides, and includes all exhibitions, games, entertainments, restaurants, food and beverage stands, rides or other amusements that may be located upon the premises of the carnival.

Circus means a traveling show or performance that includes feats of skill or daring by humans or animals or that includes displays of wild animals.

Traveling show means a temporary show or exhibition that has no permanent structure or installation. (Ord. 636 §1, 2004)

Sec. 6-232. Application – Procedure.

No license shall be issued pursuant to the provisions of this article unless the applicant submits to the city clerk the following at least twenty (20) days prior to the commencement of operations:

(1) A completed application, signed under oath as to the truthfulness of its contents, of a form prepared by the city clerk. The application form shall include, but not be limited to:

- a. The names, addresses, telephone numbers and employment histories of the applicant, owner and operator;
- b. The place where the circus, carnival or traveling show is to be located and the name of the owner of the property;
- c. The zoning of the premises upon which the circus, carnival or traveling show is to be located;
- d. The proposed dates and hours of operation;
- e. The number of employees regularly engaged by the applicant;
- f. The name of the on-site manager and a telephone number where this person can be reached during hours of operation;
- g. The number of temporary employees expected to be employed by the applicant and the type of supervision of these temporary employees to be provided by the applicant;
- h. A statement that no amusement ride will be operated by a person under the age of eighteen (18) years;

i. A statement as to whether or not the applicant, or any manager or employee of the applicant:

1. Has been convicted of any crime, felony, misdemeanor or violation of any municipal ordinance, excluding all nonalcohol-related traffic violations;
2. The nature of the offenses;
3. The punishments or penalties assessed.

(2) An application fee as established by resolution of the city council.

(3) A signed cost agreement and funds deposit to defray the city's actual costs for review of the application and related inspections of the premises.

(4) A detailed site plan showing planned means of ingress and egress to the proposed site, parking, emergency access and neighboring land uses.

(5) Written approval by the Mountain View Fire Protection District of the site plan and emergency access provisions.

(6) A traffic control plan.

(7) A cash deposit of two hundred fifty dollars (\$250.00) for anticipated sales taxes. These funds shall be retained by the city until the city receives report of the licensee's sales tax payment from the state Department of Revenue. If no sales tax return is filed by the applicant with the state Department of Revenue for a period of twenty (20) days after the close of the event, the deposit is forfeited by the licensee.

(8) A cash deposit of two hundred fifty dollars (\$250.00) for anticipated admissions taxes. These funds shall be retained by the city until an admissions tax return is submitted by the licensee. If the deposit amount is in excess of the admissions tax due, such excess shall be returned to the licensee within twenty (20) days. In the event additional admissions taxes are due and owing and remain unpaid after an admissions tax return is filed, the city may pursue such other action as is appropriate for the collection of such additional admissions taxes. If no admissions tax return is filed by the applicant for a period of twenty (20) days after the close of the event, the deposit is forfeited by the licensee and the city shall take such further collection measures as the city deems appropriate.

(9) Evidence that a public liability insurance policy is in force and effect with an insurance company licensed to do business in the state for the entire term of the requested license period in an amount of not less than one hundred fifty thousand dollars (\$150,000.00) per person and six hundred thousand (\$600,000.00) per occurrence and which names the city as an additional insured.

(10) A bond or cash deposit in the amount of two thousand dollars (\$2,000.00) conditioned upon the applicant not violating the provisions of the license, federal or state law or city ordinance, and conditioned further that no damage will be done to the streets, sewers, trees, adjoining property or other city property and that no dirt, paper, litter or other debris will be permitted to remain upon the streets or city property or upon any private property by the applicant or the applicant's agents or

employees. The city may also draw against the bond to the extent reasonably necessary to protect the public health, safety and welfare. After expiration of the license, the bond or cash deposited with the city shall be returned to the applicant upon certification by the city's code enforcement officer that the applicant has complied with all the conditions of this section.

(11) Written authorization from the owner or other person in lawful possession of the premises upon which the circus, carnival or traveling show is to be held or conducted.

(12) If food is to be served, evidence that all applicable state and local permits or licenses pertaining to the provision of food service have been obtained.

(13) Details regarding the provision of uniformed, trained security personnel. If the chief of police deems it appropriate that additional police protection be provided in conjunction with the operation of the circus, carnival or traveling show, the applicant shall also deposit with the city clerk a cash deposit for such additional costs in an amount determined appropriate by the chief of police.

(14) A statement describing the impact the proposed circus, carnival or traveling show will have on surrounding uses and how it will not be incompatible with such surrounding uses. (Ord. 636 §1, 2004)

Sec. 6-233. Further investigation.

