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ARTICLE I**Licenses Generally****Sec. 6-1-10. General requirements.**

Whenever any person, firm, partnership or corporation engages in the operation or conduct of any business or establishment in the Town, or in doing business or engaging in activity for profit in the Town, as designated and set out herein, such person, firm, partnership or corporation so engaged or occupied shall be subject to the requirements of this Chapter. No person, firm, partnership or corporation shall commence to operate any business or establishment in the Town without first obtaining a license therefor from the Town. It shall also be unlawful for a licensee to continue to engage in any business or activity after the license therefor has expired. (Ord. 453 §1, 2002)

Sec. 6-1-20. Applications.

Applications for all licenses required shall be made in writing to the Town on forms provided and containing such information as may be needed for proper guidance in issuing of the permit or license applied for. Licenses shall not be issued for incomplete applications. A separate application and license is required for each location of the business if the business has multiple locations. No license shall be issued to any person unless such person is over the age of eighteen (18) years and is of good moral character and financial responsibility. The Town shall keep a register of all licenses issued under this Chapter that includes the name and address of the licensee, the purpose of the license, the number of the license, the amount paid therefor and the license expiration date. (Ord. 453 §1, 2002)

Sec. 6-1-30. License term.

Each license obtained pursuant to the provisions of this Chapter shall be valid between January 1 and December 31 of the year purchased, unless sooner revoked or unless otherwise specified in this Chapter. (Ord. 453 §1, 2002)

Sec. 6-1-40. License fee.

There shall be imposed an annual license fee of fifteen dollars (\$15.00) for each license issued. When an applicant has not engaged in the business until after a portion of the licensing year has lapsed, the license fee and term shall be prorated in monthly increments to December 31 for each month or portion thereof during which the business has been or will be conducted. However; there shall be a penalty of fifteen dollars (\$15.00) for each month or portion thereof for any license purchased as a renewal of an existing license on or after January 1 for the licensing year, if the business was in operation on January 1 and the required applications were not submitted or the required fee was not paid prior to January 1. There shall also be a penalty of fifteen dollars (\$15.00) for each month or portion thereof for any new license purchased if the business was in operation and the required applications were not submitted or the required fee was not paid during the month that the business commenced. (Ord. 453 §1, 2002)

Sec. 6-1-50. Renewals.

All licensees shall file an application for a renewed license for each succeeding year and pay the required fee therefor, on or before the expiration date of any license or licenses issued for the preceding year. (Ord. 453 §1, 2002)

Sec. 6-1-60. Investigation.

Where any provision of this Article necessitates an inspection or investigation before the issuance of a license, a designated employee or officer of the Town, after presentation of proper credentials, may enter the building at all reasonable times to inspect the same; provided that, except in emergency situations, the employee or officer shall give the owner or occupant twenty-four (24) hours' written notice. The notice shall state that the property owner or occupant has the right to refuse entry, and such refusal is not a violation of law. However, if such entry is refused, inspection may be made after issuance of a search warrant by a duly authorized magistrate, based upon probable cause. (Ord. 453 §1, 2002)

Sec. 6-1-70. Transfers.

No license may be transferred from one (1) person or entity to another, or from one (1) place to another, except where permitted by state law or the provisions of this Code relating to the particular license, and then only after written application therefor and the payment of a fee of five dollars (\$5.00) for the transfer of such license. (Ord. 453 §1, 2002)

Sec. 6-1-80. Use of public property.

No licensee under this Chapter engaged in the selling or trading of tangible goods or items of any kind shall display, store or otherwise keep such goods or items on any public property, including but not limited to parks, open spaces, sidewalks, streets and other public rights-of-way, unless otherwise regulated in this Code or under state law. (Ord. 453 §1, 2002)

Sec. 6-1-90. Code requirements.

No license shall issue for the conduct of any business if the premises to be used for the purpose do not comply with this Article and building, zoning and business codes of the Town. (Ord. 453 §1, 2002)

Sec. 6-1-100. Posting of license.

It shall be the duty of any person conducting a licensed business in the Town to keep the license posted in a prominent place on the premises used for such business at all times. (Ord. 453 §1, 2002)

Sec. 6-1-110. Exemptions.

The licenses herein required shall not apply to newspaper carriers, persons or businesses under contract with the Town, volunteer charitable and nonprofit businesses or benefits, suppliers of products for resale by a licensed person, or door-to-door or telephone solicitation sales and services which do not provide the livelihood of the person so engaged, or when annual gross receipts do not exceed three thousand dollars (\$3,000.00). (Ord. 453 §1, 2002)

Sec. 6-1-120. Revocation.

(a) Any license may be revoked upon seven (7) days' written notice and upon opportunity for hearing as set forth in Section 6-1-130, if the Town finds:

- (1) The licensee has failed to file any required reports;
- (2) The licensee has violated any of the terms of his or her license;
- (3) Any fact or condition exists which, if it had existed or been known to exist at the time of the application, would have warranted the refusal of issuance of the license; or
- (4) Any information on the application form is later determined to be false or materially misleading.

(b) Any license is automatically revoked on the termination of any bonding or insurance required herein. (Ord. 453 §1, 2002)

Sec. 6-1-130. Appeal process.

(a) Any applicant or license holder aggrieved by any order of the Town either denying an application for a business license or revoking an existing business license shall have the right to appeal to the Board of Trustees by filing a written appeal, stating the grounds thereof, with the Town within ten (10) days following the date of said denial or following the effective date of said revocation.

(b) In the event an appeal is timely filed, it shall be heard at the next regular Board of Trustees meeting occurring at least ten (10) days after said filing with the Town. Review by the Board of Trustees shall be a de novo hearing.

(c) The decision of the Board of Trustees in all cases shall be final and conclusive and shall be served upon the licensee by personal service or by certified mail, return receipt requested.

(d) The decision of the Board of Trustees is reviewable only by a Court under C.R.C.P. 106(a)(4). There shall be no stay of execution pending a review by the Court except by court order. (Ord. 453 §1, 2002)

Sec. 6-1-140. Return of fees.

Upon refusal of the Town to issue any license, the fee paid therefor in advance shall be returned to the applicant. In the event that any license is revoked, all monies paid therefor shall be and remain the monies of the Town and no refund shall be made to any such licensee. (Ord. 453 §1, 2002)

Sec. 6-1-150. Fine.

Any person who fails to comply with the provisions of this Chapter as herein provided shall be fined the sum not exceeding one thousand dollars (\$1,000.00) for each said offense, with each day the licensee is in violation considered to be a separate offense. (Ord. 453 §1, 2002)

ARTICLE II

Businesses and Trades

Sec. 6-2-10. Business, general.

A general business is any business activity not otherwise identified herein. The annual fee shall be as follows: one thousand (1,000) square feet or less, fifteen dollars (\$15.00); one thousand one (1,001) square feet or more, fifteen dollars (\$15.00); storage/warehouse, fifteen dollars (\$15.00); industrial, fifteen dollars (\$15.00). *Industrial* means a type of business where an individual, association, partnership or corporation engages in the manufacturing, fabrication, assembly or compounding of materials into products for wholesale or retail. Square footages are based upon exterior measurements. Parking areas are excluded except for those businesses having drive-through service areas such as banks, fast food outlets and service stations. (Ord. 340 §2, 1998; Ord. 347 §3, 1998; Ord. 409 §1, 2001)

Sec. 6-2-20. Amusement arcades.

(a) Definitions.

Amusement device means any device which, upon insertion of a coin, slug, token, plate or disc, or payment of a consideration, may be used by the public for use as a game, entertainment, amusement or test of skill, either mental or physical, whether or not registering a score, but shall not include radios, devices that provide music only, televisions carrying commercial broadcasts only, or fixed-stand, coin-operated "kiddie" rides.

Amusement arcade means a place of business where an individual, association, partnership or corporation maintains more than five (5) amusement devices, except any business otherwise licensed to sell alcoholic or fermented malt beverages as per the exception herein contained.

(b) Amusement arcade fee. Applicants for, or holders of, any amusement arcade license shall pay a yearly fee of fifteen dollars (\$15.00). (Ord. 340 §2, 1998; Ord. 409 §2, 2001)

Sec. 6-2-30. Amusements.

