

CHAPTER 6

Business Licenses and Regulations

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ARTICLE I

Alcoholic Beverages

Sec. 6-1-10. Definitions.

As used in this Article, the following words or phrases shall have the following meanings, respectively:

Malt liquor includes 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 point two percent (3.2%) alcohol by weight.

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 three point two (3.2) beer and malt, vinous and spirituous liquors, other than medicinal liquors, for beverage purposes at retail and who is engaged at any time during the calendar year in such operation within the Town.

Person includes persons, partnerships, associations, organizations or corporations.

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

Three point two (3.2) beer means malt liquor as herein defined as containing not more than three point two percent (3.2%) alcohol by weight.

Vinous liquor includes wine and fortified wines not exceeding twenty-one percent (21%) alcohol by volume and shall be construed to mean an alcoholic beverage obtained by the fermentation of the natural sugar contents of fruits or other agricultural produce containing sugar. (Prior code 6-1; Ord. 2006-1236 §1)

Sec. 6-1-20. Applicability.

In addition to any of the rules or laws which may be applicable, these rules shall govern all proceedings before the Town Board. If any of the rules contained herein shall conflict with any provisions of the laws of the State or the rules of the State Licensing Authority pertaining to the Colorado Liquor Code or to rules pertaining to the licensing or sale of fermented malt beverages, the provisions of state law or the rules of the State Licensing Authority shall govern. (Prior code 6-2; Ord. 2004-1193 §1; Ord. 2006-1236 §1)

Sec. 6-1-30. Application for liquor license; fee.

(a) All applications for liquor licenses and for fermented malt beverage licenses shall be filed with the Town Clerk. Any person applying for such license shall file the state license application form which shall be filled out and completed in all material details. Incomplete application forms shall be rejected. All license forms shall be filled out by typewriter or printed in ink, and all other information or exhibits submitted shall be typewritten or printed in ink, except plans and specifications which may be required.

(b) At the time of submitting the application, the applicant shall pay an application fee to the Town. Such fee shall be used to defray the expense incurred by the Town for the review, investigation, supplies, posting and publication of premises and all other services of personnel of the Town which pertain to the application. Such application fee shall apply only to applications for new licenses and to applications for the transfer of ownership of an existing license or for transfer of the location of an existing license. Such application fee shall be set by resolution of the Town Board. (Prior code 6-3; Ord. 2004-1193 §1; Ord. 2006-1236 §1)

Sec. 6-1-40. Classification.

The business of selling at retail any three point two (3.2) beer or malt, vinous or spirituous liquor, other than medicinal liquors, for beverage purposes within the Town is hereby defined and separately classified as such occupation for the purposes of this Article, as follows:

(1) Class "A" Operators. All operators who are licensed to sell beer, wine and spirituous liquors for consumption on the premises, either at hotels or restaurants, shall be Class "A" Operators.

(2) Class "B" Operators. All operators licensed as retail liquor stores to sell, in original containers, malt, vinous or spirituous liquors for consumption off the premises shall be Class "B" Operators.

(3) Class "C" Operators. All operators licensed to sell only three point two (3.2) beer and who sell the same for consumption on the premises are Class "C" Operators.

(4) Class "D" Operators. All operators licensed to sell only three point two (3.2) beer and who sell the same solely in the original package or container for consumption off the premises shall be Class "D" Operators.

(5) Class "E" Operators. All operators licensed to sell malt, vinous or spirituous liquors by the drink only to members of clubs and their guests within the premises of said club shall be Class "E" Operators.

(6) Class "F" Operators. All hotel and restaurant licensees, beer and wine licensees, tavern licensees, club licensees, and arts licensees obtaining a special license to sell, serve or distribute malt, vinous and spirituous liquors by the drink after the hour of 8:00 p.m. and until midnight on Sundays and Christmas, an Extended Hours License shall be a Class "F" Operator. (Prior code 6-4; Ord. 2006-1236 §1)

Sec. 6-1-50. Tax nondiscriminatory.

