

## Title 5

### BUSINESS TAXES, LICENSES AND REGULATIONS

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## Chapter 5.04

### Business Licenses Generally

#### Sections:

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- 5.04.190 Exempt activities.
- 5.04.200 Each day's violation deemed separate offense.

#### **5.04.010 Generally; relation to other laws.**

The purpose of this chapter is to require the licensing of all business activities and enterprises physically located within the town or operating within the town, and to provide the town with necessary information concerning the businesses within the town, including but not limited to the nature of the business operation, the number of employees, place of business and emergency contacts, in order to protect the health, welfare and safety of the town's inhabitants. The general business license required by this chapter shall be in addition to any other license or permit required by this title or this code. Transient merchants, solicitors and peddlers are required to obtain business licenses pursuant to this chapter. (Ord. 610 §1, 2006; Ord. 519 §1, 2003; prior code §4-2)

#### **5.04.020 License subject to regulation.**

Any person or business receiving a license pursuant to this chapter shall be subject to all ordinances and regulations which may be in force at the time of the issuance thereof or which may be subsequently made and ordained by the board of trustees. (Ord. 519 §1, 2003; Ord. 246 §52, 1988; prior code §4-2)

#### **5.04.030 Definitions.**

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

A. "Business" means and includes all kinds of vocations, occupations, home occupations, professions, enterprises and establishments, any of which are conducted on any premises or are otherwise carried on within the town or anywhere else within its jurisdiction; such term includes a transient merchant, solicitor or peddler as defined in Chapter 5.40 of this code.

B. "Premises" means and includes all land, structures and places, and the equipment and appurtenances connected or used therewith, in any business, and also any personal property which is either affixed to, or otherwise used in connection with, any such business conducted on the premises.

C. "Town clerk" means the town clerk for the town or such person's designee. (Ord. 610 §2, 2006; Ord. 519 §1, 2003)

#### **5.04.040 Conducting business without license deemed unlawful.**

It is unlawful for any person, whether as a principal, agent, clerk or employee, either for himself or for any other person, corporation or otherwise, to commence, carry on or establish any kind of business without first having received from the town a general business license to do so, or without complying with any and all regulations of such business contained in this chapter. (Ord. 519 §1, 2003)

#### **5.04.050 Applications.**

Every person required to obtain a license under this chapter shall submit a license application to the town clerk. The application shall be accompanied by a nonrefundable application fee in an amount set by resolution of the board of trustees. The application shall contain:

A. The name of the business for which a license is requested and the name of the person, firm or corporation requesting such license;

B. The residence address of the applicant and, if the applicant is an entity, the names of the officers, directors and owners of such entity and the address of such entity's principal place of business;

C. The nature of the business, to be performed, practiced or carried out;

D. The street address, if any, where such business is to be carried on;

E. The telephone number of the business, the name of the manager of the business, if any, and the number of employees of the business;

F. The year for which such license is sought; and

G. Any other relevant information required for compliance with this chapter or deemed to be reasonably necessary by the town clerk for the fair administration of this chapter. (Ord. 519 §1, 2003; Ord. 246 §53(part), 1988; prior code §4-4)

#### **5.04.060 Investigation and issuance.**

A. Upon receipt of the application containing the information set forth in the preceding section, proof that the annual fee therefor has been paid in advance to the town treasurer and compliance with all other provisions of this chapter, the town clerk shall issue and deliver to the applicant the license requested.

B. Upon receipt of the application, where any provision of this code necessitates an inspection, further investigation or other license or permit, the town clerk shall refer the application to the proper officer, board or commission for consideration of such inspection, investigation or further license or permit. The general business license required by this chapter shall be in addition to any other license or permit required by this title or this code, and the issuance of a general business license does not permit any conduct that is prohibited or that does not fully comply with the requirements of this code. By way of example and not limitation, a general business license does not permit:

1. The conduct of any business if the premises to be used for the business and the proposed conduct of such business do not fully comply with the requirements of this code.

2. The conduct of any business or performance of any act that would constitute a violation of the zoning code or development regulations of the town, or any other provision of this code.

3. The conduct of any business that violates any existing state or federal statutes, or municipal ordinance. (Ord. 519 §1, 2003; Ord. 246 §54(part), 1988; prior code §4-5)

#### **5.04.070 Denial--Authority.**

A. The town clerk may deny an application for a license under this chapter upon a determination that:

1. The applicant has failed to supply any of the information required on the application or by the town clerk pursuant to Subsection 5.04.050.G;

2. The conduct of the business for which a license is requested would be in violation of any provision of this code;

3. The applicant has failed to pay the required license fee; or

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

B. If the town clerk denies a license application under this section, the town clerk shall notify the applicant in writing stating the specific grounds for the denial. The applicant may thereafter appeal the denial of the application by the town clerk to the director of operations, whose decision shall be final. Any appeal to the director of operations shall be made in writing within fifteen days of the clerk's denial of the license. (Ord. 712 §1, 2009; Ord. 519 §1, 2003; Ord. 246 §53(part), 1988; prior code §4-3)

#### **5.04.080 Licenses by mayor and clerk.**

Each license issued pursuant to this chapter shall be signed by the mayor and attested by the town clerk and recorder under the seal of the town. (Ord. 519 §1, 2003; Ord. 246 §54 (part), 1988; prior code §4-6)

#### **5.04.090 License contents.**

Each license issued pursuant to this chapter shall show upon its face the name of the person to whom it has been issued, the street address where any business is to be carried on, the amount paid therefor, the year for

which such license is issued, and any other information required by this code to be displayed thereon. (Ord. 519 §1, 2003; Ord. 246 §54(part), 1988; prior code §4-7)

#### **5.04.100 License terms.**

The license required by this chapter is for the privilege of pursuing the business, profession or occupation designated thereon and all licenses shall be issued on a calendar year basis only, and they shall expire with the calendar year in which they are issued unless sooner revoked, cancelled or suspended. (Ord. 519 §1, 2003; Ord. 246 §54(part), 1988; prior code §4-8)

#### **5.04.110 Prorating license fees.**

In case a license required by this chapter is issued after June 30th of any year, the license fee for the year of issuance shall be one-half of the annual license fee. (Ord. 519 §1, 2003; Ord. 246 §54(part), 1988; prior code §4-9)

#### **5.04.120 Register of licenses.**

The town clerk shall keep a register containing the information from the license application, the date of the license, the purpose and place for which the license is granted, the amount paid therefor, and the time the same will expire or continue in force. (Ord. 519 §1, 2003; Ord. 246 §55, 1988; prior code §4-10)

#### **5.04.130 Posting and exhibition.**

A. A separate license must be obtained and a separate license fee paid for each branch, establishment or separate place of business in which a business is carried on.

B. Every license for a business to be conducted at a particular street address shall be posted conspicuously, in public view, at each such address during the period such license is valid. It shall be the duty of each and every person to whom a license has been issued by the town, to exhibit the same upon the request of any law enforcement officer, inspector, or other officer of the town. (Ord. 519 §1, 2003; Ord. 246 §169, 1988; prior code §4-11)

#### **5.04.140 Transfers.**

No license may be transferred from one person to another, or from one place to another, except where permitted by state law or provisions of the code relating to the particular license, and then only by the town clerk after written application therefor and the payment of a fee for the transfer of such license. (Ord. 519 §1, 2003; Ord. 246 §56, 1988; prior code §4-12)

#### **5.04.150 Renewals.**

Any licensee may make application for a new license for the succeeding year and pay the required fee therefor, on or before the expiration date of any license or licenses issued to the licensee for the current year. Whenever any application and license fee payment therefor is not received on or before the expiration date of any license issued for the current year, and the licensee continues to engage in the business or activity for which the license was issued, in addition to other penalties which may be imposed, a penalty of ten percent of the amount of the license fee shall be imposed and collected and an additional five percent of the original fee shall be added on the last day of each calendar month after the expiration date. In addition to the above

penalty provision, it is unlawful for a licensee to continue to engage in any business or activity after his or her license therefor has expired. (Ord. 519 §1, 2003; Ord. 246 §57, 1988; prior code §4-13)

#### **5.04.160 Suspension or revocation.**

A. In addition to any other provisions of this code or other ordinances of the town, the town clerk may cancel, suspend or revoke a license or permit issued under this chapter if:

1. The licensee fails to meet the qualifications required of an applicant;
2. The licensee violates any provision of this code or other ordinance of the town governing the activities permitted by the license;
3. The licensee obtained the license by fraud or misrepresentation;
4. The licensee has failed to pay the annual licensee fee;
5. Any sales taxes required to be paid in connection with the business have not been timely paid; or
6. The licensee is convicted of an offense and would create a danger to the public health, safety or welfare of the citizens of the town if the licensee were to engage in such conduct after the license was issued.

B. If the town clerk finds one of the grounds in Subsection A above or any other ground for cancellation, suspension or revocation in this code, the town clerk shall determine whether to cancel the license, revoke the license for the remainder of its term, or suspend it for any shorter period according to the severity of the disqualification, its effect on public health, safety, and welfare, and the time during which the disqualification can be remedied, if at all.