Upon receipt of the application, the same shall be referred to the chief of police, who shall cause an investigation to be made of each and every statement contained in said application and shall cause to be made such further investigation of the business and moral character of the applicant and employees of the business as he or she deems necessary for the protection of the public health, safety and welfare. If as a result of such investigation the chief of police finds that any statement on the application is false, or that the business or moral character of the applicant is unsatisfactory, the application shall be denied. (Ord. 636 §1, 2004)

Sec. 6-234. Waiver of fees and deposits.

The city administrator may waive any or all of the license fee requirements, sales tax deposit, admissions tax deposit and cash deposit or bond requirements when the applicant is a nonprofit organization or a governmental entity. A nonprofit organization shall be defined as any organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. (Ord. 636 §1, 2004)

Sec. 6-235. Denial, suspension or revocation.

(a) The city clerk may deny any application or renewal of an existing license and may suspend or revoke an existing license under the following conditions:

- (1) The application is not in compliance with this article or the application contains false statements.
- (2) The license was obtained by fraud, misrepresentation or false statements.
- (3) The licensed activity is a public nuisance as defined by ordinance or statute.

(4) The license was issued in error.

(5) The applicant is in default of any indebtedness or other obligation due the city.

(6) The proposed use of any premises for which the license is sought is not authorized by zoning, building, housing or other regulations.

(7) Failure of the license holder to submit a new application before the expiration of a current license.

(8) The proposed use of any premises for which the license is sought is not in harmony and compatible with the character of the surrounding neighborhood or will have a material adverse affect on the surrounding neighborhood.

(9) The proposed use will require a level of community facilities or services greater than that available.

(b) The granting of a license does not give the license holder an automatic right for a renewal. An application for renewal will be denied if any condition exists that would result in the denial of an application for a new license.

(c) Any person aggrieved by the action of the city clerk in the denial of an application for a new license, denial of renewal of a license or the suspension or revocation of a license shall have the right to appeal such decision to the city administrator. Such appeal shall be taken by filing with the city administrator, within five (5) days, a written statement setting forth fully the grounds for the appeal. The city administrator or the administrator's designee shall conduct a hearing and/or review of the denial of the license, and the administrator's decision shall be final. The administrator may promulgate rules and regulations or procedures to govern any such hearing and/or review. (Ord. 636 §1, 2004)

Sec. 6-236. Assumption of liability.

Nothing in this article shall create any duty to any person with regard to the enforcement or nonenforcement of this article. No person shall have any civil liability remedy against the city, its officers, employees or agents for any damages arising out of or in any way connected with the adoption, enforcement or nonenforcement of this article, and nothing in this article shall be construed to create any liability or to waive any immunities, limitations on liability or other provisions of the Governmental Immunity Act or to waive any immunities or limitations on liability otherwise available to the City. (Ord. 636 §1, 2004)

Sec. 6-237. Site inspections authorized.

Prior to the issuance of a license and during such time as the circus, carnival or traveling show is operating within the city, the city and fire district shall have the continuing authority to inspect the area occupied by the applicant to ensure continued compliance with all of the requirements of this article. Such continued inspections may occur at any reasonable time during the duration of the license and need not be preceded by notice to the applicant. (Ord. 636 §1, 2004)

Secs. 6-238—6-249. Reserved.

ARTICLE 10**Sexually Oriented Businesses****Sec. 6-250. Purpose and intent.**

The purpose and intent of this chapter is to regulate sexually oriented businesses to promote the health, safety and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the city, thereby reducing or eliminating the adverse secondary effects from such sexually oriented businesses. The provisions of this chapter are not intended to impose a limitation or restriction on the content of any communicative materials, including sexually oriented materials. It is not the intent of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment or the Colorado Constitution, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this section to condone or legitimize the distribution of obscene material. (Ord. 668 §5, 2005)

Sec. 6-251. Definitions.

Words, terms and phrases with definitions, as used in this article shall have the meanings set forth in chapter 16, article 2 of this code. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning:

Employee means a person who works or performs in and/or for a sexually oriented business, regardless of whether or not said person is paid a salary, wage or other compensation by the operator of said business.

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

Licensing officer means the city clerk or his or her designee.

Manager means an operator, other than a licensee, who is employed by a sexually oriented business to act as a manager or supervisor of employees or is otherwise responsible for the operation of the business.

Operator means and includes the owner, license holder, custodian, manager, operator or person in charge of any licensed premises.

Person means and includes an individual, partnership, corporation, association, unincorporated organization, trust or any other legal or commercial entity, including a joint venture or affiliated ownership.

Premises or licensed premises means any premises that require a sexually oriented business license and that are classified as a sexually oriented business, including parking lots and sidewalks immediately adjacent to the structure containing the sexually oriented business.

Principal owner means any person owning, directly or indirectly, ten percent (10%) or more of the ownership interests in the entity.

Specified criminal acts means sexual crimes against children, sexual abuse, sexual assault or crimes connected with another sexually oriented business, including but not limited to distribution of obscenity, prostitution or pandering.