The Town hereby finds, determines and declares that, considering the nature of the business of selling at retail three point two (3.2) beer and malt, vinous and spirituous liquors for beverage purposes and relation of such business to the municipal welfare, as well as the relation thereof to the expenditures required by the Town and a proper, just and equitable distribution of tax burdens within the Town, and all other matters proper to be considered in relation thereto, the classification of said business as a separate occupation is reasonable, proper, uniform and nondiscriminatory and that the amount of tax hereby imposed by this Article is reasonable, proper, uniform and nondiscriminatory and necessary for a just and proper distribution of tax burdens within the Town. (Prior code 6-5; Ord. 2006-1236 §1)

Sec. 6-1-60. Assessment of tax; rate.

There is hereby levied and assessed an annual occupation tax on the business of selling three point two (3.2) beer or malt, vinous and spirituous liquors, except medicinal liquors, in the Town, as said occupation has been herein classified, such occupation tax to be set by resolution of the Town Board. (Prior code 6-6; Ord. 2004-1193 §1; Ord. 2006-1236 §1)

Sec. 6-1-70. Payment of tax.

(a) Such tax shall be due and payable to the Town Clerk on January 1 of each year and shall be delinquent on February 1 of the same year. Prepayment of said tax may be made in the month of December preceding the due date.

(b) Upon receipt of such tax, it shall be the duty of the Town Clerk to execute and deliver to the operator paying the tax a receipt showing the name of the operator paying the tax, the date of payment, the annual period for which said tax is paid and the place at which said operator conducts business.

(c) The operator shall, at all times during said year, keep said receipt posted in a conspicuous place in his or her place of business.

(d) Whenever any licensee begins business with a new license, subsequent to January 1 of any year, the occupational license tax required herein shall be prorated on a monthly basis for the remaining portion of the year; but no refund shall be made to any person who discontinues business under a license before the expiration of the period covered by the tax. In the event the ownership of an existing license is transferred to a new licensee during any year, the transferred license shall not be considered a new license and no additional occupational license tax shall be required in connection with such license. If this Article is adopted in the middle of a fiscal year, the operator shall pay only that share of taxes which apply to the balance of the fiscal year in which this Article is adopted. All taxes provided for in this Article shall be due as provided above, except that all taxes provided for in this Subsection shall be due and payable upon the beginning of business or upon adoption of this Article and shall be delinquent ten (10) days thereafter. Interest shall accrue on all delinquent taxes from the day of delinquency until paid and shall accrue at the rate of one percent (1%) per month. (Prior code 6-7; Ord. 2006-1236 §1)

Sec. 6-1-80. Delinquency.

No delinquency in payment of the tax herein provided for shall be grounds for suspension or revocation of any such operator by any licensing authority pursuant to the statutes enacted by the General Assembly of the State, and in performance of any duties imposed by said statutes upon the Town Board, as a licensing authority, the Town Board shall exclude from consideration any delinquency in payment of the tax herein provided for. (Prior code 6-8; Ord. 2004-1193 §1; Ord. 2006-1236 §1)

Sec. 6-1-90. Civil action for collection.

The Town shall have the right to recover all sum due by the terms of this Article by judgment and execution thereon in a civil action, in any court of competent jurisdiction. Such remedy shall be cumulative with all other remedies provided herein for the enforcement of this Article. (Prior code 6-9; Ord. 2006-1236 §1)

Sec. 6-1-100. Optional premises licenses.

(a) Authority. The Town Board shall have the power to issue optional premises licenses and optional premises for hotel and restaurant licenses in accordance with the provisions of the Colorado Liquor Code, Section 12-47-101 et seq., C.R.S., and the provisions of this Section. The provisions of this Section shall be considered in addition to all other standards applicable to the issuance of licenses under this Article and under the Colorado Liquor Code.

(b) Definitions. In addition to the definitions set forth in Section 6-1-10 of this Article, the following definitions shall apply for the purposes of this Section.