C. Before the hearing required in Subsection D below, the town clerk may suspend a license for up to fourteen days, if the town clerk determines that the suspension is in the interest of public health, safety, and welfare. The town clerk may include in the temporary suspension reasonable orders or conditions with which the licensee shall comply to protect any work in progress and the public health and safety. Any breach of such conditions or orders is an independent ground for suspension or revocation of the license.

D. Except for such emergency suspension authorized by Subsection C of this section, no such suspension or revocation is final until the licensee has been given the opportunity for a hearing before the director of operations to contest the suspension or revocation. Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at the licensee's local address as set forth on the application, at least ten days prior to the date set for the hearing.

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

F. No person whose license is revoked under this chapter may receive a refund of any part of the license fee paid for the license.

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

H. Nothing in this chapter shall be deemed to prohibit the town clerk or other authority from imposing other penalties authorized by this code or other ordinance of the town, including filing a complaint in the town court for a violation of this code or other ordinance of the town. (Ord. 712 §1, 2009; Ord. 610 §3, 2006; Ord. 519 §1, 2003; Ord. 246 §58, 1988; prior code §4-14)

**5.04.170 Assignment or transfer of licenses.**

No license granted under any ordinance shall be assignable or transferable nor authorize the person holding the same to carry on the business mentioned at any place other than that described unless a transfer has been approved pursuant to Section 5.04.140. (Ord. 519 §1, 2003; Ord. 246 §59, 1988; prior code §4-15)

**5.04.180 Return of fees.**

Upon refusal of any application for a license, or in the event that any license is suspended or revoked, all moneys paid therefor shall be and remain the moneys of the town, and no refund shall be made to any applicant or licensee. (Ord. 519 §1, 2003; Ord. 246 §60, 1988; prior code §4-16)

**5.04.190 Exempt activities.**

A. The provisions of this chapter shall not apply to:

1. Any activity for which a license is required under Chapter 5.40 of this code;
2. Any canvassing on behalf of a candidate for elective public office or for proponents of a measure to be placed on the ballot;
3. Activity consisting solely of mere delivery in the town where no intent exists or is shown to exist to evade the provisions of this chapter;
4. The selling of newspapers on public streets or in public places in a manner otherwise in compliance with this code; or
5. Established delivery routes, persons calling by appointment, yard sales, garage sales, events approved by the town or contractors or temporary uses to the extent such contracting activities or temporary uses are licensed pursuant to Chapter 5.20 or Titles 15 and 17 of this code.

B. The burden of proving an exemption to this chapter is upon the person claiming such exemption. Determinations regarding the application of an exemption shall be made in writing by the town clerk. The business subject to such determination may appeal the determination to the director of operations, whose decision shall be final. Any appeal to the director of operations shall be made in writing within fifteen days of the town clerk's determination. (Ord. 712 §1, 2009; Ord. 519 §1, 2003)

#### **5.04.200 Each day's violation deemed separate offense.**

Any person convicted of violating any of the provisions of this chapter shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year or by both such fine and imprisonment. Each act or omission in violation of one or more of the provisions of this chapter shall be deemed a separate violation for each and every day that such act(s) or omission(s) occur. (Ord. 519 §1, 2003)

### **Chapter 5.08**

#### **Alcoholic Beverages**

##### **Sections:**

- 5.08.010 Purpose and applicability.
- 5.08.020 Hearings.
- 5.08.030 Rights of participants.
- 5.08.040 Order of procedure.
- 5.08.050 Rules of evidence.
- 5.08.060 Notice of decision.
- 5.08.070 Judicial enforcement and review.
- 5.08.080 Optional premises licenses.
- 5.08.090 Fees—Application and registration fees.
- 5.08.100 Fees—License fees designated for each class of license.
- 5.08.110 Liquor tastings.
- 5.08.120 Administrative action on application for renewal.
- 5.08.130 Surrender of liquor licenses.
- 5.08.140 Disturbances at licensed premises.

#### **5.08.010 Purpose and applicability.**

The purpose of the rules of procedure contained in this chapter is to provide a uniform, consistent and expeditious method of procedure for the conduct of all liquor-related hearings to be held before the board of trustees of the town. The provisions of this procedure shall be applied uniformly in all such hearings; provided, however, that the board of trustees of the town may supplement the provisions of this chapter by the adoption of further rules of procedure not inconsistent herewith. All rules adopted to supplement the provisions of this chapter by the board of trustees of the town shall be by resolution and copies thereof shall be made available to the public. (Prior code §2-1)

#### **5.08.020 Hearings.**

The provisions of this chapter shall be applicable to hearings on applications for the issuance of a liquor license or a fermented malt beverage license or for the transfer of ownership of an existing license, and a hearing shall be held on each such application. The provisions of this chapter shall also apply to hearings for the suspension or revocation of a license. (Ord. 694 §1, 2008; Ord. 643 §1, 2007; prior code §2-2)

#### **5.08.030 Rights of participants.**

All liquor hearings shall be conducted under procedures designed to insure all interested parties due process of law and shall, in all cases, provide for the following:

- A. The administration of oaths to all parties or witnesses who appear for the purpose of testifying upon factual matters;
- B. The cross-examination, upon request, of all witnesses by the interested parties;
- C. The stenographic, or other verbatim, reproduction of all testimony present in the hearing, or an adequate summary of such testimony;
- D. A clear decision by the hearing body which shall set forth the factual basis and reasons for the decision rendered. (Prior code §2-3)

**5.08.040 Order of procedure.**

In all liquor or fermented malt beverage license hearings, the following order of procedure shall be followed:

- A. Presentation of those documents showing the regularity of the commencement of the proceedings and the form of the public notice given;
- B. Presentation of evidence by the applicant, petitioner, appealing party or complainant;
- C. Presentation of evidence in support of the applicant, petitioner, appealing party or complainant by any other person;
- D. Presentation of evidence from any person opposing the application, petition, appeal or complaint;
- E. Presentation of evidence in opposition or rebuttal to the matters presented by the opposition;
- F. All documents or other items of physical evidence shall be marked as exhibits with such identifying symbols as may be necessary to determine the exhibit referred to by any witness or other person. (Prior code §2-4)

**5.08.050 Rules of evidence.**

The hearing body shall not be required to observe formal rules of evidence, but may consider any matter which a majority thereof concludes is reasonably reliable and calculated to aid the hearing body in reaching an accurate determination of the issues involved. (Prior code §2-5)

**5.08.060 Notice of decision.**

All hearings shall be conducted in an open session which shall be duly recorded in the minutes of the public body. Written copies of all decisions shall be delivered to the applicant, petitioner, appellant, complainant and other interested parties requesting the same. (Prior code §2-6)

**5.08.070 Judicial enforcement and review.**

Any party aggrieved by any decision rendered in any liquor or ferment-ed malt beverage hearing may apply to have the decision re-viewed by a court of competent jurisdiction, in accordance with the laws of the state. (Prior code §2-7)

#### **5.08.080 Optional premises licenses.**

A. The following standards for the issuance of optional premises licenses or for optional premises for hotel and restaurant licenses are hereby adopted pursuant to the provisions of Section 12-47-310, C.R.S. as amended. The standards set forth in this section shall be considered in addition to all other standards applicable to the issuance of licenses under the state liquor code for an optional premises license or for optional premises for a hotel and restaurant license. These two types of licenses for optional premises will collectively be referred to as "optional premises" in these standards unless otherwise provided.

B. An optional premises may only be approved when that premises is located on or adjacent to an outdoor sports and recreational facility as defined in Section 12-47-103(22), C.R.S. The types of outdoor sports and recreational facilities that may be considered for an optional premises license are as follows:

1. Country clubs;
2. Golf courses and driving ranges;
3. Swimming pools.

C. There are no restrictions on the minimum size of the outdoor sports and recreational facilities that may be eligible for the approval of an optional premises license. However, the local licensing authority may consider the size of the particular outdoor sports or recreational facility in relationship to the number of optional premises requested for the facility and in relationship to control of the premises and ease of enforcement.

D. There are no restrictions on the number of optional premises that any one licensee may have on his or her outdoor sports or recreational facility. However, any applicant requesting approval of more than one optional premises shall demonstrate the need for each optional premises in relationship to the outdoor sports or recreational facility and its guests.

E. When submitting a request for the approval of an optional premises, an applicant shall also submit the following information:

1. A scaled map or other drawing illustrating all of the outdoor sports or recreation facility boundaries and the approximate location of each optional premises requested;
2. A legal description of the area within which the optional premises shall be located;
3. A description of the method which shall be used to identify the boundaries of the optional premises when it is in use;
4. A description of the provisions that have been made for storing alcohol beverages in a secured area on or off the optional premises for the future use on the optional premises; and
5. A description of the manner in which alcohol beverages will be sold and distributed to guests and/or the public.

F. Pursuant to Section 12-47-310, C.R.S. as amended, no alcoholic beverages may be served on the optional premises until the licensee has provided written notice to the state and local licensing authorities

forty-eight hours prior to serving alcoholic beverages on the optional premises. Such notice must contain the specific days and hours on which the optional premises are to be used. In this regard, there is no limitation on the number of days that a licensee may specify in each notice. However, no notice may specify any date of use which is more than one hundred eighty days from the notice date.