Transfer of ownership or control of a sexually oriented business means and includes any of the following:

- a. The sale, lease or sublease of the business;
- b. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means; or
- c. The establishment of a trust, management arrangement, gift or other similar legal device which transfers ownership or control of the business, including a transfer by bequest or operation of law. (Ord. 668 §5, 2005)

Sec. 6-252. Exemptions.

The provisions of this chapter regulating nude model studios do not apply to:

- (1) A college, junior college or university supported entirely or partly by taxation;
- (2) A private college or university that maintains and operates educational programs for which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or
- (3) A business located in a structure which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and where no more than one (1) nude model is on the premises at any one (1) time. (Ord. 668 §5, 2005)

Sec. 6-253. Unlawful acts.

It shall be unlawful for a licensee, manager or employee to violate any of the requirements of this chapter or to knowingly permit any patron to violate the requirements of this chapter. (Ord. 668 §5, 2005)

Sec. 6-254. License fees.

- (a) The annual fee for a sexually oriented business license is two hundred dollars (\$200.00).
- (b) The annual manager's license fee is fifty dollars (\$50.00).
- (c) An applicant for a sexually oriented business license shall pay a nonrefundable application fee of five hundred dollars (\$500.00) at the time of filing an application. (Ord. 668 §5, 2005)

Sec. 6-255. Inspection.

(a) An applicant, licensee or manager shall permit representatives of the licensing officer, the building official, the planning director, the police department, the county health department and the fire department to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law at any time it is occupied or open for business.

(b) It shall be unlawful for any person, applicant, licensee or manager who operates a sexually oriented business or his or her agent to refuse to permit such lawful inspection of the premises at any time that it is occupied or open for business. (Ord. 668 §5, 2005)

Sec. 6-256. License required.

(a) No sexually oriented business license shall be issued for any sexually oriented business located within any area of the city except for I-1 areas located west of York Street (WCR 11).

(b) No person shall operate a sexually oriented business without first having obtained a valid type A or type B sexually oriented business license issued by the city.

(1) A type A sexually oriented business license shall be required for sexually oriented businesses where alcoholic beverages or alcoholic liquors, as defined by the Colorado Liquor Code, and/or fermented malt beverages, as defined by the Colorado Beer Code, are allowed pursuant to a valid license issued under chapter 6, article 3 of this code.

(2) A type B sexually oriented business license shall be required for all sexually oriented businesses where alcoholic beverages or alcoholic liquors, as defined by the Colorado Liquor Code, and/or fermented malt beverages, as defined by the Colorado Beer Code, are not allowed.

(3) It shall be unlawful to operate or cause to be operated a sexually oriented business when said person knows or reasonably should know that:

- a. The business does not have a sexually oriented business license;
- b. The business has a sexually oriented business license that is under suspension;
- c. The business has a sexually oriented business license that has been revoked; or
- d. The business has a sexually oriented business license that has expired. (Ord. 668 §5, 2005)

Sec. 6-257. Application for license.

(a) The licensing officer is responsible for granting, denying, revoking, renewing and suspending sexually oriented business licenses for proposed or existing sexually oriented businesses.

(b) The police chief is responsible for providing information on whether an applicant has been convicted of a specified criminal act during the time periods set forth in paragraph 6-260(c)(9) of this article.

(c) Any person desiring to operate a sexually oriented business shall file with the licensing officer an original and two (2) copies of a sworn sexually oriented business license application on the standard application form supplied by the licensing officer.

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

(1) If the applicant is an individual, the individual shall state his or her legal name and any aliases, and submit satisfactory proof that he or she is twenty-one (21) years of age or older in the case of a type A sexually oriented business license, or eighteen (18) years of age or older in the case of a type B sexually oriented business license.

(2) If the applicant is a legal entity, the application shall state its complete name; the date and place of its organization; evidence that it is in good standing under the laws of the state in which it is organized; if it is organized under the laws of a state other than Colorado, that it is registered to do business in Colorado; the names and capacity of all officers, directors, managers and principal owners; and the name of the registered agent and the address of the registered agent for service of process, if any.

(3) If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, the sexually oriented business's fictitious name must be stated.

(4) Whether the applicant or any of the other individuals listed pursuant to paragraph (d)(1) or (d)(2) of this section have been convicted of a specified criminal act within the times set forth in paragraph 6-260(c)(9) of this article and, if so, the specified criminal act involved, the date of conviction and the place of conviction.

(5) Whether the applicant or any of the other individuals listed pursuant to paragraph (d)(1) or (d)(2) of this section has had a previous license under this or any other sexually oriented business ordinance from another town, city or county denied, suspended or revoked and, if so, the name of the city, city or county where the license was previously denied, suspended or revoked, and the name and location of the sexually oriented business for which the license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation.