(a) *Amusements* are defined as an enterprise or activity designed to give, conduct, manage or exhibit any show, film, theater, circus or exhibition. There is hereby established a fee of fifteen dollars (\$15.00) per day for circuses, carnivals and parades; fifteen dollars (\$15.00) per year for motion picture theaters or outdoor movies; fifteen dollars (\$15.00) per year for other entertainments having a permanent location; and fifteen dollars (\$15.00) per day for other entertainments and amusements not having a permanent location.

(b) It shall be 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.

(c) Licenses for shows and amusements may be issued by the Board of Trustees without payment of any fee where such show or amusement is for a charitable, educational, fraternal or public benefit. (Ord. 340 §2, 1998; Ord. 409 §3, 2001)

Sec. 6-2-40. Auctions and auctioneers.

(a) Auctioneer's license required. It shall be 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 herein.

(b) Auctioneer's license fee. Any person making application for an auctioneer's license shall pay the Town a license fee of fifteen dollars (\$15.00) per year.

(c) License for auction required. It shall be 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 action.

(d) Auction license fee. Each applicant for an auction license shall pay to the Town a license fee in the amount of fifteen dollars (\$15.00).

(e) 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, to sales under any mortgage or trust deed, to any tax sales or to sales under provisions of this Code by any Town officer. (Ord. 340 §2, 1998; Ord. 409 §§4, 5, 2001)

Sec. 6-2-50. Christmas tree lots.

A Christmas tree lot is the location for the sale or offering for sale of trees commonly called "Christmas trees" from a lot or location established solely for that purpose. The fee is fifteen dollars (\$15.00) per location. It is unlawful for any licensee to allow Christmas trees to be on the premises after January 1 of the year following the season for which the license was issued. (Ord. 340 §2, 1998; Ord. 409 §6, 2001)

Sec. 6-2-60. Fireworks stand.

The fee for a fireworks stand is fifteen dollars (\$15.00). The license shall be limited to a sixteen-day period from June 20 to July 5, and shall display proof of public liability insurance. (Ord. 340 §2, 1998; Ord. 409 §7, 2001)

Sec. 6-2-70. Home occupation.

For those occupations performed or originating from a residence, a home occupation fee of fifteen dollars (\$15.00) per year shall apply. (Ord. 340 §2, 1998; Ord. 409 §8, 2001)

Sec. 6-2-80. Junk and secondhand dealers.

(a) Definitions.

Junk, for purposes of this Section, means any article, except secondhand goods, that has

outlived its usefulness in its original form, machinery or machinery parts, except secondhand goods and except dismantled automobiles or other motorized vehicular machinery as defined by Section 7-1-20, scrap metals other than gold and silver, old rope, paper, plastic containers, empty bottles and all discarded articles no longer used in their manufactured form composed of such materials. Junk vehicles are specifically excluded from the definition of *junk*. This Section shall not apply to businesses which have an ancillary business of purchasing recyclable materials.

Secondhand goods means the following items of tangible personal property sold or traded by a secondhand dealer:

a. Cameras, camera lenses, slide or movie projectors, projector screens, flash guns, enlargers, tripods, binoculars, telescopes and microscopes;

b. Televisions, phonographs, tape recorders, video recorders, radios, tuners, speakers, turntables, amplifiers, compact disc players, record changers, citizens' band broadcasting units and receivers;

c. Skis, ski poles, ski boots, ski bindings, golf clubs, guns, luggage, boots and furs;

d. Typewriters, adding machines, calculators, computers, computer components and accessories, computer printers, portable air conditioners, cash registers, copying machines, dictating machines, automatic telephone answering machines and microwave ovens;

e. Bicycles, bicycle frames, bicycle derailleur assemblies, bicycle hand brake assemblies and other bicycle components;

f. Musical instruments and watches; and

g. Any item of tangible personal property marked with a serial number or identification number, except automobiles or other motorized vehicles and except dismantled automobiles or other motorized vehicular machinery as defined by Section 7-1-20.

(b) License required. It shall be unlawful to engage in the business of purchasing, trading, selling or accepting for consignment junk or secondhand goods without a junk dealer license, secondhand dealer license or a combination junk and secondhand dealer license.

(c) License fees.

(1) The fee for a junk dealer license or a secondhand dealer license is fifteen dollars (\$15.00) per year.

(2) The fee for a combined junk and secondhand dealer license is fifteen dollars (\$15.00) per year.

(d) Unlawful acts. It shall be unlawful:

(1) For a licensee to purchase or accept secondhand goods or junk from:

a. Persons under eighteen (18) years of age;

b. Any person who the licensee knows or has reason to believe has been convicted of burglary, robbery, felony theft or theft by receiving; or

c. Any person who appears to be under the influence of alcohol or other intoxicating substances.

(2) For any licensee to accept or purchase any item with an altered or removed serial number.

(3) For any licensee or licensee's agent to falsify any records required to be kept by this Chapter.

(e) Outdoor sales of junk or secondhand goods. No licensee shall display, store or otherwise keep junk or secondhand goods which are visible from any adjacent public right-of-way or adjacent property. Such licensee may meet this requirement by constructing an opaque fence around the premises which is in conformance with the requirements of this Code.

(f) Records required. A person engaged in business as a secondhand dealer shall keep and make a record containing the following information:

(1) Name, address and date of birth of the seller or trader;

(2) Date, time, the place of sale or trade and the amount of the transaction;

(3) An accurate and detailed account and description of the items sold or traded, including, but not limited to, any trademark, identification number, serial number, model number, brand name or other identifying mark on such items; and

(4) The identification number from a valid form of identification of the seller or trader.

(g) Inspection of goods and records.

(1) Records. Every person or business required to be licensed by this Chapter shall, during ordinary business hours, upon request of any law enforcement officers, exhibit the records required in Subsection (f) above.

(2) Articles. Every person or business required to be licensed by this chapter shall maintain upon the business premises, in unaltered form as received, any article obtained in the course of business whether brought to the licensed premises or acquired by the licensee off the licensed premises, for fourteen (14) days from the date of acquisition. Articles purchased at auctions and estate sales are exempt from the fourteen-day holding requirement. Every licensee shall make all articles available for inspection by any law enforcement officer. Articles acquired prior to the effective date of the ordinance codified in this Chapter shall be exempt from this Subsection.

(h) Garage sales. For purposes of this chapter, a *garage sale* is defined as the occasional nonbusiness public sale of secondhand household and other goods incidental to household uses by a person in a residential district. It is unlawful to hold a garage sale more than three (3) consecutive days, or for more than twelve (12) days, within any twelve-month period at the same location.

(i) No right to maintain a public nuisance. Nothing in this Section shall be construed to permit or allow any licensee to maintain a nuisance as defined in Chapter 7 of this Code. (Ord. 340 §2, 1998; Ord. 409 §9, 2001)

Sec. 6-2-90. Kennel/pet shop.

A *kennel* or *pet shop* is defined as the keeping, maintenance or possession for sale of more than two (2) dogs or other animals, fowl or rodents. The fee is fifteen dollars (\$15.00) per year. The application for a license must be accompanied by written consent to such business by all persons in possession of adjacent premises. (Ord. 340 §2, 1998; Ord. 409 §10, 2001)

Sec. 6-2-100. Pawn shops; pawnbrokers.

(a) A pawn shop is the business of receiving property in pledge or as security for money or other thing advanced to a pawnor or pledgor. The fee is fifteen dollars (\$15.00) per year. Each person so licensed shall keep a written record of each purchase, including the date and time of purchase, description of the article and name and address of the person selling the same. The place of business of each licensee shall be open to inspection by law enforcement officials at any reasonable time.

(b) License required. It shall be unlawful for any person to establish or conduct any business of a pawnbroker in the Town without first obtaining a license therefor. The term *pawnbroker* shall include any person who engages in the business of receiving property in pledge or as security for money or other thing advanced to the pawnor or pledgor. (Ord. 340 §2, 1998; Ord. 347 §4, 1998; Ord. 409 §10, 2001)

Sec. 6-2-110. Refuse hauler, commercial.