G. The local licensing authority in its discretion may impose conditions or restrictions upon an optional premises license in furtherance of the public health, safety and welfare, including but not limited to conditions and restrictions to ensure control of the optional premises and proper enforcement of liquor laws. Conditions and restrictions may be imposed at the time of initial licensing or as part of any application or disciplinary proceeding. (Ord. 461 §1, 2001)

**5.08.090 Fees--Application and registration fees.**

The following license application and registration fees shall be paid to the town for all liquor licenses:

A. Each application for a new license shall be accompanied by an application fee in the amount of five hundred dollars.

B. Each application for a transfer of location or ownership of an existing license shall be accompanied by a transfer fee in the amount of five hundred dollars.

C. Each application for renewal of an existing license shall be accompanied by a renewal fee of fifty dollars; except that each application for late renewal of an expired license shall be accompanied by an expired license renewal fee of five hundred dollars.

D. Each hotel and restaurant licensee shall pay a registration fee in the amount of seventy-five dollars for the actual and necessary expenses incurred in establishing the character, record and reputation of each registered manager.

E. Each application for a temporary permit shall be accompanied by a temporary permit fee in the amount of one hundred dollars.

F. Each corporate or limited liability company applicant shall pay to the town a fee in the amount of one hundred dollars for the cost of each fingerprint analysis and background investigation undertaken to qualify new officers, directors, stockholders or members pursuant to state law; however, no such fee shall be due to the town with respect to persons for whom the state licensing authority was paid a fee and completed a background investigation.

G. Each application for a liquor tastings permit shall be accompanied by a liquor tastings application fee in the amount of fifty dollars.

H. Each application for modification of licensed premises shall be accompanied by a modification of premises fee in the amount of one hundred fifty dollars. (Ord. 630 §1, 2007; Ord. 604 §1, 2006; Ord. 469, 2001)

**5.08.100 Fees—License fees designated for each class of license.**

The following license fees shall be paid to the town annually, in advance, based on premises located within the town:

- A. For each retail liquor store license, one hundred fifty dollars;
- B. For each liquor-licensed drugstore license, one hundred fifty dollars;
- C. For each beer and wine license, three hundred twenty-five dollars;
- D. For each hotel and restaurant license, five hundred dollars;
- E. For each tavern license, five hundred dollars;
- F. For each club license, two hundred seventy-five dollars;
- G. For each arts license, two hundred seventy-five dollars;
- H. For each optional premises license, five hundred dollars;
- I. For each brew pub license, five hundred dollars;
- J. For each bed and breakfast permit, twenty-five dollars;
- K. For each 3.2% fermented malt beverage license, twenty-five dollars. (Ord. 497, §1, 2002; Ord. 469, 2001)

**5.08.110 Liquor tastings.**

A. The town hereby authorizes tastings to be conducted by retail liquor store and liquor-licensed drugstore licensees in accordance with this section and pursuant to Section 12-47-301, C.R.S. Within the town, it is unlawful for any person or licensee to conduct tastings unless a permit has been obtained in accordance with this section. The local licensing authority is authorized to issue tasting permits in accordance with the requirements of this section.

B. A retail liquor store or liquor-licensed drugstore licensee that wishes to conduct tastings shall submit an application for a tastings permit to the local licensing authority annually at the time of liquor license renewal. The application shall be in the form required by the town clerk, and shall include a written control plan establishing how the applicant will conduct the tastings in compliance with the provisions of the Liquor Code and town code, and without creating a public safety risk to the neighborhood. The local licensing authority may reject the permit application if the applicant fails to establish that the licensee is able to conduct tastings without violating the provisions of this section or creating a public safety risk to the neighborhood. The local licensing authority and authority secretary may establish application procedures for tastings permits.

C. Tastings shall be subject to the following limitations:

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

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

such alcohol. Such suppliers shall have licenses from the town to the extent required by this section and Section 12-47-301, C.R.S.

3. The size of an individual alcohol sample shall not exceed one ounce of malt or vinous liquor or one-half of one ounce of spirituous liquor.

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

5. Tastings shall be conducted only during the operating hours in which the licensee on whose premises the tastings occur is permitted to sell alcohol beverages, and in no case earlier than eleven a.m. or later than seven p.m.

6. The licensee shall prohibit patrons from leaving the licensed premises with an unconsumed sample.

7. The licensee shall promptly remove all open and unconsumed alcohol beverage samples from the licensed premises or shall destroy the samples immediately following the completion of the tasting.

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

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

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

11. Tastings may occur on no more than four of the six days from a Monday to the following Saturday, not to exceed fifty-two days per year.

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

13. The applicant for a tastings permit shall certify on the application that all persons serving alcohol at tastings have completed a server training program that meets the standards established by the Liquor Enforcement Division of the Colorado Department of Revenue.

D. A violation of a limitation specified in this section or of Section 12-47-301(10) or 12-47-801, C.R.S., by a retail liquor store or liquor-licensed drugstore licensee, whether by the licensee, the licensee's employees or agents, or otherwise, shall be the responsibility of the licensee who is conducting the tasting.

E. A licensee conducting a tasting shall be subject to the same revocation, suspension and enforcement provisions as otherwise apply to the licensee and are imposed by the local licensing authority. The local licensing authority shall conduct a hearing with regard to any violations of this section in accordance with the requirements of this code and Section 12-47-601, C.R.S. (Ord. 604 §2, 2006)

#### **5.08.120 Administrative action on application for renewal.**

The secretary of the local licensing authority is authorized on behalf of the authority to approve an application for liquor license renewal except where, upon reasonable investigation or evidence, the secretary believes there may exist good cause for denial of such application pursuant to Section 12-47-103(9)(b),

C.R.S., in which case the secretary shall refer such application to the local licensing authority, and a hearing thereon shall be held in accordance with Section 5.08.020 of this chapter. (Ord. 694 §2, 2008)

**5.08.130 Surrender of liquor licenses.**

A licensee desiring to surrender its local liquor license shall submit to the town clerk on forms approved by the town an affidavit for the surrender of the local and state liquor licenses. Upon receipt of an affidavit for the surrender, the town clerk shall review and determine if the affidavit is in proper form. If the town clerk finds that the affidavit is in proper form, the town clerk shall schedule the matter for review by the board of trustees, acting as the local licensing authority, at the next available meeting. The board of trustees shall review the affidavit and related materials and determine whether to accept the surrender and cancel the local liquor license. If the board of trustees accepts the surrender and cancels the local liquor license, the town clerk shall forward the affidavit of surrender and any conditions of surrender as accepted by the town to the Liquor Enforcement Division of the Colorado Department of Revenue (the "Division") for review and further action. The surrender of the local license shall become effective upon acceptance by both the town and the Division of the surrender of the licenses. The board of trustees may reject the offered surrender of the local license if any show cause order for a violation of the Colorado Liquor Code by the licensee is pending; if the surrender would avoid prosecution of a violation of the Colorado Liquor Code or the serving of any penalty as a result of any violation of the Colorado Liquor Code; if the surrender would violate any lawful order issued by a court; if a transfer of the license is pending; for any defect in the affidavit or authority of the person requesting the surrender of the license; or if such surrender is otherwise contrary to law or the best interests of the town. (Ord. 640 §1, 2007)

**5.08.140 Disturbances at licensed premises.**

A. It shall be unlawful for any licensee or any agent, manager or employee thereof to permit or in any manner encourage or participate in any unlawful or disorderly act, conduct or disturbance at the licensed premises; provided, however, that the licensee may use such lawful means as may be necessary to protect his or her person or property from damage or injury.

B. Any licensee and any agent, manager or employee thereof shall immediately report to the police department any unlawful or disorderly act, conduct or disturbance committed at the licensed premises.

C. Each licensee shall post and keep at all times visible to the public in a conspicuous place on the premises a sign with a minimum height of fourteen inches and a minimum width of eleven inches with each letter to be a minimum of one-half inch in height, which shall read as follows:

WARNING:

THE TOWN OF FIRESTONE POLICE DEPARTMENT MUST BE NOTIFIED OF ALL UNLAWFUL OR DISORDERLY ACTS, CONDUCT OR DISTURBANCES WHICH OCCUR ON OR WITHIN THE PREMISES OF THIS LIQUOR ESTABLISHMENT.

D. It shall not be a defense that the licensee was not personally present on the premises at the time such unlawful or disorderly act, conduct or disturbance was committed; however, no agent, servant or employee of the licensee shall be held personally responsible for failing to report an unlawful or disorderly act, conduct or disturbance hereunder if such agent, servant or employee was absent from the premises at the time such activity was committed.

E. Failure to comply with the requirements of this section shall be considered in any action relating to the issuance, revocation, suspension or nonrenewal of a license or the cancellation, revocation or suspension of a

temporary or special events permit. A violation of this section shall also constitute a criminal offense punishable as provided in Section 1.16.010 of this code. (Ord. 711 §1, 2009)

## **Chapter 5.12**

### **Amusements**

#### **Sections:**

- 5.12.010 Licenses for theaters, circus, exhibitions, parades.
- 5.12.020 License fees.
- 5.12.030 Obscenity prohibited.