(6) Whether the applicant or any other individuals listed pursuant to paragraph (d)(1) or (d)(2) of this section has been a partner in a partnership or a principal owner of a corporation or other legal entity whose license has previously been denied, suspended or revoked and, if so, the name of the town, city or county where the license was previously denied, suspended or revoked and the name and location of the sexually oriented business for which the license was denied, suspended or revoked, as well as the date of denial, suspension or revocation.

(7) Whether the applicant or any other individual listed pursuant to paragraph (d)(1) or (d)(2) of this section holds any other licenses under this chapter or other sexually oriented business ordinance from another town, city or county and, if so, the name of such town, city or county, and names and locations of such other licensed businesses.

(8) The location of the proposed sexually oriented business, including a legal description of the property, street address and telephone numbers.

(9) Proof of the applicant's right to possession of the premises wherein the sexually oriented business will be conducted.

(10) The applicant's mailing address and residential address.

(11) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business and, if applicable, the plan required by Subsection 16-591(c) of this code. The sketch or diagram need not be professionally prepared, but it must be oriented to the north or to some designated street or object and shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches. The licensing officer may waive the foregoing diagram or plan for renewal applications if the applicant adopts a diagram or plan that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared. If the sexually oriented business has or will have a peep booth or booths, the sketch shall show the locations and dimensions of any manager's stations and demonstrate that there is an unobstructed view from one (1) or more of the manager's stations of every area of the premises to which any patron is permitted access, excluding restrooms. The floor plan shall designate those rooms or other areas of the premises where patrons are not permitted and shall also designate the use of each room or other area of the premises.

(12) A current certificate and straight-line drawing prepared within thirty (30) days prior to an initial application by a state-registered land surveyor depicting:

- a. The property lines and the structures of the property to be certified;
- b. The location of the property lines of any school, or platted tract or lot dedicated for school purposes, within one thousand five hundred (1,500) feet of the property to be certified;
- c. The location of the property lines of any church, dwelling or residential zone district within one thousand (1,000) feet of the property to be certified; and
- d. The location of the property lines and structures of any other sexually oriented business within one thousand five hundred (1,500) feet of the property to be certified.

For purposes of this section, a use or platted tract or lot shall be considered existing or established if it is in existence or pending at the time an application is submitted.

(13) If a person who wishes to operate a sexually oriented business is an individual, he or she must sign the application for a sexually oriented business license as the applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each principal owner of the applicant must sign the application for a sexually oriented business license as applicant.

(e) In the event that the licensing officer determines or learns at any time that the applicant has improperly completed the application for a proposed sexually oriented business, he or she shall promptly notify the applicant of such fact and allow the applicant ten (10) days to properly complete the application. The time period for granting or denying a sexually oriented business license shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application.

(f) The fact that a person possesses other types of state or city licenses does not exempt him or her from the requirement of obtaining a sexually oriented business license. (Ord. 668 §5, 2005)

Sec. 6-258. Duty to supplement application.

(a) Applicants for a sexually oriented business license and licensees shall have a continuing duty to promptly supplement any application information required by this code in the event that said information changes in any way from what is stated on the application.

(b) The failure to comply with said continuing duty to supplement an application within thirty (30) days from the date of such change shall be grounds for denial of an application or suspension of a sexually oriented business license. (Ord. 668 §5, 2005)

Sec. 6-259. Investigation of application.

(a) Upon receipt of an application for a sexually oriented business license properly filed with the licensing officer and upon payment of the nonrefundable application fee, the licensing officer shall immediately stamp the application as received and send copies of the application to the planner, building official and police chief. The planner, building official and police chief shall promptly conduct an investigation of the applicant, application and the proposed sexually oriented business in accordance with this chapter. Investigations shall be completed within twenty (20) days of receipt of the application by the licensing officer. At the conclusion of their investigations, the planner and the building official shall each indicate on the copy of the application his or her approval or disapproval of the application, date it, sign it and, in the event of disapproval, state the reasons therefor. The police chief shall only be required to provide the information specified in Subsection 6-257(b) of this article and shall not approve or disapprove applications.

(b) The planner or building official may disapprove an application if he or she finds that the proposed sexually oriented business will be or is in violation of any provision of any statute, code, ordinance, regulation or other law in effect in the city. After their investigations and review, the planner, building official and police chief shall each immediately return the copy of the application to the licensing officer. (Ord. 668 §5, 2005)

Sec. 6-260. Issuance of license.

(a) The licensing officer shall grant or deny an application for a sexually oriented business license within thirty (30) days from the date of its proper filing. Upon the expiration of the thirty (30) days, the applicant shall be licensed to begin operating the business for which the sexually oriented business license is sought, unless and until the licensing officer notifies the applicant of a denial of the application and states the reasons for that denial.

(b) The licensing officer shall grant the sexually oriented business license unless one (1) or more of the criteria set forth in subsection (c) below is present. The sexually oriented business license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date and the address of the sexually oriented business. The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it can be easily read at any time.