Optional premises means:

a. The premises specified in an application for a hotel and restaurant license under this Article with related outdoor sports and recreational facilities for the convenience of its guests or the general public located on or adjacent to the hotel or restaurant within which such operator is authorized to sell or serve three point two (3.2) beer or malt, vinous or spirituous liquors, other than medicinal liquors, in accordance with the provisions of this Article and at the discretion of the Town Board and the State Licensing Authority; or

b. The premises specified in an application for an optional premises license located on an applicant's outdoor sports and recreational facility.

The optional premises license and the optional premises for hotel and restaurant licenses shall be collectively referred to as an *optional premises license* unless otherwise specified herein.

Outdoor sports and recreational facility means a facility that charges a fee for the use of such facility, as defined in Section 12-47-103(22), C.R.S.

(c) Eligible facilities. An optional premises license may only be considered for premises which are located upon an outdoor sports and recreational facility as defined herein.

(d) Size of eligible facilities. There shall be no minimum size requirement for the outdoor sports and recreational facilities which may be eligible for the approval of an optional premises license. However, the Town Board may consider the size of the particular outdoor sports and recreational facility in relation to the number of optional premises requested for the facility.

(e) Number of optional premises per facility. There shall be no restrictions on the number of optional premises which any one (1) licensee may have on an outdoor sports and recreational facility. However, any applicant requesting approval of more than one (1) optional premises on an outdoor sports and recreational facility shall demonstrate the need for each optional premises in relationship to the outdoor sports and recreational facility and its guests.

(f) Information required on application. When submitting a request for the approval of an optional premises license, an applicant shall comply with all application requirements set forth in Section 6-1-30 of this Article. In addition, the applicant for an optional premises license shall submit the following information:

(1) A map or other drawing illustrating the outdoor sports and recreational facility boundaries and the approximate location of each optional premises requested;

(2) A description of the method which shall be used to identify the boundaries of the optional premises when in use; and

(3) A description of the provisions which have been made for storing three point two (3.2) beer or malt, vinous or spirituous liquor, other than medicinal liquors, in a secured area on or off the optional premises for future use on the optional premises.

(g) Processing of applications. An application for a new optional premises license shall be processed in the same manner as any other new license application under this Article. An application for an optional premises license filed in connection with an existing hotel and restaurant license shall be processed in the same manner as an application to modify or expand the licensed premises.

(h) Discretion of Town Board. Any decision by the Town Board to grant, deny or renew an optional premises license under this Section shall be discretionary.

(i) Notice of operation. Pursuant to Section 12-47-310, C.R.S., no alcoholic beverages may be served on the optional premises unless the operator has provided written notice to the Town Board and the State Licensing Authority forty-eight (48) hours prior to serving alcoholic beverages on the optional premises. Such notice shall contain the specific days and hours during which the optional premises are to be used. There shall be no limitation on the number of days which an operator may specify in each notice; however, no notice may specify any date of use which is beyond the current license period.

(j) Compliance with Article required. Nothing in this Section shall be construed to permit the violation of any other provision of this Article under circumstances not specified in this Section. (Prior code 6-10; Ord. 2004-1193 §1; Ord. 2006-1236 §1)

ARTICLE II

Special Event Permits

Sec. 6-2-10. Purpose.

This Article establishes standards for the issuance of permits for special events in the Town. (Ord. 2005-1212 §1; Ord. 2006-1236 §1)

Sec. 6-2-20. Definitions.

As used in this Chapter, the following terms shall have the meanings indicated:

Coordinator means the Chief of Police or designee.

Permit or *special event permit* means a permit issued for a special event.

Permittee means any person or organization issued a special event permit by the Coordinator.

Special event means a parade, athletic contest or other outdoor event requiring temporary closure of streets, roads, highways, sidewalks or bike and pedestrian lanes or paths that are normally open to the public, or the changing, restricting or adapting of the normal traffic uses of any street, road or highway in the Town.