#### **5.12.010 Licenses for theaters, circus, exhibitions, parades.**

It is unlawful for any person to give, conduct, manage or exhibit any show, theater, circus, exhibition, parade, moving picture show, entertainment or amusement of any kind for gain or profit, within the town without first obtaining a license therefor. (Prior code §4-17)

#### **5.12.020 License fees.**

A. The following fees shall be charged for the issuance of licenses:

1. Circus, carnival or street parade, twenty-five dollars per day;
2. Shows, entertainments and amusements not having a permanent location, and not including a circus, carnival or street parade, ten dollars for each exhibition;
3. Shows, entertainments and amusements having a permanent location, other than those specifically listed herein, twenty-five dollars per year;
4. Public hall or opera house, twenty-five dollars per year, and one license shall cover all shows and entertainments held therein during the year, except motion picture shows;
5. Motion picture shows, seventy-five dollars per year or five dollars per day.

B. Licenses for shows and amusements may be issued by the board without payment of any fee where such show or amusement is for a charitable, educational, fraternal or public benefit, given or made by citizens of the town. The board of trustees may waive the requirements of said licensee's fees. (Ord. 251 §6, 1989; prior code §4-18)

#### **5.12.030 Obscenity prohibited.**

It is unlawful for any licensee under this chapter to give or make an exhibition, theatrical or otherwise, that is obscene. If it appears to the board of trustees that any licensee has given or made an obscene exhibition, then the board may suspend or revoke such license. (Ord. 246 §61, 1988; prior code §4-19)

## Chapter 5.16

### Auctions and Auctioneers

#### Sections:

- 5.16.010 Auctioneer's license required.
- 5.16.020 Auctioneer's license fee.
- 5.16.030 Auction license required.
- 5.16.040 Auction license fee.
- 5.16.050 Sales excluded from license provisions.

#### **5.16.010 Auctioneer's license required.**

It is unlawful for any person to sell any property, goods, wares or merchandise at public auction within the town without first having obtained an auctioneer's license as provided in this chapter. (Prior code §4-29)

#### **5.16.020 Auctioneer's license fee.**

Any person making application for an auctioneer's license shall pay the town the following license fee:

- A. For one year, sixty dollars;
- B. For six months, thirty-five dollars;
- C. For three months, twenty dollars;
- D. For one day, five dollars. (Prior code §4-30)

#### **5.16.030 Auction license required.**

It is unlawful for any person to sell or offer for sale at public auction within the town any property, goods, wares, or merchandise, either new or secondhand, without the owners having first procured a license for the holding of such auction. (Prior code §4-31)

#### **5.16.040 Auction license fee.**

Each applicant for an auction license shall pay the town a license fee in the amount of twenty-five dollars per day for each day of sale. (Prior code §4-32)

#### **5.16.050 Sales excluded from license provisions.**

No provision in this section shall be construed to apply to sales made at public auction under and by virtue of any legal process or proceeding through or from a court of law or equity or to sales under any mortgage or trust deed, or to any tax sales, or to sales under provisions of this code by any town officer. (Prior code §4-33)

## Chapter 5.20

### Contractors, Subcontractors, and Tradesmen

#### Sections:

- 5.20.010 License required.
- 5.20.020 Contractor, subcontractor and tradesman defined.
- 5.20.030 License fees.
- 5.20.040 Insurance and indemnification required.
- 5.20.050 Authority to deny license.
- 5.20.060 Suspension or revocation of license.

#### **5.20.010 License required.**

It is unlawful for any person, partnership, association, firm, corporation, or other entity to engage in the business of contracting, subcontracting, or as a tradesman as defined in this chapter in the town without having first obtained a license therefor as provided in this chapter. (Prior code §3-77)

#### **5.20.020 Contractor, subcontractor and tradesman defined.**

The term "contractor, subcontractor and tradesman" means and includes anyone engaged in the business, trade, calling, work, or occupation as listed in Section 5.20.030. (Prior code §3-78)

#### **5.20.030 License fees.**

The license fee to be charged for each category of contractor, subcontractor, and/or tradesman are listed below. The license fee shall be for the calendar year or any portion thereof and shall not be prorated. Licenses are not assignable or transferable and shall be renewable only upon the submission of a new application in each calendar year and providing that all of the current requirements for the license are fulfilled. The license fee shall be tendered with the application to the town clerk of the town and in no case shall a license be issued until the required fee has been paid and until all other requirements of the license as defined in this chapter have been met.

<i>License</i>	<i>Category</i>	<i>License Fee</i>
A. General building contractor (\$1,000.00 and up)	A	\$150.00
B. Building contractor, subcontractor, or tradesman	B	\$100.00
1. Lathing, plaster, drywall		
2. Roofing and waterproofing		
3. Masonry		
4. Well drilling		
5. Excavating		
6. Concrete		
7. Foundations and caissons		
8. Moving		
9. Swimming pool		
10. Structural and miscellaneous iron		
11. Welders		
12. Plumbers		
13. Hot water		
14. Pipeline		
C. Contractor, subcontractor, or tradesman	C	\$50.00
1. Siding		
2. Fencing		
3. Glass and glazing		
4. Patio and awning		
5. Skirting for mobile homes		
6. Temperature controls		
7. Tile setting		
8. Wrecking contractor		
9. Asphalt		
10. Painting		
11. Insulators		
12. Ditching		
13. Grading		
14. Drainlayers		
15. Sodlayers		
16. Gutter installation		
17. Signs		
18. Electrical Signs		
19. Sprinkler systems		
20. Alarms		
21. Fire protection		

(Ord. 571 §1, 2005; Prior code 3-79)

**5.20.040 Insurance and indemnification required.**

Each applicant for a license under this chapter must furnish, with his application for such license, proof of insurance, current for all times for which the license is sought, providing for the following minimum coverage: worker's compensation insurance, public liability insurance coverage not less than two hundred fifty thousand dollars for injury or death to one person, not less than five hundred thousand dollars for injury or death to more than one person in a single accident or event, and public property damage insurance not less than one hundred twenty-five thousand dollars for damages to or destruction of property for any one accident. The applicant must keep current the insurance at all times for which the license is issued and must file with the town clerk a certificate signed by a qualified agent of an insurance company evidencing the existence of valid and effective policies and worker's compensation and public liability and property damage insurance as required above naming the town as an additional insured, the limits of each policy, the policy number, the name of the insurer, the effective date and the expiration date of each policy, and a copy of an endorsement placed on each policy requiring ten days' notice by mail to the town clerk before the insurer may cancel the policy for any reason. Nothing in this section shall be construed to be a waiver of the town, its officers, employees or agents of sovereign immunity. Further, each applicant must agree to indemnify and save harmless the town against and from any and all damages and claims for damages, loss, costs, charges or expense that may be brought against the town by any person or entity for or on account of injury to persons or property resulting from or occasioned by reason of the act, omission to act or negligence of any person or entity performing work pursuant to the license. (Ord. 246 §30, 1988; prior code §3-80)

**5.20.050 Authority to deny license.**

- A. The town clerk may deny an application for a license under this chapter upon a determination that:
  - 1. The applicant has failed to supply any of the information required on the application;
  - 2. The applicant has failed to obtain required insurance;
  - 3. The applicant has failed to pay the required license fee;
  - 4. The applicant is not qualified by experience, training, or education to engage in the activity authorized by the license; or
  - 5. The applicant has been finally convicted of an offense and would create danger to the public health, safety, or welfare if the applicant were to engage in such offensive conduct after the license was issued.

B. If the town clerk denies a license application under this section, the town clerk shall notify the applicant in writing stating the specific grounds for the denial. The applicant may thereafter appeal the denial of the application by the town clerk to the board of trustees. (Ord. 246 §31, 1988; prior code §3-80.1)

**5.20.060 Suspension or revocation of license.**

- A. In addition to any other provisions of this code or other ordinances of the town, the town clerk may suspend or revoke a license or permit issued under this title if:
  - 1. The licensee fails to meet the qualifications required of an applicant;

2. The licensee violates any provision of this code or other ordinance of the town governing the activities permitted by the license;

3. The licensee obtained the license by fraud or misrepresentation; or

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

5. The licensee's acts, performance under the license is unworkmanlike, careless or reckless.

B. If the town clerk finds one of the grounds in subsection A of this section or any other ground for suspension or revocation in this code, the town clerk shall determine whether to revoke the license for the remainder of its term or suspend it for any shorter period according to the severity of the disqualification, its effect on public health, safety, and welfare, and the time during which the disqualification can be remedied, if at all.

C. Before the hearing required by subsection D of this section, the town clerk may suspend a license for up to fourteen days, if the town clerk determines that the suspension is in the interest of public health, safety, and welfare. The town clerk may include in the temporary suspension reasonable orders or conditions with which the licensee shall comply to protect any work in progress and the public health and safety. Any breach of such conditions or orders is an independent ground for suspension or revocation of the license.

D. Except for such emergency suspension authorized by subsection C of this section, no such suspension or revocation is final until the licensee has been given the opportunity for hearing before the board of trustees to contest the suspension or revocation.

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

F. No person whose license is revoked under this title may receive a refund of any part of the license fee paid for the license.