(c) The licensing officer shall deny the application for any of the following reasons:

(1) An applicant is under twenty-one (21) years of age in the case of an application for a type A sexually oriented business license or under eighteen (18) years of age in the case of an application for a type B sexually oriented business license.

(2) An applicant is overdue on his or her payments to the city of taxes, fees, fines or penalties assessed against or imposed upon him or her in relation to a sexually oriented business.

(3) An applicant has failed to provide information required by this section for the issuance of the sexually oriented business license or has falsely answered a question or request for information on the application form and has refused to provide corrected information.

(4) The premises to be used for the sexually oriented business have been disapproved by an inspecting agency.

(5) The application or sexually oriented business license fees have not been paid.

(6) An applicant for the proposed business is in violation of or is not in compliance with any of the provisions of this chapter.

(7) The granting of the application would violate a statute, ordinance or court order.

(8) The applicant has a sexually oriented business license under this section that has been suspended or revoked within the previous twelve (12) months.

(9) An applicant has been convicted of a specified criminal act for which:

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

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

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

The fact that a conviction is being appealed shall have no effect on disqualification of the applicant. An applicant who has been convicted of a specified criminal act may qualify for a sexually oriented business license only when the time period required above has elapsed.

(10) If the licensing officer denies the application, he or she shall notify the applicant of the denial and state the reasons for the denial. A copy of such denial shall be forwarded to the city attorney. (Ord. 668 §5, 2005)

Sec. 6-261. Manager's license required; change of manager.

(a) A manager shall be on the premises of a sexually oriented business at all times during operation. It shall be unlawful for any person to work as a manager of a sexually oriented business without first obtaining a manager's license.

(b) In the event a manager ceases to be employed at the premises listed in his or her application, the manager shall immediately report such change to the licensing officer within ten (10) days of such change. (Ord. 668 §5, 2005)

Sec. 6-262. Application for manager's license.

(a) A manager shall submit an application for a manager's license on a form to be provided by the licensing officer. The application shall contain the applicant's name, address, date of birth, telephone number, address, the names and addresses of the sexually oriented businesses that the manager proposes to manage and the information required in section 6-257.

(b) The police department shall conduct an investigation of the applicant to determine if the applicant has been convicted of a specified criminal act within the times set forth in paragraph 6-260(c)(9) of this article.

(c) The licensing officer shall grant the application within ten (10) days of its filing unless:

(1) The applicant is under the age of twenty-one (21) in the case of a type A sexually oriented business license, or under the age of eighteen (18) in the case of a type B sexually oriented business license;

(2) The applicant has failed to provide the information required by this section;

(3) The license fee has not been paid; or

(4) The applicant has been convicted of a specified criminal act within the times set forth in paragraph 6-260(c)(9) of this article. (Ord. 668 §5, 2005)

Sec. 6-263. Interior lighting regulations.

(a) The interior portion of the premises of a sexually oriented business to which patrons are permitted access shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place (including peep booths) at an illumination of not less than five (5.0) foot-candles as measured at the floor level.

(b) It shall be the duty of the licensee and employees present on the premises to ensure that the illumination described above is maintained at all times that any patron is present on the premises. (Ord. 668 §5, 2005)

Sec. 6-264. Stage required in adult cabaret and adult theater.

Any adult cabaret or adult theater shall have one (1) or more separate areas designated as a stage in the diagram submitted as part of the application for the sexually oriented business license. Entertainers

shall perform only upon the stage. The stage shall be fixed and immovable. No seating for the audience shall be permitted within three (3) feet of the edge of the stage. No members of the audience shall be permitted upon the stage or within three (3) feet of the edge of the stage. (Ord. 668 §5, 2005)

Sec. 6-265. Conduct in sexually oriented business.

(a) No licensee, manager or employee mingling with the patrons of a sexually oriented business, or serving food or drinks shall be in a state of nudity. It is a defense to prosecution for a violation of this subsection that an employee of a sexually oriented business exposed any specified anatomical area only during the employee's bona fide use of a restroom or during the employee's bona fide use of a dressing room that is accessible only to employees.

(b) No licensee, manager or employee shall encourage or knowingly permit any person upon the premises to touch, caress or fondle the breasts, anus or specified anatomical areas of any person.

(c) An adult bookstore, adult novelty shop and adult video store shall be operated in compliance with Subsection 16-591(c) of this code. (Ord. 668 §5, 2005)

Sec. 6-266. Employee tips.

(a) It shall be unlawful for any employee of a sexually oriented business to receive tips from patrons except as set forth in subsection (c) of this section.

(b) A licensee that desires to provide for tips from its patrons shall establish one (1) or more boxes or other containers to receive tips. All tips for such employees shall be placed by the patron of the sexually oriented business into the tip box.