A commercial refuse hauler is a person who collects, hauls or causes to be collected or hauled, over streets, alleys or other public places, any refuse except such as is accumulated at his or her own residence or place of business. The fee is fifteen dollars (\$15.00) per year. The application for a refuse hauler license shall be forwarded to the Board of Trustees for issuance after determination that:

- (1) Vehicles to be used are safe, sanitary and properly equipped so as not to constitute a safety hazard or health hazard, and the GVW does not exceed fifty-five thousand (55,000) pounds.
- (2) Refuse will be transported to and deposited at approved disposal sites.
- (3) The applicant meets all other laws and regulations relating to the collection, hauling and depositing of refuse. (Ord. 340 §2, 1998; Ord. 409 §11, 2001)

Sec. 6-2-120. Sexually oriented businesses.

(a) Purpose. The purpose of this Section is to provide for the regulation and licensing of sexually oriented businesses in a content-neutral manner in order to protect the property values, neighborhoods and residents of the Town from the potential adverse secondary effects of sexually oriented businesses. It is not the intent of this Section to suppress any speech activities protected by the First and Fourteenth Amendments of the United States Constitution or Article II, Section 10 of the Colorado Constitution.

(b) Definitions.

Adult arcade means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

Adult bookstore or *adult video store* means a place where books, magazines, motion pictures, prints, photographs, periodicals, video or audio recordings, novelties and devices, or any of these things, which have as their primary or dominant theme, matter depicting, illustrating, describing or relating to specified sexual activities or specified anatomical areas, are sold or offered for sale to adults and includes a place with only a portion or section of its area set aside for the display or sale of such material to adults, except that any place, otherwise included within this definition, that derives not more than ten percent (10%) of its gross income from the sale of such material shall be exempt from the provisions of this Section so long as such material is kept in a location where it is not visible and shall not be a self-service item for the customers of such place.

Adult cabaret means a nightclub, bar, restaurant or similar business which regularly features:

- a. Persons who appear in a state of nudity;
- b. Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
- c. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult motel means a hotel, motel or similar business which offers private rooms to the public and provides patrons live performances or closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult motion picture theater means a business where films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult theater means a theater, concert hall, auditorium or similar business which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

Employee means and includes any person who is paid directly or indirectly by the licensee for services performed on the premises whether such person would otherwise as a matter of law be classified as an employee, agent, manager, entertainer or independent contractor.

Manager means any person other than a licensee who is employed by a sexually oriented

business to act as a manager or supervisor of the employees, finances or patrons of the business or is otherwise responsible for operation of the business.

Peep booth means a viewing room, other than a private room, of less than one hundred fifty (150) square feet of floor space upon the premises of a sexually oriented business where there are exhibited photo-graphs, films, motion pictures, video cassettes or other video reproductions, slides or other visual representations which depict or describe specified sexual activities or specified anatomical areas.

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

Private room means a room in an adult motel that is not a peep booth, has a bed in the room, has a bath in the room or adjacent to the room, and is used primarily for lodging.

Sexual encounter establishment means a business or commercial establishment which, as one (1) of its primary business purposes, offers for any form of consideration, a place where two (2) or more persons may congregate, associate or consort for the purpose of specified sexual activities or the exposure of specified anatomical areas, when one (1) or more of the persons exposes any specified anatomical area.

Sexually oriented business means an adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, sexual encounter establishment or other similar business and includes:

- a. The opening or commencement of any sexually oriented business as a new business;
- b. The conversion of an existing business, whether or not a sexually oriented business, to a sexually oriented business;
- c. The addition of any sexually oriented business to any other existing sexually oriented business;
- d. The relocation of any sexually oriented business; or
- e. The continuation of a sexually oriented business in existence on the effective date of the initial ordinance codified herein.

Specified anatomical areas are defined as:

- a. Less than completely and opaquely covered: human genitals, pubic region, buttocks, and female breast below a point above the top of the areola.
- b. Human male genitals in a discernibly turgid state even if completely and opaquely covered.

Specified sexual activities means acts, simulated acts, exhibitions, representation, depictions or descriptions of:

- a. Human genitals in a state of sexual stimulation or arousal.
- b. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.
- c. Intrusion, however slight, or any object, any part of an animal's body, or any part of a person's body into the genital or anal openings of any person's body or into the body of an animal.
- d. Cunnilingus, fellatio, anilingus, masturbation, bestiality, lewd exhibition of genitals or excretory function.
- e. Flagellation, mutilation or torture for purposes of sexual arousal, gratification or abuse.

Stage means a raised floor or platform at least three (3) feet above the surrounding floor measured perpendicularly from the edge of the stage to the surrounding floor and at least thirty-six (36) square feet in area.

(c) Application of Article I. The provisions set forth in Article I of this Chapter shall apply to this Section except to the extent that such provisions are superseded by the provisions of this Section or are in conflict with the provisions of this Section.

(d) License required. It shall be unlawful for any person to operate a sexually oriented business without a license issued by the Town Clerk under the provisions of this Section.

(e) Application requirements.

(1) An application for a license must be made on a form provided by the Town Clerk.

(2) The license fee is fifteen dollars (\$15.00) per year.

(3) The application must be accompanied by a diagram showing the configuration of the premises, including a statement of total floor space occupied by the business and designating the use of each room or other area of the premises.

(4) The diagram shall designate those rooms or other areas of the premises where patrons are not permitted.

(5) The diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

(6) The diagram shall designate the place at which the license will be conspicuously posted.

(7) No alteration in the configuration of the premises or any change in use of any room or area as shown on the diagram may be made without the prior written approval of the Town Clerk.

(8) The Town Clerk may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the

premises has not been altered since it was prepared and that the use of any area or room in the premises has not changed.

(f) Issuance of a sexually oriented business license. The sexually oriented business shall be issued a license within forty-five (45) days after receipt of an application unless the Town Clerk finds one (1) or more of the following:

- (1) An applicant is under twenty-one (21) years of age.
- (2) An applicant is overdue in payment to the Town of taxes, fees, fines or penalties assessed against the applicant or imposed upon the applicant.
- (3) An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.
- (4) The premises to be used for the sexually oriented business does not comply with any building or business codes of the Town.
- (5) The proposed sexually oriented business does not comply with the location and separation requirements set forth in Article VIII.V, Chapter 16 of this Code.

(g) Employee registration. Each licensee will provide to the Town Clerk the full name, aliases if any, address, telephone number and date of birth of any employee within five (5) days of employment.

(h) License suspension or revocation.

(1) In addition to the grounds set forth for revocation of a license in Section 6-1-120 of this Chapter, and upon seven (7) days' written notice, the Town Clerk shall suspend a license for a period not to exceed six (6) months and may revoke a license if the Town Clerk determines that a licensee or an employee of a licensee has:

- a. Violated or is not in compliance with any provision of this Section; or
- b. Refused to allow an inspection of the sexually oriented business premises as authorized by this Chapter.

(2) In determining the action to be taken as provided above, the Town Clerk shall consider the following aggravating and mitigating circumstances:

- a. Whether the licensee has been previously suspended or revoked.
- b. Whether the licensee was warned that the conduct involved could lead to a suspension or revocation.
- c. Whether the cause of suspension or revocation involves one (1) or several violations.
- d. Whether the violation is technical or substantive in nature.

- e. The extent to which the licensee, licensee's agents and employees, as opposed to patrons, were involved in the violation.
 - f. The extent to which the licensee or licensee's employees had knowledge of the violation.
 - g. Any corrective or remedial action the licensee has taken to prevent similar violations in the future.
 - h. Whether the violation involved the commission of a crime, and if so, the degree of felony or misdemeanor involved.
 - i. The extent to which the violation caused personal injuries or property damages.
 - j. Whether the licensee has paid damages or made restitution to any person or entity damaged by the violation.
 - k. The extent to which the violation posed a significant risk to the health, safety and welfare of persons on or off of the licensed premises.
 - l. The length of time over which the violation extended.
 - m. The extent to which the licensee or licensee's employees realized a financial gain from the violation.
 - n. The number of employees, patrons or both involved in the violation.
 - o. The nature and extent of enforcement action taken by the Town or any law enforcement to detect the violation.
 - p. The involvement of any persons under twenty-one (21) years of age in the violation.
 - q. The extent to which the licensee or licensee's employees have attempted to cover up the violation, destroy evidence or otherwise hinder the investigation and detection of the violation.
 - r. The extent to which the licensee and licensee's employees have acted in good faith.
- (i) Mandatory license revocation.
- (1) The Town Clerk shall revoke a license if the Town Clerk determines that:
- a. A license has previously been suspended within the preceding twelve (12) months;
 - b. A licensee gave false information in the material submitted to the Town Clerk;
 - c. A licensee or employee has knowingly allowed possession, use or sale of a controlled substance as defined in Part 3 of Article 22 of Title 12, C.R.S., on the premises;
 - d. A licensee or an employee has knowingly allowed prostitution on the premises;

e. A licensee or an employee knowingly operated the sexually oriented business during a period of time when the license was suspended; or

f. Excluding conduct within a private room of an adult motel, a licensee or employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sexual conduct to occur on the premises.