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

H. Nothing in this title shall be deemed to prohibit the town clerk or other authority from imposing other penalties authorized by this code other ordinances of the town, including filing a complaint in the town court for a violation of this code or other ordinance of the town. (Ord. 246 §32, 1988; prior code §3-81)

## **Chapter 5.24**

### **Concerts**

#### **Sections:**

- 5.24.010 operating an amplified sound system--Permit required.
- 5.24.020 Staging live or recorded music--Permit required.
- 5.24.030 Permit application--Contents--Deposit.
- 5.24.040 Processing applications--Clerk duties.
- 5.24.050 Permit issuance--Conditions.
- 5.24.060 Permit revocation.
- 5.24.070 Permit expiration hour.
- 5.24.080 Post-concert inspection--Cleanup costs.

**5.24.010 Operating an amplified sound system--Permit required.**

No person shall operate any public address system or other amplified sound system in a park, parkway, recreation area, or open space under circumstances reasonably expected to draw an audience of fifty or more people, without first obtaining a permit from the town clerk under this section. (Ord. 246 §62(part), 1988; prior code §4-24(a))

**5.24.020 Staging live or recorded music--Permit required.**

No person shall stage a concert of live or recorded music by an individual, band, or orchestra intended for or which can reasonably be expected to draw an audience of fifty or more people in a city park, parkway, recreation area, or open space without first obtaining a permit from the town clerk under this section. (Ord. 246 §62(part), 1988; prior code §4-24(b))

**5.24.030 Permit application--Contents--Deposit.**

An applicant for a permit shall file an application at least two days before the requested day of the concert along with a security deposit of twenty dollars. The application shall be signed by at least one adult resident of the town and, if the permit requested is for a live concert, the individual performer, band leader, or orchestra leader, and shall contain:

- A. The name and address of the individual or organization sponsoring the concert;
- B. The name, address, and telephone number of the individual in charge of the concert;
- C. The park or recreation area or portion thereof for which the permit is requested;
- D. The nature of the source of the music;
- E. The day and hours for which the permit is sought; and
- F. An estimate of the anticipated attendance. (Ord. 246 §62(part), 1988; prior code §4-24(c))

**5.24.040 Processing applications—Clerk duties.**

Upon receiving an application, the town clerk shall:

- A. Verify the accuracy of the information;

B. Review the schedule of park or recreation area use to determine whether there is a conflict with prior applications or scheduled activities of the parks and recreation department, which have priority; if there is a conflict, the clerk will notify the applicant to permit amendment of the application to avoid the conflict;

C. Review the requested site of the concert to determine whether or not the available seating, parking and sanitation facilities are adequate for the proposed use;

D. Review the proposed time of the concert and the estimated attendance and consider other relevant circumstances to insure that the security deposit is adequate to protect against possible damage to town property and defray costs of restoration of the premises to a neat and orderly condition. The clerk may require a deposit beyond the twenty dollars if the clerk determines that twenty dollars is insufficient. The board of trustees may direct the clerk to waive the requirement of a deposit. The clerk may also return the security deposit upon the determination that it is not necessary to protect the interests of the town. (Ord. 251 §7, 1989; Ord. 246 §62(part), 1988; prior code §4-24(d))

#### **5.24.050 Permit issuance—Conditions.**

If the applicant fulfills the requirements prescribed by this section, the clerk shall issue a permit unless the proposed concert would exceed the available seating, parking and sanitation facilities. Each permit is subject to the following conditions:

A. The applicant takes all reasonable steps to protect town facilities and property, including flora and fauna, against damage;

B. The applicant cleans and restores the premises to a neat and orderly condition;

C. The applicant charges no admission for the concert unless it is a town-sponsored event;

D. The applicant is responsible to assure that the noise emanating from the music source does not disturb the peace of the immediate neighborhood;

E. The applicant is responsible to assure that all members of the band or orchestra comply with all applicable state and town laws and ordinances; and

F. The applicant insists at all times that the members of the audience comply with all applicable state and city laws and ordinances. (Ord. 246 §62(part), 1988; prior code §4-24(e))

#### **5.24.060 Permit revocation.**

The town clerk or chief of police may revoke a permit issued under this section at any time during the course of the concert for breach of any of the conditions prescribed by Section 5.24.050 above. If the permit is revoked pursuant to this section, the concert must cease immediately. No person shall continue the concert after the permit has been revoked. (Ord. 700 §12, 2008; Ord. 246 §62(part), 1988; prior code §4-24(f))

#### **5.24.070 Permit expiration hour.**

No permit issued under the provisions of this section will expire later than ten p.m. (Ord. 246 §62(part), 1988; prior code §4-24(g))

#### **5.24.080 Post-concert inspection--Cleanup costs.**

After the concert and during working hours, each permittee under this section shall contact the town clerk to inspect the area used in the concert. If no damage has been done and the area has been properly cleaned, the town clerk shall return the security deposit. If the permittee has failed to meet the obligations prescribed by this section, the town clerk shall retain a sum from the deposit sufficient to cover the damage or restore the premises to a neat condition. If the security deposit does not completely indemnify the town for damage or cleaning costs necessary to restore the area, the permittee shall not fail to pay forthwith to the town a sum to cover these extra costs. (Ord. 246 §62(part), 1988; prior code §4-24(h))

### **Chapter 5.28**

#### **Games**

##### **Sections:**

- 5.28.010 License required.
- 5.28.020 License fees.
- 5.28.030 Shooting gallery safety.

#### **5.28.010 License required.**

It is unlawful for any person to carry on the business of keeper, for gain or hire within the town, of any billiard table, bagatelle table, pigeon-hole table, shuffleboard, pin alley, shooting gallery or other games of skill, skating rink, table on which games are played with balls, or any place where pinball machines or photo-electric machines are played, without first obtaining a license therefor. (Prior code §4-20)

#### **5.28.020 License fees.**

For a license for one year to keep one table of any kind mentioned in Section 5.28.010, one pin alley or one shooting gallery, the sum of five dollars shall be paid. For each additional table, alley or shooting gallery, five dollars shall be paid each year. For a license of one year to keep one skating rink or other place of amusement not classified as a billiard hall, pool room or bowling alley, the sum of fifty dollars shall be paid. For a miniature golf course, the sum of sixty dollars shall be paid. For any place where shuffleboards, pinball machines, photo-electric machines, or similar machines are used, ten dollars per year. For the operation of any other games of skill, one dollar per day. (Prior code §4-21)

#### **5.28.030 Shooting gallery safety.**

No gun, weapon or explosive shall be used in any shooting gallery of a size to endanger life or limb, or to frighten horses or other animals or to cause any annoyance to the people in the vicinity in which such gallery is situated, and all such galleries shall be securely enclosed and have a protection of plank or other obstruction sufficient to arrest any projectile in or about any such gallery. (Prior code §4-22)

## Chapter 5.32

### Pawnbrokers, Junk Dealers and Secondhand Stores

#### Sections:

- 5.32.010 License required.
- 5.32.020 License application.
- 5.32.030 License denial.
- 5.32.040 Change of address.
- 5.32.050 Suspension or revocation of license.

#### **5.32.010 License required.**

A. No person shall operate a secondhand store or a place for buying and selling, including without limitation, selling on consignment, secondhand goods, or engage in the business of keeping a place for buying and selling junk, without first obtaining a license therefor from the town clerk under this chapter.

B. No person shall engage in the business of pawnbroking without first obtaining a license therefor from the town clerk under this chapter.

C. Nothing in this chapter shall be deemed to apply to a garage sale or rummage sale, unless it is held at the same address more than twice per year. (Ord. 246 §63(part), 1988; prior code §4-46)

#### **5.32.020 License application.**

A. An application for a license under this chapter shall apply on forms furnished by the town clerk, including without limitation, the full name of the applicant and the address of the location at which such business is to be conducted and any other information required by the town clerk to establish the fitness, financial responsibility, and character required to obtain a license, and shall pay an annual fee of one hundred dollars.

B. An applicant for a pawnbroker license shall also:

1. Furnish to the town a bond from a surety approved by the town clerk in the amount of five thousand dollars, to be forfeited if the applicant fails to comply with the requirements of this chapter or if the applicant fails to keep safely or return all articles pledged to the applicant; and

2. Provide to the town clerk proof of fire and property damage insurance policies upon the property the applicant holds as pledge in the minimum amount of one-half its pledged value in case of fire. (Ord. 246 §63(part), 1988; prior code §4-47)\*

#### **5.32.030 License denial.**

A. The town clerk may deny an application for a license under this chapter upon a finding that:

1. The applicant has failed to supply any of the information required on the application; or

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\* Editor's note: Ord. 246 added two sections numbered Section 4-47.

2. The applicant has failed to provide the required bond or pay the required annual fee; or
3. The applicant is not qualified by experience, training, or education to engage in the activity authorized by the license; or
4. The applicant has been finally convicted of an offense and would create danger to the public health, safety or welfare if the applicant were to engage in such offensive conduct after the license was issued; or
5. The applicant has had any secondhand dealer or pawnbroker or junk dealer license revoked or suspended; or
6. The applicant has previously failed to comply with this code or any ordinance of the town relating to conducting any secondhand dealer or pawnbroker or junk dealer business licensed by this town.