Street or *highway* has the same meaning as defined in the Model Traffic Code and other ordinances appearing in this Code, and shall include bike and pedestrian lanes or paths. (Ord. 2005-1212 §2; Ord. 2006-1236 §1)

Sec. 6-2-30. Permit required.

Any person or organization desiring to conduct a special event shall first obtain a permit from the Coordinator. A permit shall not be required for a special event that occurs exclusively within Town natural areas or recreation areas, or that does not involve the closure of any streets, roads, highways, sidewalks or bike and pedestrian lanes or paths that are normally open to the public. Funeral processions shall not be considered special events. (Ord. 2005-1212 §3; Ord. 2006-1236 §1)

Sec. 6-2-40. Application procedure and fee.

(a) Any person or organization desiring to conduct a special event shall apply for a special event permit by verified application with the Coordinator, on a form supplied by the Coordinator. Applications must be submitted not less than forty-five (45) business days nor more than one (1) year before the special event date.

(b) If the permittee is not an organization qualified for exemption from the payment of Town sales and use taxes, the application for a special event permit shall be accompanied by a nonrefundable application fee in an amount set by the Town Manager. The fee shall cover, but shall not exceed, the full cost of processing and investigating such special event permit application, and the cost of administering the special event permit program.

(c) Within ten (10) business days after receiving a completed application and fee, if applicable, the Coordinator shall approve, conditionally approve, or deny an application for the reasons specified in Section 6-2-50 below. (Ord. 2005-1212 §4; Ord. 2006-1236 §1)

Sec. 6-2-50. Grounds for denial of application.

The Coordinator shall approve an application for a special event permit unless he or she determines from consideration of the application and other pertinent information that:

- (1) Information contained in the application, or supplemental information requested from the permittee, is found to be false in any material detail,
- (2) The permittee fails to complete the application form after having been notified of the additional information or documents required;
- (3) Another special event permit or application has been received prior in time, or has already been approved, to hold another special event at the same time and place requested by the permittee, or so close in time and place as to cause undue traffic congestion;
- (4) The time, route or size of the special event will substantially interrupt the safe and orderly movement of traffic on or contiguous to the event site or route or will disrupt the use of a street or highway at a time when it is usually subject to traffic congestion;
- (5) The size, nature or location of the special event will present a substantial risk to the health or safety of the public, participants in the event or other persons;
- (6) The location of the special event will substantially interfere with any construction or maintenance work scheduled to take place upon or along the Town streets or a previously granted encroachment permit;
- (7) The special event will occur at a time when a school is in session on a route or at a location adjacent to the school or class thereof, and the noise created by the activities of the event would substantially disrupt the educational activities of the school or class;
- (8) The special event involves the use of hazardous, combustible or flammable materials which could create a fire hazard; or
- (9) The special event will violate an ordinance or statute. (Ord. 2005-1212 §5; Ord. 2006-1236 §1)

Sec. 6-2-60. Permit conditions and requirements.

The Coordinator may condition the issuance of a special event permit by imposing conditions and requirements, including but not limited to the following:

- (1) Approval of any other jurisdiction in addition to the Town that may be part of the proposed special event.

(2) Approval of the special event by the Town's Public Works and Parks and Recreation Departments.

(3) Submission of a traffic control plan to be approved by the Coordinator and the Town Engineer.

(4) All required traffic control shall be done at the permittee's expense.

(5) A written operational plan regarding the management of the special event.

(6) Conditions concerning accommodation of pedestrian or vehicular traffic, including restricting the special event to only a portion of a street or highway.

(7) Requirements for the use of traffic cones, barricades or other traffic-control devices to be provided, placed and removed by the permittee at its expense.

(8) Requirements for provision of first aid or sanitary facilities.

(9) Requirements for arrangement of supplemental fire protection and emergency medical services personnel to be present at the special event at the permittee's expense.

(10) Requirements for use of special event monitors and providing notice of permit conditions to event participants and affected property owners.

(11) Restrictions on the number and type of vehicles as may be required for fire safety by the Windsor-Severance Fire Protection District.