(2) When the Town Clerk revokes a license, the revocation shall continue for one (1) year, and the licensee shall not be issued a sexually oriented license for one (1) year from the date revocation became effective.

(j) Appeal process. An applicant appealing the denial of his or her application or a licensee appealing the revocation or suspension of his or her license shall follow the procedures set forth in Section 16-1-105 of this Code.

(k) Minimum age.

(1) It shall be unlawful for any person under the age of eighteen (18) years to be upon the premises of a sexually oriented business establishment except that the minimum age for sexually oriented business establishments which provide live, completely nude performers shall be twenty-one (21).

(2) It shall be unlawful for the licensee or any employee of the licensee to allow anyone upon the premises under the age of eighteen (18) years except that the minimum age for sexually oriented business establishments which provide live, completely nude performers shall be twenty-one (21).

(l) Hours of operation.

(1) It shall be unlawful for a sexually oriented business to be open for business or for the licensee or any employee of a licensee to allow patrons upon the licensed premises:

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 7:00 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.

(2) This Section shall not apply to those areas of an adult motel which are private rooms.

(m) Peep booth regulations.

(1) A licensee who has peep booths upon the premises shall comply with all of the following requirements:

a. The diagram accompanying an application for a license shall specify the location of one

(1) or more manager's stations.

b. It is the duty of the licensee to ensure that at least one (1) employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

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 film or video reproduction equipment or equipment for showing slides or photographs. If the premises has two (2) or more manager's stations, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one (1) of the manager's stations. The view required in this Subsection must be by direct line of sight from the manager's station.

d. It shall be the duty of the licensee and employees present on the premises to ensure that the view area specified in Subsection c above remains unobstructed by racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises which has been designated in the application as an area to which patrons will not be permitted.

e. It shall be the duty of the licensee to ensure that all walls shall be maintained without holes or damage.

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

(2) It shall be unlawful for any person having a duty under Subsections a through e above, to knowingly fail to fulfill that duty.

(n) Lighting regulations.

(1) Excluding a private room of an adult motel, the interior portion of the premises to which patrons are permitted access shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place at an illumination of not less than two (2.0) foot-candles as measured at the floor level.

(2) 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.

(o) Additional regulations – adult theaters and adult cabarets.

(1) Any adult cabaret or adult theater shall have one (1) or more separate areas designated in the diagram submitted as part of the application as a stage for the licensee or employees to perform as entertainers. Entertainers shall perform only upon the stage. The stage shall be fixed and immovable. No seating for the audience shall be permitted within three (3) feet of the edge of the stage. No members of the audience shall be permitted upon the stage or within three (3) feet of the edge of the stage.

(2) It shall be unlawful for the licensee or for any employee to violate any of the requirements

of this Subsection (o) or to knowingly permit any patron to violate the requirements of this Section.

(p) Conduct for sexually oriented businesses.

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

(2) No licensee 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.

(3) No licensee or employee shall violate the requirements of Subparagraphs (i)(1)b to e above.

(4) It shall be unlawful for any licensee or employee to knowingly permit a patron to violate any of the requirements of this Subsection (p).

(q) Sexually oriented businesses – employee tips.

(1) It shall be unlawful for any employee of a sexually oriented business to receive tips from patrons except as set forth in subsection (3) below.

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

(3) A sexually oriented business that provides tip boxes for its patrons as provided in this Subsection (q) shall post one (1) or more signs to be conspicuously visible to the patrons on the premises in letters at least one (1) inch high to read as follows: "All tips are to be placed in tip box and not handed directly to the entertainer. Any physical contact between the patron and the entertainer is strictly prohibited."

(r) Adult motel regulations. An adult motel that, in addition to the renting of private rooms, operates a sexually oriented business as otherwise defined in this Chapter, shall comply with all of the requirements set forth in this Chapter pertaining to that business.

(s) Injunction. Any person who operates or causes to be operated a sexually oriented business without a license is subject to suit for injunction as well as criminal prosecution. (Ord. 351 §1, 1998; Ord. 357 §1, 1998; Ord. 409 §12, 2001)

ARTICLE III**Alcoholic Beverages****Sec. 6-3-10. Short title.**

This Article shall be known and cited as the "Mead Liquor Code." Reference to the Mead Liquor Code and the applicable section or sections thereof shall be sufficient when citing the provisions of this Article in any legal document, summons, complaint and memorandum. (Prior code 5-1-1)

Sec. 6-3-20. Legislative intent.

The Board of Trustees declares that the purpose of this Article is to provide for the regulation, control and licensing of the sale of fermented malt, malt, vinous and spirituous liquors within the Town, and that such matters are in the interest of and are those in which the Town has responsibility for the public health, safety and welfare. (Prior code 5-1-2)

Sec. 6-3-30. Definitions.

(a) As used in this Article, unless the context clearly requires otherwise, the following words and terms shall have the meanings set forth in this Section:

Alcoholic beverages, alcoholic liquors, liquor or liquors means fermented malt beverages, malt, vinous or spirituous liquors.

Applicant means:

- a. If an individual, that person making application for a license under this Article;
- b. If a partnership, all the partners of the partnership which is making application for a license under this Article;
- c. If a corporation, the president, vice president, secretary, treasurer, directors, manager and each stockholder owning more than ten percent (10%) of the stock of the corporation making application.

Fermented malt beverage means any beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops or any similar product or any combination thereof in water containing not less than one-half of one percent (.5%) and not more than three and two-tenths percent (3.2%) alcohol by weight.

Investigator means the liquor license investigative agency or investigator for the Town, as designated by the Board of Trustees.

License means a grant to a licensee to sell malt, vinous or spirituous liquors, as provided for by this Article and Title 12, Articles 46, 47 and 48, C.R.S.

Liquor Licensing Authority or Authority means the Board of Trustees and the Mayor.

Malt liquor means beer and shall be construed to mean any beverage obtained by the alcoholic

fermentation of any infusion or decoction of barley, malt, hops or any other similar products, or any combination thereof, in water containing more than three and two-tenths percent (3.2%) of alcohol by weight.

Manager means that person or those persons who manage, direct, supervise, oversee and administer the acts, transactions and acts of servants of the establishments governed by this Article.

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

Operator means a person licensed by law to sell fermented malt, malt, vinous and/or spirituous liquors for beverage purposes at retail, and who is engaged at any time during the calendar year in such operation within the Town.

Spirituos liquor means any alcoholic beverage obtained by distillation, mixed with water and other substances in solution, and includes, but is not limited to, brandy, rum, whiskey, gin and every liquid or solid, patented or not, containing alcohol, which is fit for use for beverage purposes. Any liquid or solid containing beer or wine in combination with any other liquor, except as provided in this Section, shall not be construed to be malt or vinous liquors, but shall be construed to be spirituous liquor.

Tasting means the sampling of malt, vinous or spirituous liquor on the premises of a retail liquor store or liquor-licensed drugstore.

Tastings license means a separate license issued by the Liquor Licensing Authority pursuant to this Chapter authorizing tastings to be conducted by the licensee.

Vinous liquor means wine and fortified wines not exceeding twenty-one percent (21%) of alcohol by volume, and shall be construed to mean alcoholic beverage obtained by the fermentation of the natural sugar contents of fruit or other agricultural products containing sugar.