B. In the town clerk denies a license application under this section, the town clerk shall notify the applicant in writing stating the specific grounds for the denial. The applicant may thereafter appeal the denial of the application by the town clerk to the board of trustees. (Ord. 246 §63(part), 1988; prior code §4-47)\*

**5.32.040 Change of address.**

No person licensed under this chapter shall move its place of storing pledged, secondhand, or consigned articles without first having notified the town clerk, who shall note the change of address upon the license. (Ord. 246 §63(part), 1988; prior code §4-48)

**5.32.050 Suspension or revocation of license.**

In addition to any other provisions of the town, the town clerk may suspend or revoke a license or permit issued under this chapter pursuant to the procedures and requirements of Section 5.04.140. (Ord. 246 §63(part), 1988; prior code §4-49)

**Chapter 5.36**

**Refuse Haulers**

**Sections:**

- 5.36.010 License required.
- 5.36.020 Definitions.
- 5.36.030 Application for license; bond.
- 5.36.040 Refusal to issue or renew license.
- 5.36.050 Disposal only at approved sites.
- 5.36.060 Damage prohibited.
- 5.36.070 Vehicle and other requirements.
- 5.36.080 Violations.
- 5.36.090 Regulations.

### **5.36.010 License required.**

No person shall act as a refuse hauler without first applying for and obtaining a license from the town clerk as required by this chapter, and paying the annual license fee and the bond required by this chapter. (Ord. 366 §1(part), 1997)

### **5.36.020 Definitions.**

As used in this chapter, the following definitions shall apply:

A. "Refuse" means and includes ashes, trash, waste, rubbish, garbage or other discarded material, and shall be deemed to include but not be limited to leaves, grass, limbs, weeds, trimmings, cans, bottles, rags, paper, boxes and any other matter ordinarily discarded in or about dwelling houses, commercial establishments or industrial sites.

B. "Refuse hauler" means 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 town, except any person removing refuse from his or her own property with his or her own vehicle. (Ord. 366 §1(part), 1997)

### **5.36.030 Application for license; bond.**

A. Application for a refuse hauler's license shall be made annually on forms furnished by the town.

B. The completed application shall be accompanied by payment of an annual license fee in the amount of fifty dollars and a faithful performance bond in the amount of twenty-five thousand dollars. The bond shall be conditioned on the performance by the licensee and the licensee's officers, employees and agents of all activities associated with refuse hauling in compliance with the ordinances, resolutions, rules and regulations of the town and in compliance with other applicable laws. The bond shall be in a form approved by the town clerk.

C. In lieu of a bond, the town clerk may accept a cash deposit in the amount of five thousand dollars. The deposit shall guarantee the performance by the licensee and the licensee's officers, employees and agents of all activities associated with refuse hauling in compliance with the ordinances, resolutions and rules and regulations of the town and in compliance with other applicable laws and, in the event of any failure to so perform, the town clerk may draw against the deposit an amount sufficient to compensate the town or any other person injured by such failure.

D. No license fee shall be required to be paid by, and no bond or cash deposit shall be required for, any refuse hauler who provides refuse hauling services under contract to the town, if the contract for such services contains an indemnification provision running in favor of the town, and such provision protects and holds the town harmless from liability for bodily injury or property damage occasioned by the hauler. (Ord. 366 §1(part), 1997)

### **5.36.040 Refusal to issue or renew license.**

In addition to any other applicable grounds, the town clerk may refuse to issue or renew a license, if the clerk 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 town 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;
3. The applicant or licensee has permitted any person to operate a vehicle for refuse hauling purposes if such person does not hold a valid driver's license for such vehicle; or
4. The applicant or licensee has otherwise failed to comply with any ordinances, resolutions, rules or regulations of the town, or with other applicable laws. (Ord. 366 §1(part), 1997)

**5.36.050 Disposal only at approved sites.**

No person shall deposit any refuse at any location in the town except an approved site for the disposal of refuse. (Ord. 366 §1(part), 1997)

**5.36.060 Damage prohibited.**

No person shall operate any refuse hauling vehicle in a manner that causes damage, other than ordinary wear and tear, to any town street, alley or curb, or in a manner that causes damage to any public or private property. (Ord. 366 §1(part), 1997)

**5.36.070 Vehicle and other requirements.**

A. No vehicle shall be used for refuse hauling unless it meets the following requirements:

1. It has a permanent cover of canvas or equally suitable or superior material designed to cover the entire open area of the body of the vehicle;
2. It has a body so constructed as to be permanently leakproof as to all refuse being hauled; and
3. Its extensions of sideboards and its tailgate, if any, are constructed of permanent materials.

B. No refuse hauler shall operate any vehicle for the purpose of collection of refuse or recyclable materials within any residential zoning district of the town at any times other than between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday.

C. No refuse hauler shall operate any vehicle for the purpose of collection of refuse or recyclable materials within any nonresidential district of the town at any times other than between the hours of 7:00 a.m. and 10:00 p.m., Monday through Friday.

D. Collection is permitted on Saturdays between the hours set forth, respectively, in Subsections B and C of this section, only if a town-recognized holiday occurred within the immediately preceding week or the director of operations has in advance authorized such Saturday collection as a catch-up because of inclement weather.

E. No refuse hauling vehicle having a gross vehicle weight of six thousand pounds or more shall be operated so as to exceed a noise level standard of 86 db(A) on any street with a posted speed limit of forty-five miles per hours or less. Sound pressure levels in excess of such limit are considered unreasonable noise and are prohibited. For purposes of this section, the sound pressure level shall be measured at a distance of fifty feet from the lane of travel being monitored at a height of at least four feet above the immediate surrounding grade, on a sound level meter of standard design and operated on the A scale.

F. The refuse hauler shall be responsible for promptly collecting refuse spilled during the conduct of its refuse hauling activities. (Ord. 712 §1, 2009; Ord. 540 §1, 2003; Ord. 366 §1(part), 1997)

#### **5.36.080 Violations.**

No person shall fail to comply with any provision of this chapter, or with any condition imposed in connection with the issuance or renewal of a license pursuant to this title. (Ord. 366 §1(part), 1997)

#### **5.36.090 Regulations.**

The board of trustees may adopt, by resolution, such rules and regulations as it determines necessary or desirable to carry out the provisions of this chapter. (Ord. 366 §1(part), 1997)

### **Chapter 5.40**

#### **Transient Merchants, Solicitors and Peddlers**

##### **Sections:**

- 5.40.010 License required.
- 5.40.020 Definitions.
- 5.40.030 Exemptions.
- 5.40.040 Sales prohibited.
- 5.40.050 Revocation of license.
- 5.40.060 Miscellaneous requirements, prohibited activities and penalty.

#### **5.40.010 License required.**

Notwithstanding any other provision in this code, it shall be unlawful for any transient merchant, solicitor or peddler, as defined herein, to engage in such business within the corporate limits of the town without first obtaining a business license in compliance with the provisions of Chapter 5.04, and a sales tax license, as applicable, in compliance with the provisions of Chapter 3.08. (Ord. 610 §4, 2006; Ord. 292 §1(part), 1992)

#### **5.40.020 Definitions.**

As used in this chapter, the following definitions shall apply:

A. "Solicitor" is any person who travels by any means from residence to residence, street to street, or place to place, soliciting funds or other forms of assistance, or taking or attempting to take orders for the sale of personal property of any nature for future delivery or for services to be performed or furnished in the future.

B. "Peddler" is any person who travels by any means from residence to residence, street to street, or place to place, selling and delivering or offering to sell and deliver any personal property of any nature or services.

C. "Transient merchant" is any person who rents, erects, purchases or utilizes any room, storeroom, tent, building or other structure or place for the purpose of selling or offering for sale any personal property of any nature at such location, without the intent of establishing a permanent business at such location. (Ord. 610 §4, 2006; Ord. 292 §1(part), 1992)

#### **5.40.030 Exemptions.**

A. For the purposes of this chapter, "solicitor" shall not include any organization, society, association or corporation desiring to solicit or have solicited in its name money, donations of 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.

B. For the purposes of this chapter, "solicitor" shall not include bona fide religious, charitable, school and civic organizations, or other organizations eligible for exemption under Section 501(c) of the Internal Revenue Code.

C. For purposes of this chapter, "solicitor" shall not include any person engaged in distribution of noncommercial information in the exercise of such person's First Amendment rights under the United States Constitution. (Ord. 610 §4, 2006)

#### **5.40.040 Sales prohibited.**

No person shall sell or offer for sale any goods, services or any other thing of value from or upon any street, alley, sidewalk, park or property owned or controlled by the public or by the town, except as may be authorized by the town. (Ord. 610 §4, 2006)

#### **5.40.050 Revocation of license.**

A. In addition to revocation for business licenses under Section 5.04.160, any business license issued for a transient merchant, solicitor or peddler under Chapter 5.04 may be revoked by the town, after notice and hearing as set forth in Chapter 5.04, for any of the following causes:

1. Fraud, misrepresentation or false statement made in the course of carrying on business as a solicitor, peddler or transient merchant;
2. Any violation of this code;
3. Conviction of any person working for or on behalf of the transient merchant, solicitor or peddler of any crime or misdemeanor; or
4. Conducting the business allowed by the license 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 business license shall be given in writing in accordance with the provisions set forth in Section 5.04.160. (Ord. 610 §4, 2006; Ord. 292 §1(part), 1992)

**5.40.060 Miscellaneous requirements, prohibited activities and penalty.**

A. Each solicitor, peddler and transient merchant shall exhibit, at the request of any person, the license issued under the provisions of Chapter 5.04.