(c) A sexually oriented business that provides tip boxes for its patrons as provided in this section shall post one (1) or more signs to be conspicuously visible to the patrons on the premises, in bold letters at least one (1) inch high, to read as follows:

ALL TIPS ARE TO BE PLACED IN THE TIP BOX AND NOT HANDED DIRECTLY TO EMPLOYEES. ANY PHYSICAL CONTACT BETWEEN A PATRON AND EMPLOYEES IS STRICTLY PROHIBITED.

(Ord. 668 §5, 2005)

Sec. 6-267. Regulation of peep booths.

(a) It shall be unlawful for a person who operates or causes to be operated a sexually oriented business with peep booths to violate the requirements of this section.

(b) At least one (1) employee must be on duty and situated at each manager's station at all times that any patron is present inside the premises. The interior of the premises shall be configured in such a manner that such employee shall be clearly visible from every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. If the premises have two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of the employee from at least one (1) of the manager's stations from each area of the premises to which any patron is permitted access for any purpose. The view required in this

subsection must be by direct line of sight from the manager's station. The view area shall remain unobstructed by any opaque coverings, two-way mirrors, doors, walls, merchandise, display racks or other materials at all times, and no patron shall be permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to section 6-257.

(c) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video display equipment. If the premises have two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one (1) of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station. The view area shall remain unobstructed by any opaque coverings, two-way mirrors, doors, walls, merchandise, display racks or other materials at all times, and no patron shall be permitted access to any area of the premises that has been designated as an area in which patrons will not be permitted in the application filed pursuant to section 6-257.

(d) No peep booth may be occupied by more than one (1) person at any one (1) time.

(e) No door, two-way mirror, screen, opaque covering or other covering shall be placed or allowed to remain on any peep booth, and no holes or openings shall be placed or allowed to remain in the wall between any two (2) adjacent peep booths. (Ord. 668 §5, 2005)

Sec. 6-268. Hours of operation.

It shall be unlawful for a sexually oriented business to be open for business or for the licensee, manager or any employee of a licensee to allow patrons upon the licensed premises during the following time periods:

(1) On any Tuesday through Saturday from 2:00 a.m. until 7:00 a.m.;

(2) On any Monday, other than a Monday which falls on January 1, from 12:00 a.m. until 8:00 a.m.;

(3) On any Sunday from 2:00 a.m. until 8:00 a.m.;

(4) On any Monday which falls on January 1 from 2:00 a.m. until 7:00 a.m. (Ord. 668 §5, 2005)

Sec. 6-269. Minimum age.

(a) It shall be unlawful for any person under the age of eighteen (18) years to be upon the premises of a sexually oriented business.

(b) It shall be unlawful for the licensee, manager or any employee of the licensee to allow anyone under the age of eighteen (18) years to be upon the premises of a sexually oriented business. (Ord. 668 §5, 2005)

Sec. 6-270. Expiration of license.

(a) Each sexually oriented business license shall expire one (1) year from the date of issuance and may be renewed only by making application as provided in section 6-257 of this article (for renewals, filing of original survey shall be sufficient.) Application for renewal of a sexually oriented business license shall be made at least thirty (30) days before the expiration date of the sexually oriented business license.

(b) If, subsequent to denial of renewal, the licensing officer finds that the basis for denial of the renewal of the sexually oriented business license has been corrected, the applicant shall be granted a sexually oriented business license if no more than ninety (90) days have elapsed since the date denial became final. (Ord. 668 §5, 2005)

Sec. 6-271. Suspension of license.

(a) The licensing officer may suspend a sexually oriented business license for a period not to exceed one hundred fifty (150) days if he or she determines that a licensee or an employee of a licensee has:

(1) Violated or is not in compliance with any section of this chapter or any other section of this code regulating sexually oriented businesses;

(2) Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter;

(3) Knowingly allowed repeated disturbances of public peace to occur within the licensed establishment or upon the premises of the licensed establishment involving patrons, employees or the licensee;

(4) Operated the sexually oriented business in violation of a building, fire, health or zoning code, ordinance or regulation, whether federal, state or local, said determination being based on investigation by the department, division or agency charged with enforcing said rules or laws. In the event of such a statute, code, ordinance or regulation violation, the licensing officer shall promptly notify the licensee of the violation and shall allow the licensee a twenty-day period in which to correct the violation. If the licensee fails to correct the violation before the expiration of the twenty-day period, the licensing officer shall forthwith suspend the sexually oriented business license and shall notify the licensee of the suspension;

(5) Operated the sexually oriented business in violation of the hours of operation provisions set forth in this chapter; or

(6) Transferred a sexually oriented business license contrary to the provisions of this chapter.

In the event of such suspension, the licensing officer shall forthwith notify the original licensee and the transferee of the suspension. The suspension shall remain in effect until the applicable section of this chapter has been satisfied.

(b) The suspension shall remain in effect until and including the last day in the licensing officer's order and the violation of the statute, code, ordinance or regulation in question has been corrected. (Ord. 668 §5, 2005)

Sec. 6-272. Revocation of license.