(b) Other definitions not specifically enumerated in this Section shall be as defined, as applicable, in the Colorado Liquor Code, as amended. All other words and phrases used in this Article not otherwise defined by law are used in their common, ordinary and accepted sense and meaning. (Prior code 5-1-3; Ord. 316 §1, 1997, Ord. 564 §1, 2006)

Sec. 6-3-40. Powers of Licensing Authority.

There is established a Liquor Licensing Authority, sometimes referred to as the *Licensing Authority* or as the *Authority*, which shall have and is vested with the authority to grant or to refuse for cause, licenses for the sale of malt, vinous or spirituous liquors; to conduct investigations; and to suspend or revoke such licenses for cause. The Liquor Licensing Authority shall have all the powers provided in this Article, and shall have all the powers of the local licensing authority, as set forth in Title 12, Articles 46 and 47, C.R.S. (Prior code 5-1-4; Ord. 316 §1, 1997)

Sec. 6-3-50. Terms of membership.

The Board of Trustees shall be the Liquor Licensing Authority of the Town. The members of the Authority shall serve for terms commensurate with their terms as Trustees. (Prior code 5-1-5; Ord. 316 §1, 1997)

Sec. 6-3-60. Presiding officer.

The Mayor shall preside over all hearings and proceedings of the Authority, and shall vote only in cases of a tie vote, commensurate with Section 2-2-190 of this Code. In the absence of the Mayor, the Mayor Pro Tem shall reside at meetings of the Authority. In service as presiding officer of the Authority, the Mayor Pro Tem shall assume the duties of the Mayor, but shall retain all of his or her rights and privileges as a Trustee, including, but not limited to, those of voting on all questions and of making and seconding motions, pursuant to Section 2-2-190 of this Code. In the absence of both Mayor and Mayor Pro Tem, the Board of Trustees shall designate one (1) of its members to serve as temporary chairman of the Authority, pursuant to Section 2-2-80 of this Code. (Prior code 5-1-6; Ord. 316 §1, 1997)

Sec. 6-3-70. Quorum.

A quorum shall consist of a majority of the members of the Authority, pursuant to Section 2-2-150 of this Code. In the absence of a quorum, the Authority shall schedule any meeting or hearing to a later date of time. (Prior code 5-1-7; Ord. 316 §1, 1997)

Sec. 6-3-80. Hearing continuance.

A decision of the majority of the members of the Authority, present and voting, shall control. At the Authority's prerogative, any hearing may be continued to permit an absent member to participate in a decision of the Authority. (Prior code 5-1-8; Ord. 316 §1, 1997)

Sec. 6-3-90. Duties of Town Clerk.

The Town Clerk shall receive all applications for licenses and, by state law and this Article, shall issue all licenses granted by the Authority. The Town Clerk shall serve as the official secretary of the Authority, and shall provide or cause to be provided the necessary secretarial and reporting services for the Authority. The Town Clerk or his or her authorized representative shall attend all meetings of the Authority. All public notices, required by this Article and the Colorado Liquor Code, as amended, shall be accomplished by the Town Clerk or his or her authorized representative. (Prior code 5-1-9; Ord. 316 §1, 1997)

Sec. 6-3-100. Duties of investigator.

Such person as the Mayor designates shall be the liquor license investigator or investigative agency, and shall perform the investigative duties set forth in this Article and such other duties as the Authority may reasonably direct. (Prior code 5-1-10; Ord. 316 §1, 1997)

Sec. 6-3-110. License required.

Within the Town, it is unlawful for any person to sell or to possess for sale any malt, vinous or spirituous liquors unless licensed to do so, as provided for by both this Article and the applicable provisions of Title 12, Articles 46 and 47, C.R.S., and unless the license required is in full force and effect and all applicable fees and taxes have been paid in full. (Prior code 5-1-11)

Sec. 6-3-115. Restrictions for applications for new license.

(a) No application for the issuance of any license under this Article shall be received or acted upon if the building in which the malt, vinous or spirituous liquor is to be sold is located within five hundred (500) feet of any public or parochial school or the principal campus of any college, university or seminary; except that this provision shall not affect the renewal or reissuance of a license once granted or apply to licensed premises located or to be located on land owned by the Town, or apply to an existing licensed premises on land owned by the State, or apply to a liquor license in effect and actively doing business before said principal campus was constructed, or apply to any club located within the principal campus or any college, university or seminary that limits its membership to the faculty or staff of such institution.

(b) The distance referred to in Subsection (a) above is to be computed by direct measurement from the nearest property line of the land used for school purposes to the nearest portion of the building in which liquor is to be sold, using a route of direct pedestrian access. (Ord. 348 §1, 1998)

Sec. 6-3-120. License application fees.

(a) The following application fees for the sale of fermented malt beverages or alcoholic beverages shall be paid to the Town at the time the application is made to the Licensing Authority:

<i>Transaction</i>	<i>Fee</i>
New license	\$500.00
Transfer of location or ownership	500.00
Renewal of license	50.00
Renewal of expired license	500.00
Fingerprint analysis and background investigation (corporate applicants and limited liability companies: new officers, directors, stockholders, members or managers), for each individual	100.00

(b) Application fees enumerated in this Section shall be paid to the Town to help defray actual and necessary expenses incurred in processing, investigations, surveys, publishing of notices, posting the premises and public hearings related to the application. Application fees received shall be placed in the Town's General Fund. (Prior code 5-1-12; Ord. 471 §1, 2003)

Sec. 6-3-130. Collection of fees.

In addition to any other remedy provided by this Article, the Town shall have the right to recover all sums due and owing hereunder by any civil remedy available at law. (Prior code 5-1-13)

Sec. 6-3-140. Contents of application.

All applications for new licenses for the sale of alcoholic liquors may be obtained from, and shall be filed with, the Town Clerk, and shall be subject to the provisions of this Article and the applicable provisions of Title 12, Articles 46 and 47, C.R.S. The Town Clerk shall accept no application that is not complete in every detail. If any application is filed with the Town Clerk and found, upon examination, to contain any omission or error, it shall be returned by the Town Clerk to the applicant for completion or correction by the applicant without further action either by the Town Clerk or the Authority. No application shall be deemed complete unless it is accompanied by the following:

- (1) An oath or affirmation that all information submitted has been given fully, accurately, truthfully and without concealment of any material fact or facts;
- (2) All forms required by the state licensing authority are complete in every detail;
- (3) Payment in full of the Town and state license fees, Town application fees and any applicable Town taxes established by the Board of Trustees;
- (4) The legal description and local address of the premises to be licensed, and the plans and specifications for the interior of the building if the building to be occupied is in existence at the time. If the building is not in existence, the applicant shall file a plot plan and a detailed sketch of the interior, and submit an architect's drawing of the building to be constructed. All new buildings must have the approval of the Planning and Zoning Commission and the Board of Trustees. The Authority may impose additional requirements which, in its discretion, it deems to be necessary for the approval of the application;
- (5) If the applicant is a corporation, a copy of its articles of incorporation and, in addition, the names and addresses of all persons holding over ten percent (10%) of the outstanding capital stock; and if a foreign corporation, evidence of its qualification to do business in the State;
- (6) Suitable evidence of residence of the applicant, or in the case of a business association or two (2) or more persons, such evidence of the principals;
- (7) Three (3) character reference letters for the principals and manager of the proposed establishment;
- (8) A fifteen-year resume for every individual, partner or principal of a corporation;
- (9) Copies of any contract or agreement which confers a power or authority upon any party to manage, operate or supervise the affairs of the proposed establishment and the acts of its servants, whether it is intended to become effective following issuance of such license;
- (10) Information concerning the financial and management interest of persons connected with the business, and copies of documents governing the terms and conditions of ownership, management and rights to possession of the premises proposed to be licensed; and

(11) Any other information, document or form which the Authority deems necessary to carry out its duties, as set forth in Title 12, Articles 46 and 47, C.R.S., and all applicable regulations. (Prior code 5-1-14; Ord. 316 §1, 1997)

Sec. 6-3-150. Representation to Authority.