B. It shall be unlawful for any person to engage, or cause any agent or employee of such person to engage, in soliciting or peddling at any residence or place on which a sign has been conspicuously displayed with the words "No Solicitors" or "No Peddlers" or other such similar language.

C. It shall be unlawful for a solicitor or peddler to remain and refuse to leave immediately, or to instruct and cause any agent or employee to remain and refuse to leave immediately, the residence or place of another, after being requested by the owner or other person having the right to occupy such residence to leave, whether or not any "No Solicitors" or "No Peddlers" signs have been displayed.

D. A violation of this chapter shall be punishable as set forth in Chapter 1.16 of this code. (Ord. 610 §4, 2006; Ord. 292 §1(part), 1992)

**Chapter 5.44**

**Animal Industries**

**Sections:**

- 5.44.010 Permit—Required.
- 5.44.020 Definitions.
- 5.44.030 Application for permit.
- 5.44.040 Issuance or denial of permit.
- 5.44.050 Suspension or revocation of permit.
- 5.44.060 Miscellaneous requirements.

**5.44.010 Permit—Required.**

No person shall locate or manage any slaughterhouse, packing house, rendery, tallow candlery, bone factory, soap factory, tannery or dairy within the limits of the town without first obtaining annually a management permit in compliance with the provisions of this chapter. (Ord. 422 §1, 1999; Ord. 416 §1(part), 1999)

**5.44.020 Definitions.**

For purposes of this chapter only, the following words shall have the following meanings:

A. "Animal unit" means a term and number used to establish an equivalency for various species of livestock. The maximum number of any combination of livestock and their equivalents which may be managed within a premises subject to this chapter is as specified in Section 5.44.050.

B. "Dairy" means an establishment for the primary production and subsequent sale or distribution of milk and/or milk products.

C. "Livestock" means cattle, bison, mules, burros, llamas, ostriches, elk, horses, swine, sheep, goats, poultry and rabbits.

D. "Lot" means the basic development unit, an area with fixed boundaries, used or intended to be used by one building and its accessory uses, structures and/or buildings. A lot shall not be divided by any public highway, street or alley. (Ord. 416 §1(part), 1999)

#### **5.44.030 Application for permit.**

A. Application for the permit referred to in Section 5.44.010 shall be made on forms provided by the town clerk for that purpose, and shall be accompanied by a permit fee of one hundred fifty dollars.

B. The applicant shall furnish the following information on the application:

1. The name, business address and telephone number of the applicant;
2. The address and legal description of the premises for which the application for a permit is being made, together with a copy of the deed, lease or other acceptable proof of ownership and/or possession of such premises;
3. Where applicable, the types and numbers of animals and animal units which will be kept on the premises; and
4. Such other information as reasonably requested by the town clerk. (Ord. 416 §1(part), 1999)

#### **5.44.040 Issuance or denial of permit.**

Upon receipt of a complete application, proof that the annual permit fee has been paid, and proof that the application complies with all requirements of this chapter and with other applicable laws, the town clerk shall issue and deliver to the applicant the permit requested. If the town clerk denies a permit under this chapter, the town clerk shall in writing notify the applicant of the specific reasons for denial. Should the applicant object to the denial, an appeal to the board of trustees must be filed in writing with the town clerk within thirty days of transmittal of notice of denial. The board shall affirm or reverse the disapproval after notice and hearing. (Ord. 416 §1(part), 1999)

#### **5.44.050 Suspension or revocation of permit.**

A permit may be suspended or revoked for the reasons and in the manner stated in Chapter 5.04 of this title. (Ord. 416 §1(part), 1999)

#### **5.44.060 Miscellaneous requirements.**

In addition to any other requirements of this code, an application for a permit under this chapter shall be granted only upon a showing that the premises will be managed in compliance with the following requirements:

A. The premises are in compliance with all applicable building, subdivision and zoning regulations of the town for any premises located within the town.

B. For any premises located within the town, the maximum amount of livestock permitted shall be pursuant to the Firestone Development Regulations.

C. Management of the premises shall be in accordance with minimum management requirements, as adopted by the board of trustees from time to time by resolution. Such minimum management requirements shall be on file with the town clerk and available to interested persons upon request. (Ord. 422 §2, 1999; Ord. 416 §1(part), 1999)

## **Chapter 5.46**

### **Sexually Oriented Businesses**

#### **Sections:**

- 5.46.010 Purpose and intent.
- 5.46.020 Definitions.
- 5.46.030 Exemptions.
- 5.46.040 Unlawful acts.
- 5.46.050 License fees.
- 5.46.060 Inspection.
- 5.46.070 Sexually oriented business license required.
- 5.46.080 Application for sexually oriented business license.
- 5.46.090 Duty to supplement application.
- 5.46.100 Investigation of application.
- 5.46.110 Issuance of sexually oriented business license.
- 5.46.120 Manager's license required; change of manager.
- 5.46.130 Application for manager's license.
- 5.46.140 Interior lighting regulations.
- 5.46.150 Stage required in adult cabaret and adult theater.
- 5.46.160 Conduct in sexually oriented business.
- 5.46.170 Employee tips.
- 5.46.180 Regulation of peep booths.
- 5.46.190 Hours of operation.
- 5.46.200 Minimum age.
- 5.46.210 Expiration of sexually oriented business license.
- 5.46.220 Suspension of sexually oriented business license.
- 5.46.230 Revocation of sexually oriented business license.
- 5.46.240 Suspension or revocation hearing.
- 5.46.250 Transfer of sexually oriented business license.
- 5.46.260 Expiration of manager's license.
- 5.46.270 Suspension of manager's license.
- 5.46.280 Revocation of manager's license.
- 5.46.290 Suspension or revocation hearing.
- 5.46.300 Notice.
- 5.46.310 Judicial review.

#### **5.46.010 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 town, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the town, 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. 443 §5, 2000)

#### **5.46.020 Definitions.**

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

- A. "Adult arcade" shall have the meaning set forth in Chapter 17.08 of this code.
- B. "Adult bookstore, adult novelty store or adult video store" shall have the meaning set forth in Chapter 17.08 of this code.
- C. "Adult cabaret" shall have the meaning set forth in Chapter 17.08 of this code.
- D. "Adult motel" means a hotel, motel or similar commercial establishment which offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmission, films, motion pictures, video cassettes, slides or other photographic productions however produced which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions.
- E. "Adult motion picture theater" shall have the meaning set forth in Chapter 17.08 of this code.
- F. "Adult theater" shall have the meaning set forth in Chapter 17.08 of this code.
- G. "Commercial Establishment" shall have the meaning set forth in Chapter 17.08 of this code.
- H. "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.
- I. "Establishment of a sexually oriented business" shall have the meaning set forth in Chapter 17.08 of this code.
- J. "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.

- K. "Licensing officer" means the town clerk or his or her designee.
- L. "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.
- M. "Nude model studio" shall have the meaning set forth in Chapter 17.08 of this code.
- N. "Nudity or state of nudity" shall have the meaning set forth in Chapter 17.08 of this code.
- O. "Operator" means and includes the owner, license holder, custodian, manager, operator or person in charge of any licensed premises.
- P. "Park" shall have the meaning set forth in Chapter 17.08 of this code.
- Q. "Peep booth" means a room, semi-enclosure or other similar area located within a licensed premises wherein a person may view representations of specified anatomical areas or specified sexual activities.
- R. "Person" shall have the meaning set forth in Chapter 17.08 of this code.
- S. "Premises or licensed premises" means any premises that requires a sexually oriented business license and that is classified as a sexually oriented business, including parking lots and sidewalks immediately adjacent to the structure containing the sexually oriented business.
- T. "Principal owner" means any person owning, directly or beneficially, ten percent or more of the ownership interests in the entity.
- U. "Seminude or seminudity" shall have the meaning set forth in Chapter 17.08 of this code.
- V. "Sexually oriented business" shall have the meaning set forth in Chapter 17.08 of this code.
- W. "Specified anatomical areas" shall have the meaning set forth in Chapter 17.08 of this code.
- X. "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.
- Y. "Specified sexual activities" shall have the meaning set forth in Chapter 17.08 of this code.
- Z. "Transfer of ownership or control of a sexually oriented business" means and includes any of the following:
1. The sale, lease or sublease of the business;
  2. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means; or

3. 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. 443 §5, 2000)

**5.46.030 Exemptions.**

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

- A. A college, junior college or university supported entirely or partly by taxation;
- B. A private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or
- C. 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 days in advance of the class; and where no more than one nude model is on the premises at any one time. (Ord. 443 §5, 2000)

**5.46.040 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. 443 §5, 2000)

**5.46.050 License fees.**

- A. The annual fee for a sexually oriented business license is two hundred dollars.
- B. The annual manager's license fee is fifty dollars.
- C. An applicant for a sexually oriented business license shall pay a nonrefundable application fee of five hundred dollars at the time of filing an application. (Ord. 443 §5, 2000)

**5.46.060 Inspection.**

A. An applicant or licensee or manager shall permit representatives of the licensing officer, 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. 443 §5, 2000)

**5.46.070 Sexually oriented business license required.**

A. No sexually oriented business license shall be issued for any sexually oriented business located within any area of the town except for PUD, RC and NC areas located west of Road 13 and south of Road 20.