(a) The licensing officer may revoke a sexually oriented business license upon determining that:

(1) A cause of suspension as set forth in this chapter occurred and the sexually oriented business license has been suspended within the preceding twelve (12) months;

(2) A licensee gave false or misleading information in the material submitted during the application process that tended to enhance the applicant's opportunity for obtaining a sexually oriented business license;

(3) A licensee, manager or employee has knowingly allowed possession, use or sale of controlled substances (as defined in Part 3 of Article 22 of Title 12, C.R.S.) on the premises;

(4) A licensee, manager or employee has knowingly allowed acts of prostitution or negotiations for acts of prostitution on the premises;

(5) A licensee, manager or employee knowingly operated the sexually oriented business during a period of time when the licensee's sexually oriented business license was suspended;

(6) A licensee has been convicted of a specified criminal act for which the time period set forth in paragraph 6-260(c)(9) of this article has not elapsed;

(7) On two (2) or more occasions within a twelve-month period, persons committed an offense, occurring in or on the licensed premises constituting a specified criminal act for which a conviction has been obtained, and the persons were employees of the sexually oriented business at the time the offenses were committed. The fact that a conviction is being appealed shall have no effect on the revocation of the sexually oriented business license;

(8) A licensee is delinquent in payment to the city or state for any taxes or fees;

(9) A licensee, manager or employee has knowingly allowed any specified sexual activity to occur in or on the licensed premises; or

(10) The licensee has operated more than one (1) sexually oriented business within the same building, structure or portion thereof.

(b) When the licensing officer revokes a sexually oriented business license, the revocation shall continue for one (1) year and the licensee shall not be issued a sexually oriented business license for one (1) year from the date revocation became effective. (Ord. 668 §5, 2005)

Sec. 6-273. Suspension or revocation hearing.

(a) A licensee shall be entitled to a hearing before the licensing officer if the city seeks to suspend or revoke his or her sexually oriented business license based on a violation of this chapter or any other

section of this code regulating sexually oriented businesses. The business may continue to operate during the hearing process.

(b) When there is probable cause to believe that a cause for suspension or revocation exists, the city attorney may file a written complaint with the licensing officer setting forth the circumstances of the alleged violation.

(c) The licensing officer shall provide a copy of the complaint to the licensee, together with notice to appear before the licensing officer for the purpose of a hearing on a specified date to show cause why the licensee's sexually oriented business license should not be suspended or revoked.

(d) At the hearing, the licensing officer shall hear such statements and consider such evidence as the police department or other enforcement officers, the owner, occupant, lessee or other party in interest, or any other witness shall offer that is relevant to the violation alleged in the complaint. The licensing officer shall make findings of fact from the statements and evidence offered as to whether the violation occurred in or near the licensed establishment. If the licensing officer determines that a cause for suspension or revocation exists, he or she shall issue an order suspending or revoking the sexually oriented business license within thirty (30) days after the hearing is concluded based on the findings of fact. A copy of the order shall be mailed to or served on the licensee at the address on the license.

(e) The order of the licensing officer made pursuant to subsection (d) above shall be a final decision and may be appealed to the district court pursuant to Colorado Rules of Civil Procedure 106(a)(4). Failure of a licensee to timely appeal said order constitutes a waiver by him or her of any right he or she may otherwise have to contest the suspension or revocation of the sexually oriented business license.

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

(g) All hearings held before the licensing officer regarding suspension or revocation of a sexually oriented business license issued under this article shall be recorded stenographically or by electronic recording device. Any person requesting a transcript of such record shall post a deposit in the amount required by the licensing officer and shall pay all costs of preparing such record.

(h) In the event of suspension, revocation or cessation of business, no portion of the sexually oriented business license fee shall be refunded. (Ord. 668 §5, 2005)

Sec. 6-274. Transfer of license.

(a) A licensee shall not operate a sexually oriented business under the authority of a sexually oriented business license at any place other than the address designated in the application for sexually oriented business license.

(b) A licensee shall not transfer his or her sexually oriented business license to another person unless and until such other person satisfies the following requirements:

(1) Obtains an amendment to the sexually oriented business license from the licensing officer which provides that he or she is now the licensee, which amendment may be obtained only if he or she has completed and properly filed an application with the licensing officer setting forth the information called for under section 6-257 in the application; and

(2) Pays a transfer fee of twenty percent (20%) of the annual sexually oriented business license fee.

(c) No sexually oriented business license may be transferred when the licensing officer has notified the licensee that suspension or revocation proceedings have been or will be brought against the licensee.

(d) Any attempt to transfer a sexually oriented business license either directly or indirectly in violation of this section is hereby declared void. (Ord. 668 §5, 2005)

Sec. 6-275. Expiration of manager's license.

(a) Each manager's license shall expire one (1) year from the date of issuance and may be renewed only by making application as provided in section 6-262. Application for renewal of a manager's license shall be made at least thirty (30) days before the expiration date of the manager's license.