The following persons shall be in attendance at the meeting at which the application is presented to the Licensing Authority:

- (1) If the applicant is an individual, that individual;
- (2) If the applicant is a partnership, any partner;
- (3) If the applicant is a corporation, any officer of the corporation; or
- (4) Counsel for the applicant. (Prior code 5-1-15; Ord. 316 §1, 1997)

Sec. 6-3-160. Defining neighborhood.

The Authority shall set the boundaries of the neighborhood considered affected by the proposed location. The applicant shall have the opportunity at this time to give any evidence as to the propriety of any proposed boundary, and to give any objections thereto. (Prior code 5-1-16; Ord. 316 §1, 1997)

Sec. 6-3-170. Setting of hearing date.

The Licensing Authority shall also set a date for public hearing on the application, which date shall be not less than thirty (30) days from the date of the meeting at which the application is presented. (Prior code 5-1-17; Ord. 316 §1, 1997)

Sec. 6-3-180. Attendance required at hearing.

(a) The following persons shall be in attendance at the public hearing on the application:

- (1) If the applicant is an individual, that individual;
- (2) If the applicant is a partnership, any partner; or
- (3) If the applicant is a corporation, the president of the corporation or the president's authorized representative; and
- (4) Irrespective of the identity of the applicant, the manager of the proposed establishment; and
- (5) Counsel for the applicant.

(b) The Authority may require the attendance of such other persons as it deems necessary or desirable and may, at its discretion, waive attendance by any one (1) or more of the designated persons. (Prior code 5-1-18; Ord. 316 §1, 1997)

Sec. 6-3-190. Public notice of application and hearing.

The Authority shall cause to be posted and published public notice of the hearing to be held on the application, as provided in Title 12, Article 47, C.R.S., the regulations promulgated thereunder and rules and regulations of the Authority. (Prior code 5-1-19)

Sec. 6-3-200. Investigation.

(a) After the setting of a hearing date and defining of the neighborhood, the investigator or investigative agency shall proceed with the background investigation of the applicant.

(b) The Town Clerk shall make character and background investigations of the below-named individuals, and for this purpose, such individuals shall provide all information necessary for the investigation. Where a partner or a corporate officer, director or stockholder lives at such a distance from the Town that travel would impose undue expense or inconvenience, the Town Clerk shall have the discretion to make other suitable arrangements in order to obtain the necessary photographs, fingerprints and information, subject to the approval of the Authority. Where character and background investigation has been previously made of any individual enumerated in this Section, either by the Town Clerk or a law enforcement agency, within the past twelve-month period from the date of the license application, the Town Clerk shall have the discretion to employ such investigation, and may waive the fingerprinting and photographing required by this Section.

(c) The following individuals shall present themselves to the Police Department or in the absence of a Police Department, the County Sheriff's Department, to be photographed and fingerprinted:

- (1) If the applicant is a natural person, that person;
- (2) If the applicant is a partnership, all of the partners; or
- (3) If the applicant is a corporation, both the officers and directors, together with any person owning more than ten percent (10%) of the stock thereof; and
- (4) Irrespective of the identity of the applicant, the manager of the proposed establishment.
(Prior code 5-1-20; Ord. 316 §1, 1997)

Sec. 6-3-210. Reference verification.

Letters of reference may be verified with the person signing the letters. (Prior code 5-1-21; Ord. 316 §1, 1997)

Sec. 6-3-220. Investigation of premises.

The premises proposed for a license shall be inspected to ensure that the plans and specifications submitted with the application are true representations of the premises. (Prior code 5-1-22)

Sec. 6-3-230. Additional information required.

The investigator or investigative agency shall acquire additional information, upon direction of the Authority, as necessary to properly carry out the provisions of Title 12, Article 46 and 47, C.R.S., the

rules and regulations promulgated thereunder by the State Department of Revenue, the ordinances of the Town and the rules and regulations of the Authority. (Prior code 5-1-23; Ord. 316 §1, 1997)

Sec. 6-3-240. Time limits.

Any reports of the results of this investigation shall be delivered to the Town Clerk not less than five (5) days prior to the date of the hearing on the application. Copies of the results of the investigation shall be made available to the applicant upon request. (Prior code 5-1-24; Ord. 316 §1, 1997)

Sec. 6-3-250. Hearing authority.

The Licensing Authority shall have the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books and records necessary to the determination of any hearing which the Licensing Authority is authorized to conduct. It is unlawful for any person to fail to comply with any subpoena issued by the Authority in the proper conduct of its hearing. The Municipal Court shall enforce the subpoenas of the Licensing Authority, and upon good cause shown shall enter its orders compelling witnesses to attend and testify or produce books, records or other evidence and shall impose penalties of punishment for contempt in case of failure to comply with such orders. (Prior code 5-1-25)

Sec. 6-3-260. Subpoena procedure.

A subpoena shall be served in the same manner as a subpoena issued by the District Court. Upon failure of any witness to comply with such subpoena, the Town Attorney shall, at the direction of the Authority:

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

(2) Petition the District Court setting forth that due notice has been given of the time and place of attendance of the witness and the service of the subpoena, that the Court, after hearing evidence in support of or contrary to the petition, enter its order as in other civil actions, compelling the witness to attend and testify or produce books, records or other evidence, under penalty of punishment for contempt in case of willful failure to comply with such order of Court. (Prior code 5-1-26; Ord. 316 §1, 1997)

Sec. 6-3-270. Decision; continuance.

Following the public hearing on new applications, the Authority shall render its decision not later than thirty (30) days thereafter; provided, however, that the Authority may continue the hearing from time to time as may be required to gather necessary facts and evidence and to permit witnesses to testify, and the time limited in this Section shall run from the date of conclusion of the hearing, as continued. (Prior code 5-1-27)

Sec. 6-3-280. Decision; considerations.

The Authority shall consider all facts in evidence adduced as a result of the investigation and hearing, including the reasonable requirements of the neighborhood and the desires of the inhabitants affected, the number, type and availability of outlets located in or near the neighborhood under consideration, all other reasonable restrictions applicable to the area under consideration, and any other pertinent matters affecting the qualifications of the applicant to conduct the type of business proposed. (Prior code 5-1-28)

Sec. 6-3-290. Approval of building not in existence.

Applications may be approved where a building is not in existence; however, any premises where a building is not in existence shall have one (1) year immediately following the date of approval of the license to obtain an occupancy permit issued by the Town, and to obtain the Town and state licenses. (Prior code 5-1-29)

Sec. 6-3-300. Procedure for extension.

Whenever it appears that the applicant will not have completed the structure for which the license was approved, nor obtained an occupancy permit, within the one-year period, the applicant must file a written application with the Authority within thirty (30) days prior to the end of the one-year period, requesting an extension for the necessary time to complete the structure and obtain an occupancy permit for a maximum of one (1) additional year. An application and affidavit of due diligence must be accompanied by an extension fee of fifty dollars (\$50.00), which shall not be refundable. (Prior code 5-1-30)

Sec. 6-3-310. Requirements for extension.

The applicant shall be required to demonstrate to the Authority as to the progress being made toward the completion of the structure and diligence on the part of the applicant, and the specific reason as to why the premises have not been completed. The Authority shall, at its next regularly scheduled meeting following receipt of the application, hold a hearing on the applicant's affidavit and, if satisfied that the applicant is diligently making progress toward the completion of the building, may extend the authorization of same for an additional period not to exceed one (1) year. No more than one (1) extension shall be granted under this Section. (Prior code 5-1-31)

Sec. 6-3-320. License revocation or nonrenewal; expiration of time limit.

The Licensing Authority shall revoke or elect not to renew a retail license presently in existence if it determines that construction of the proposed outlet has not been completed and the facility placed in operation within two (2) years of approval of the license application, or construction of the facility has not commenced within one (1) year of such approval. (Prior code 5-1-32)

Sec. 6-3-330. Decision; copies to be sent.

The Town Clerk shall send a written copy of the decision of the Authority and the reason therefor by certified mail to the applicant at the address shown on the application and, upon request, to any other party in interest. (Prior code 5-1-33)

Sec. 6-3-340. License renewal procedure.