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 town.

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 5.08 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.

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

1. The business does not have a sexually oriented business license;
2. The business has a sexually oriented business license that is under suspension;
3. The business has a sexually oriented business license that has been revoked; or
4. The business has a sexually oriented business license which has expired. (Ord. 443 §5, 2000)

#### **5.46.080 Application for sexually oriented business 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 or designee is responsible for providing information on whether an applicant has been convicted of a specified criminal act during the time periods set forth in Section 5.46.110.C.1(i).

C. Any person desiring to operate a sexually oriented business shall file with the licensing officer an original and two 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 years of age or older in the case of a type A sexually oriented business license or eighteen 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, and 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' fictitious name must be stated.

4. Whether the applicant or any of the other individuals listed pursuant to Subsections D.1 or D.2 of this section have been convicted of a specified criminal act within the times set forth in Section 5.46.110.C.1(i), 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 Subsections D.1 or D.2 of this section has had a previous license under this or other sexually oriented business ordinance from another city, town or county denied, suspended or revoked and, if so, the name of the city, town 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 Subsections 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 city, town 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 Subsections D.1 or D.2 of this section holds any other licenses under this chapter or other sexually oriented business ordinance from another city, town or county and, if so, the name of such city, town 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 Section 17.50.020.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 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 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 days prior to an initial application by a Colorado registered land surveyor depicting: (i) the property lines and the structures of the property to be certified; (ii) the location of the property lines of any school within one thousand five hundred feet of the property to be certified; (iii) the location of the property lines of any church, dwelling or residential zone district within one thousand feet of the property to be certified; and (iv) the location of the property lines and structures of any other sexually oriented business within one thousand five hundred feet of the property to be certified. For purposes of this section, a use 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 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 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. 443 §5, 2000)

#### **5.46.090 Duty to supplement application.**

A. Applicants for a sexually oriented business license shall have a continuing duty to promptly supplement any application information required by that section 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 days from the date of such change shall be grounds for suspension of a sexually oriented business license. (Ord. 443 §5, 2000)

#### **5.46.100 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 planning director, the building official and the police chief. The planning director, the building official and the police chief, or their respective designees, 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 days of receipt of the application by the licensing officer. At the conclusion of their investigations, the planning director 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 5.46.080.B of this code, and shall not be required to approve or disapprove applications.

B. The planning director and the 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 town. After their investigations and review, the planning director, the building official and the police chief shall immediately return the copy of the application to the licensing officer. (Ord. 443 §5, 2000)

#### **5.46.110 Issuance of sexually oriented business license.**

A. The licensing officer shall grant or deny an application for a sexually oriented business license within thirty days from the date of its proper filing. Upon the expiration of the thirty 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. Grant of application for sexually oriented business license.

1. The licensing officer shall grant the sexually oriented business license unless one or more of the criteria set forth in Subsection C below is present.

2. 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. Denial of application for sexually oriented business license.

1. The licensing officer shall deny the application for any of the following reasons:

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

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

(c) 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.

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

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

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

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

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

(i) An applicant has been convicted of a specified criminal act or acts for which: (i) less than two 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; (ii) less than five 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 (iii) less than five 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 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 or acts may qualify for a sexually oriented business license only when the time period required above has elapsed.

2. 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 town attorney. (Ord. 443 §5, 2000)

#### **5.46.120 Manager's license required; change of manager.**

A. A manager or designee 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 days of such change. (Ord. 443 §5, 2000)

#### **5.46.130 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 and telephone number, the names and addresses of the sexually oriented businesses that the manager proposes to manage and the information required in Section 5.46.080.

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 Section 5.46.110.C.1(i).

C. The licensing officer shall grant the application within ten days of its filing unless:

1. The applicant is under the age of twenty-one in the case of a type A sexually oriented business license or under the age of eighteen 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;

4. The applicant has been convicted of a specified criminal act within the times set forth in Section 5.46.110.C.1(i). (Ord 1-02 §5, 2001; Ord. 443 §5, 2000)

**5.46.140 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 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. 443 §5, 2000)

**5.46.150 Stage required in adult cabaret and adult theater.**

Any adult cabaret or adult theater shall have one 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 feet of the edge of the stage. No members of the audience shall be permitted upon the stage or within three feet of the edge of the stage. (Ord. 443 §5, 2000)

**5.46.160 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 which 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 Section 17.50.020.C. of this code. (Ord. 443 §5, 2000)

**5.46.170 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 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 or more signs to be conspicuously visible to the patrons on the premises, in bold letters at least one 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. 443 §5, 2000)

#### **5.46.180 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 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 has two 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 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 5.46.080.

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 has two 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 of the managers' 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 which has been designated as an area in which patrons will not be permitted in the application filed pursuant to Section 5.46.080.

D. No peep booth may be occupied by more than one person at any one 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 adjacent peep booths. (Ord. 443 §5, 2000)

#### **5.46.190 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:

A. On any Tuesday through Saturday from 2:00 a.m. until 7:00 a.m.;

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

C. On any Sunday from 2:00 a.m. until 8:00 a.m.;

D. On any Monday which falls on January 1 from 2:00 a.m. until 7:00 a.m. (Ord. 443 §5, 2000)

#### **5.46.200 Minimum age.**

A. It shall be unlawful for any person under the age of twenty-one years to be upon the premises of a sexually oriented business that operates pursuant to a type A sexually oriented business license or for any person under the age of eighteen years to be upon the premises of a sexually oriented business that operates pursuant to a type B sexually oriented business license.

B. It shall be unlawful for the licensee, manager or any employee of the licensee to allow anyone under the age of twenty-one years to be upon the premises of a sexually oriented business operated pursuant to a type A sexually oriented business license or to allow anyone under the age of eighteen years upon the premises of a sexually oriented business that operates pursuant to a type B sexually oriented business license. (Ord. 443 §5, 2000)

#### **5.46.210 Expiration of sexually oriented business license.**

A. Each sexually oriented business license shall expire one year from the date of issuance and may be renewed only by making application as provided in Section 5.46.080 (for renewals, filing of original survey shall be sufficient) of this chapter. Application for renewal of a sexually oriented business license shall be made at least thirty 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 days have elapsed since the date denial became final. (Ord. 443 §5, 2000)

#### **5.46.220 Suspension of sexually oriented business license.**

A. The licensing officer may suspend a sexually oriented business license for a period not to exceed one hundred fifty 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; or

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

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 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; or

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. 443 §5, 2000)

#### **5.46.230 Revocation of sexually oriented business license.**

A. The licensing officer shall 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 months; or

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; or

3. A licensee, manager or an 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; or

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

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

6. A licensee has been convicted of a specified criminal act for which the time period set forth in Section 5.46.110.C.1.(i) has not elapsed; or

7. On two or more occasions within a twelve-month period, a person or 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 person or 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; or

8. A licensee is delinquent in payment to the town or state for any taxes or fees; or

9. A licensee, manager or an 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 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 year and the licensee shall not be issued a sexually oriented business license for one year from the date revocation became effective. (Ord. 443 §5, 2000)

#### **5.46.240 Suspension or revocation hearing.**

A. A licensee shall be entitled to a hearing before the licensing officer if the town 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 town 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 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 sexually oriented business license within thirty 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 chapter 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. 443 §5, 2000)

**5.46.250 Transfer of sexually oriented business 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 a 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 5.46.080 in the application; and

2. Pays a transfer fee of twenty percent 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. 443 §5, 2000)

**5.46.260 Expiration of manager's license.**

A. Each manager's license shall expire one year from the date of issuance and may be renewed only by making application as provided in Section 5.46.130. Application for renewal of a manager's license shall be made at least thirty 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 days have elapsed since the date denial became final. (Ord. 443 §5, 2000)

**5.46.270 Suspension of manager's license.**

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

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

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

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. 443 §5, 2000)

**5.46.280 Revocation of manager's license.**

A. The licensing officer shall 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 months; or

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; or

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; or

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

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

6. The manager has been convicted of a specified criminal act for which the time period set forth in Section 5.46.110.C.1.(i) has not elapsed; or

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 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 year and the licensee shall not be issued a manager's license for one year from the date revocation became effective. (Ord. 443 §5, 2000)

**5.46.290 Suspension or revocation hearing.**

A. A manager shall be entitled to a hearing before the licensing officer if the town 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 town 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 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 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 manager's license issued under this ordinance 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. 443 §5, 2000)

#### **5.46.300 Notice.**

Any notice required by this chapter shall be deemed sufficient if it is deposited in first class mail, postage pre-paid, to the address on the application and shall be effective upon mailing. (Ord. 443 §5, 2000)

#### **5.46.310 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. 443 §5, 2000)