(b) If, subsequent to denial of renewal, the licensing officer finds that the basis for denial of the renewal of the manager's license has been corrected, the applicant shall be granted a manager's license if no more than ninety (90) days have elapsed since the date denial became final. (Ord. 668 §5, 2005)

Sec. 6-276. Suspension of manager's license.

(a) The licensing officer may suspend a manager's license for a period not to exceed ninety (90) days if he or she determines that the manager has:

(1) Violated or is not in compliance with any section of this chapter;

(2) Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter;

(3) Knowingly allowed repeated disturbances of public peace to occur within the licensed establishment or upon the premises of the licensed establishment involving patrons, employees or the licensee; or

(4) Operated the sexually oriented business in violation of the hours of operation provisions set forth in this chapter.

(b) The suspension shall remain in effect until and including the last day in the licensing officer's order and the violation of the statute, code, ordinance or regulation in question has been corrected. (Ord. 668 §5, 2005)

Sec. 6-277. Revocation of manager's license.

(a) The licensing officer may revoke a sexually oriented business manager's license upon determining that:

(1) A cause of suspension as set forth in this chapter occurred and the sexually oriented business manager's license has been suspended within the preceding twelve (12) months;

(2) A licensee gave false or misleading information in the material submitted during the application process that tended to enhance the applicant's opportunity for obtaining a manager's license;

(3) The manager knowingly allowed possession, use or sale of controlled substances (as defined in Part 3 of Article 22 of Title 12, C.R.S.) on the premises;

(4) The manager knowingly allowed acts of prostitution or negotiations for acts of prostitution on the premises;

(5) The manager knowingly operated the sexually oriented business during a period of time when the sexually oriented business license was suspended;

(6) The manager has been convicted of a specified criminal act for which the time period set forth in paragraph 6-260(c)(9) of this article has not elapsed;

(7) The manager has knowingly allowed any specified sexual activity to occur in or on the licensed premises; or

(8) The manager has knowingly allowed more than one (1) sexually oriented business to be operated within the same building, structure or portion thereof.

(b) When the licensing officer revokes a manager's license, the revocation shall continue for one (1) year and the licensee shall not be issued a manager's license for one (1) year from the date revocation became effective. (Ord. 668 §5, 2005)

Sec. 6-278. Suspension or revocation hearing.

(a) A manager shall be entitled to a hearing before the licensing officer if the city seeks to suspend or revoke the manager's license based on a violation of this chapter or any other section of this code regulating sexually oriented businesses. The manager may continue to manage a sexually oriented business during the hearing process.

(b) When there is probable cause to believe that a cause for suspension or revocation exists, the city attorney may file a written complaint with the licensing officer setting forth the circumstances of the alleged violation.

(c) The licensing officer shall provide a copy of the complaint to the licensee, together with notice to appear before the licensing officer for the purpose of a hearing on a specified date to show cause why the licensee's license should not be suspended or revoked.

(d) At the hearing, the licensing officer shall hear such statements and consider such evidence as the police department or other enforcement officers, the owner, employer, occupant, lessee or other party in interest, or any other witness shall offer which is relevant to the violation alleged in the complaint. The licensing officer shall make findings of fact from the statements and evidence offered as to whether the violation occurred in or near the licensed establishment. If the licensing officer

determines that a cause for suspension or revocation exists, he or she shall issue an order suspending or revoking the manager's license within thirty (30) days after the hearing is concluded based on the findings of fact. A copy of the order shall be mailed to or served on the licensee at the address on the license.

(e) The order of the licensing officer made pursuant to subsection (d) above shall be a final decision and may be appealed to the district court pursuant to the Colorado Rules of Civil Procedure 106(a)(4). Failure of a licensee to timely appeal said order constitutes a waiver by him or her of any right he or she may otherwise have to contest the suspension or revocation of the manager's license.

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

(g) All hearings held before the licensing officer regarding suspension or revocation of a manager's license issued under this article shall be recorded stenographically or by electronic recording device. Any person requesting a transcript of such record shall post a deposit in the amount required by the licensing officer and shall pay all costs of preparing such record.

(h) In the event of suspension, revocation or cessation of business, no portion of the manager's license fee shall be refunded. (Ord. 668 §5, 2005)

Sec. 6-279. Notice.

Any notice required by this chapter shall be deemed sufficient if it is deposited in first class mail, postage prepaid, to the address on the application and shall be effective upon mailing. (Ord. 668 §5, 2005)

Sec. 6-280. Judicial review.

After denial of an application, denial of a renewal of an application or suspension or revocation of a license, such act shall be a final decision. Therefore, the applicant or licensee may seek judicial review of such administrative action pursuant to the Colorado Rules of Civil Procedure. The court shall promptly review such administrative action. (Ord. 668 §5, 2005)