All renewal applications for malt, vinous and spirituous liquor licenses shall be submitted to the Town Clerk on the prescribed forms no later than forty-five (45) days prior to the date on which the license expires, except that the Authority, for good cause, may waive the time requirement set forth in this Section. The forms shall be accompanied by all the required fees and taxes and such additional materials as the Authority deems necessary to carry out the provisions of the Colorado Liquor Code, this Article and all applicable regulations. No renewal application shall be accepted by the Town Clerk which is not complete in every detail. Any application mailed to or deposited with the Town Clerk which, upon examination, is found to have some omission or error shall be returned to the applicant for completion or correction without any action on the part of the Town Clerk or the Authority. Should any renewal application be received in completed form less than forty-five (45) days prior to the date on which the license expires, it shall be deemed a late application. The Authority shall not be answerable for the failure of the license to be issued by the expiration date on any late application. Nothing in this Section shall serve as authority for any sale of alcoholic liquor without a license pursuant to law. (Prior code 5-1-34)

Sec. 6-3-350. Investigation; renewal.

The Town Clerk shall cause a routine investigation to be completed upon receipt of a renewal application. (Prior code 5-1-35; Ord. 316 §1, 1997)

Sec. 6-3-360. Local license fees.

(a) The following annual license fee shall be paid to the Town prior to the issuance of licenses:

<i>License/Permit Type</i>	<i>Fee</i>
Retail liquor store license	\$150.00
Liquor-licensed drugstore license	150.00
Wine and beer license	325.00
Hotel and restaurant license	500.00
Tavern license	500.00
Optional premises	\$500.00
Brew pub license	500.00
Club license	275.00
Arts license	275.00
Bed-and-breakfast permit	25.00

Eighty-five percent (85%) of the local license fees provided for above shall be paid to the Colorado Department of Revenue, with the Town retaining fifteen percent (15%) of the local license fees in the Town's General Fund.

(b) In addition to the fees enumerated in Subsection (a) above, the following annual license fee shall be paid to the Town prior to the issuance of licenses for the sale of fermented malt beverages:

<i>Type of Sales</i>	<i>Fee</i>
Sales for consumption off the premises	\$25.00
Sales for consumption on the premises	25.00
Sales for consumption both on and off the premises	25.00

The entire amount of the above license fee for fermented malt beverages shall be retained by the Town and placed in the Town's General Fund.

(c) In addition to those enumerated in subsections (a) and (b) above, the following annual license fee shall be paid to the Town prior to the issuance of licenses for the tastings:

<i>Type of Sales</i>	<i>Fee</i>
Tastings license	\$25.00

The entire amount of the above license fee for tastings shall be retained by the Town and placed in the Town's General Fund. (Prior code 5-1-39; Ord. 316 §1, 1997; Ord. 471 §2, 2003, Ord. 564 §2, 2006)

Sec. 6-3-370. Disturbances.

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

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

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

(d) It shall not be a defense that the licensee was not personally present on the premises at the time of any violation of this Section; provided, however, that an agent, servant or employee of the licensee shall not be liable under this Section when absent from the premises while not on duty. (Ord. 316 §1, 1997)

Sec. 6-3-380. Alcoholic beverage tastings.

(a) Licensing in general.

(1) The Town hereby authorizes tastings to be conducted by retail liquor store or liquor-licensed drugstore licensees in accordance with this Section and pursuant to Section 12-47-301, C.R.S. Within the Town, it is unlawful for any person or licensee to conduct tastings unless a tastings license has been obtained in accordance with this Section. The local Licensing Authority is authorized to issue tastings licenses in accordance with the requirements of this Section. The term of the tastings license shall be for the period of the existing retail liquor store or liquor-licensed drugstore license.

(2) A retail liquor store or liquor-licensed drugstore licensee that wishes to conduct tastings shall submit an application for a tastings license to the Local Licensing Authority. The Local Licensing Authority may reject the 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 shall establish the application procedure.

(3) Tastings shall be subject to the following limitations:

a. 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 either a retail liquor store licensee, a liquor-licensed drugstore licensee or an employee of a licensee, and only on a licensee's licensed premises.

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

c. The size of an individual alcohol sample shall not exceed one (1) ounce of malt or vinous liquor or one-half (½) ounce of spirituous liquor.

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

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

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

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

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

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

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

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

l. 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.

m. The applicant for a tastings license 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. The applicant for a tastings license shall state on the application the days and times that tastings will occur. The applicant shall give at least twenty-four (24) hours' prior notice to the Town of any deviations in the tastings schedule as set forth in the application.

(b) Responsibility for violations. A violation of a limitation specified in this Section or of Section 12-47-801, C.R.S., by a retail liquor store or liquor-licensed drugstore licensee, whether by his or her employees, agents or otherwise, shall be the responsibility of the retail liquor store or liquor-licensed drugstore licensee who is conducting the tasting.

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

(d) Proof of qualifications of person conducting tastings. Upon the request of any peace officer, the holder of a tastings license shall provide proof that tastings are being 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 either the retail liquor store licensee, a liquor-licensed drugstore licensee or an employee of such licensee. (Ord. 564 §3, 2006)

ARTICLE IV

Fiber-Optic Cable Licensing and Regulation

Sec. 6-4-10. Authority to issue licenses.

The Town Clerk is hereby authorized to issue licenses and permits for the installation of fiber-optic cables within the Town. All such installations shall be governed by the provisions of this Article and shall require a license or permit pursuant hereto. (Prior code 14-2-1; Ord. 175 §1, 1989)

Sec. 6-4-20. Licenses issued; conditions.

The Town Clerk may issue such licenses to any person, private or public, upon such terms and conditions as he or she shall reasonably determine, and such license agreement shall provide for the following:

- (1) All construction shall comply with and conform to the standards formulated by the Town.
- (2) The Town shall have the right at all times to maintain, install, repair, remove or relocate the facilities or installations within the Town's right-of-way. The Town reserves the exclusive right to control all easements and installations.
- (3) In the event that any use by the licensee should interfere with any future use of the right-of-way by the Town, the licensee shall, upon request and at its sole expense, relocate, rearrange or

remove its installation so as not to interfere with such use.

(4) Any repair or replacement of any Town installation made necessary in the opinion of the Town for any reason shall be made at the sole expense of the licensee.

(5) All rights and privileges granted in any license issued hereby shall be subject to prior agreements, licenses and/or grants, recorded and unrecorded, and it shall be the licensee's sole responsibility to determine the existence of said documents or conflicting uses or installations.

(6) The licensee shall contact and fully cooperate with the Town to eliminate or minimize interference with any lawful, usual or ordinary use of the public right-of-way.

(7) The licensee shall not place, or allow to be placed, any equipment without the approval as to location and means of installation, including means of construction, of the Town.

(8) The licensee shall assume all risks incident to the installation.

(9) All licensees, by acceptance of their license, expressly assume full and strict liability for any and all damage of any nature to persons or property caused by their installation.

(10) The licensee shall indemnify and save harmless the Town, its officers and employees against any and all claims, damages, actions or causes of actions and expenses to which it or they may be subject by reason of said installation being within and across the premises of the Town or by reason of any work done or omission made by the licensee, its agents or employees in connection with the construction, replacement, maintenance or repair of said installation.

(11) The licensee expressly agrees that in the case of the licensee's breach of any of the provisions set out in this Article, the Town may, at its option, have specific performance therefor or sue for damages resulting from said breach. (Prior code 14-2-2; Ord. 175 §1, 1989; Ord. 316 §1, 1997)

Sec. 6-4-30. Annual license fee.

(a) The annual license fee shall be one hundred fifty dollars (\$150.00), said license fee to be applied toward the administrative cost of issuance of the license and maintaining records and maps of the fiber-optical cable system.

(b) The license fee shall be in addition to any and all other fees or taxes provided for under this Code. The license issued hereunder shall be for a period of one (1) year or fraction thereof, shall be renewable annually and shall expire on the last day of December of each year. (Prior code 14-2-3; Ord. 175 §1, 1989; Ord. 316 §1, 1997; Ord. 374 §1, 1999)

Sec. 6-4-40. Penalty.

Any person who fails to comply with the provisions of this Article shall be fined the sum not exceeding one thousand dollars (\$1,000.00) for each such offense, with each day the licensee is in violation considered a separate offense. (Ord. 374 §2, 1999)

ARTICLE V

Peddlers and Solicitors

Sec. 6-5-10. Permit and registration required.

It is unlawful for any person to engage in the business of peddler, solicitor or canvasser as defined in Section 6-5-20 within the limits of the Town without first registering with the Town and obtaining a certificate of registration as provided herein. It shall also be unlawful for any person to employ, supervise or direct a person engaged in the business of peddler, solicitor or canvasser as defined in Section 6-5-20 within the limits of the Town without first registering with the Town and obtaining a certificate of registration as provided herein. Upon approval of the Board of Trustees, a nonprofit community organization, individual or group may be exempt from the requirements of this Section. (Prior code 18-1-1; Ord. 316 §1, 1997)

Sec. 6-5-20. Definitions.

As used in this Article, the following words shall be construed to have the meanings defined below:

A *canvasser* or *solicitor* is defined as any individual, whether a resident of the Town or not, traveling either by foot, wagon, automobile, motor truck or any other type of conveyance, from house to house, from place to place or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he or she is collecting advance payments on such sales or not, provided that such definition includes any person who for himself or herself or for another person hires, leases, uses or occupies any building, structure, tent, railroad box car, boat, hotel room, lodging house, apartment, shop or any other place within the Town for the sole purpose of exhibiting samples and to take orders for future delivery.

Peddler, as used herein, includes any person, whether a resident of the Town or not, traveling by foot, wagon, automotive vehicle or any other type of conveyance, from place to place, from house to house or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, services for hire, or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale or hire from a wagon, automotive vehicle, railroad car or other vehicle or conveyance, and further provided that one who solicits orders and as a separate transaction makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this Article shall be deemed a peddler subject to the provisions of this Article. The word *peddler* includes the word *hawker* and *huckster*. (Prior code 18-1-2; Ord. 316 §1, 1997)

Sec. 6-5-30. Registration; application; contents.

Registrants under this Article must file with the Town Clerk, at least five (5) days prior to the date upon which the applicant desires to begin his or her business, a sworn application in writing on a form furnished by the Town Clerk, which shall give the following information:

- (1) Name and description of the applicant;
- (2) Permanent home address and full local address, if any, of the applicant;
- (3) A brief description of the nature of the business and the goods or services to be sold and, in the case of farm products, whether the products are grown by the applicant;
- (4) If employed, the name and address of the employer and the name and address of the immediate supervisor together with credentials establishing the exact relationship between the employer and/or supervisor and the employee;
- (5) The length of time for which the activity is to be conducted;
- (6) The place where the goods or property proposed to be sold or orders taken for the sale thereof are manufactured or produced, where such goods or products are located at the time said application is filed and the proposed method of delivery;
- (7) If a vehicle is to be used, a description of the same, together with the license number or other means of identification;
- (8) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense or the punishment or penalty assessed therefor;
- (9) Two (2) identical photographs of the applicant which reasonably identify the applicant; such photographs of the applicant to measure two (2) inches by two (2) inches;
- (10) The fingerprints of the applicant; and
- (11) A written statement of a reputable physician of the State dated not more than five (5) days prior to the filing of the application, certifying the applicant to be free of contagious, infectious or communicable diseases. (Prior code 18-1-3; Ord. 316 §1, 1997)

Sec. 6-5-40. Registration; application; investigation and issuance.

- (a) Upon receipt of such application, an investigation shall be conducted at the direction of the Town Clerk to determine the applicant's business, moral character and health.
- (b) If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Town Clerk shall endorse on such application his or her disapproval and shall notify the applicant of such disapproval and that no permit and license will be issued.
- (c) If, as a result of such investigation, the applicant's character and business responsibility are found to be satisfactory, the Town Clerk shall endorse his or her approval upon such application and shall, upon payment of the prescribed registration fees, issue a certificate of registration. Such certificate of registration shall contain the signature and seal of the issuing officer and shall show the name and address of said certificate holder, the type of certificate of registration issued, the kind of goods or services to be sold thereunder, the amount of fee paid, the date of issuance, the length of time the same shall be operative, and a two-inch-by-two-inch photograph of the certificate holder, as

well as the license number or other identifying description of any vehicle used in such activity. The Town Clerk shall keep a permanent record of all certificates of registration issued. (Prior code 18-1-4; Ord. 316 §1, 1997)

Sec. 6-5-50. Registration fees.

There shall be due and payable for each certificate of registration issued hereunder the sum of twenty-five dollars (\$25.00), except that the Board of Trustees may, in its discretion, waive the payment of fees on behalf of any applicant engaged in a civic, religious or charitable undertaking. (Prior code 18-1-5)

Sec. 6-5-60. Certificate of registration nontransferable.

No certificate of registration issued under the provisions of this Article shall be transferred to or used by any person other than the one to whom it was issued. (Prior code 18-1-6)

Sec. 6-5-70. Use of streets.

No peddler, canvasser or solicitor shall have any exclusive right to any location in the public streets, nor shall any be permitted in a stationary location, nor shall he or she be permitted to operate in any congested area where his or her operations might impede or inconvenience the public. For the purpose of this Article, the judgment of a police officer exercised in good faith shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced. (Prior code 18-1-7)

Sec. 6-5-80. Exhibition of certificate of registration.

Peddlers, canvassers and solicitors are required to exhibit their certificate of registration at the request of any citizen. (Prior code 18-1-8)

Sec. 6-5-90. Posting of property to prohibit door-to-door peddling, canvassing and soliciting.

It shall be unlawful for any person to engage, or cause any other person to engage as his or her agent or employee, in peddling, canvassing or soliciting to make an uninvited initial contact at any home or business which has posted at its main entrance a sign prohibiting the same. (Prior code 18-1-9)

Sec. 6-5-100. Failure to vacate premises.

It shall be unlawful for any person to engage, or cause any other person to engage as his or her agent or employee, in peddling, canvassing or soliciting to remain and refuse to leave immediately the residential property or residential unit of another, after being requested by the owner or other person having the right to occupy such residence to leave, whether or not the premises is posted to prohibit peddling and soliciting. (Prior code 18-1-10; Ord. 316 §1, 1997)

Sec. 6-5-110. Enforcement.

It shall be the duty of any police officer of the Town to require any person seen peddling, canvassing or soliciting, and who is not known by such officer to be duly licensed, to produce a

certificate of registration, and to enforce the provisions of this Article against any person found to be violating the same. (Prior code 18-1-11; Ord. 316 §1, 1997)

Sec. 6-5-120. Violations record.

The Chief of Police shall report to the Town Clerk all convictions for violations of this Article. The Town Clerk, in his or her record for each certificate of registration issued, shall record the reports of violations therein. (Prior code 18-1-12; Ord. 316 §1, 1997)

Sec. 6-5-130. Certification of registration; revocation.

(a) Certificates of registration issued under the provisions of this Article may be revoked by the Board of Trustees after notice and hearing, for any of the following causes:

- (1) Fraud, misrepresentation or false statement contained in the application for certificate of registration;
- (2) Fraud, misrepresentation or false statement made in the course of carrying on his or her business as peddler, canvasser or solicitor;
- (3) Any violation of this Article;
- (4) Conviction of any crime or misdemeanor involving moral turpitude;
- (5) Conducting the business of peddling, canvassing or soliciting in an unlawful manner or in such a manner as to constitute a breach of peace or to constitute a menace to the health, safety or general welfare of the public.

(b) Notice of the hearing for revocation of certificate of registration 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 holder of the certificate of registration at his or her last known address at least five (5) days prior to the date set for hearing. (Prior code 18-1-13)

Sec. 6-5-140. Registration; expiration; renewal fee.

All annual certificates of registration issued under the provisions of this Article shall expire one (1) year from the date of issue, other than annual certificates of registration which expire on the date specified therein. There shall be due and payable for the renewal of each certificate of registration issued hereunder the sum of twenty-five dollars (\$25.00). (Prior code 18-1-14)

Sec. 6-5-150. Violations.

Violations of the provisions of this Article shall be misdemeanors and punishable in accordance with Section 1-4-20 of this Code. (Prior code 18-1-15; Ord. 316 §1, 1997)