(12) Requirements for use of garbage containers, cleanup and restoration of Town property.

(13) Restrictions on the use of amplified sound.

(14) Requirements for public liability insurance to protect against loss from liability imposed by law for damages on account of bodily injury and/or property damage arising from the special event. The Coordinator shall determine whether to require such insurance and the amount of any required insurance. (Ord. 2005-1212 §6; Ord. 2006-1236 §1)

Sec. 6-2-70. Appeal procedure.

The permittee shall have the right to appeal the denial of a permit or a permit condition. A notice of appeal shall be filed with the Town Manager's office, setting forth the grounds for the appeal within five (5) business days after mailing or personal delivery of a notice of denial or permit condition. The Town Manager shall hold a hearing no later than five (5) business days after the filing of the appeal and shall render his or her decision no later than one (1) business day after the hearing. In the event a notice of appeal is filed in accordance herewith but fewer than six (6) business days prior to the requested date for a special event for which a permit has been denied, the Town Manager shall hold a hearing and issue his or her decision no later than two (2) business days after the filing of the appeal. If the Town Manager determines that circumstances do not permit the completion of such hearing and decision at least one (1) full business day prior to the time and date for the initiation of a special event

regarding which an appeal is pending, he or she shall notify the appealing permittee of said determination in writing and said permittee shall be entitled, but not required, to seek judicial review of the permit denial with no further administrative review. The Town Manager's decision shall be final, subject only to such judicial review as may be permitted by law. (Ord. 2005-1212 §7; Ord. 2006-1236 §1)

Sec. 6-2-80. Permit issuance.

If the Coordinator determines that a permit should be granted, he or she shall issue the special event permit once the permittee has agreed in writing to comply with all terms and conditions of this Article. (Ord. 2005-1212 §8; Ord. 2006-1236 §1)

Sec. 6-2-90. Indemnification.

Prior to the issuance of a special event permit, the Coordinator shall require the permittee and authorized officer of the sponsoring organization (if any) to sign an agreement for the permittee to reimburse the Town for any cost incurred by it in repairing damage to Town property occurring in connection with the permitted special event and proximately caused by the actions of the permittee, its officers, employees or agents, or any person who was under the permittee's control. The agreement shall also provide that the permittee shall defend the Town against, and indemnify and hold the Town harmless from, any liability to any persons resulting from any damage or injury occurring in connection with the permitted special event and proximately caused by the actions of the permittee, its officers, employees or agents, or any person who was under the permittee's control. Persons who merely join in a special event are not considered by that reason alone to be "under the control" of the permittee. (Ord. 2005-1212 §9; Ord. 2006-1236 §1)

Sec. 6-2-100. Duties of permittee.

(a) The permittee shall comply with all terms and conditions of the special event permit.

(b) The permittee shall ensure that the person leading a parade or other special event along a route, or the person in charge of any other special event, is familiar with all the provisions of the permit and carries the special event permit on his or her person for the duration of the event.

(c) Immediately following the completion of the special event, the permittee shall ensure that the area used for the event is cleaned and restored to the same condition as existed prior to the event. (Ord. 2005-1212 §10; Ord. 2006-1236 §1)

Sec. 6-2-110. Revocation of permit.

(a) The Coordinator may, at any time prior to a special event, revoke or terminate a permit that has been issued for the event if conditions change so that the permit application could have been denied in the first instance.

(b) The Coordinator may revoke or terminate the permit during the course of the special event if continuation of the event presents a clear and present danger to the participants or the public. (Ord. 2005-1212 §11; Ord. 2006-1236 §1)

Sec. 6-2-120. Violations.

(a) It is unlawful for any person to sponsor or conduct a parade, athletic contest, or other special event or demonstration requiring a special event permit unless a permit has been issued for the event. It is unlawful for any person to participate in such a special event with the knowledge that the sponsor of the event has not been issued a permit.

(b) It is unlawful for any person to interfere with or disrupt a lawful parade, athletic contest or other special event.

(c) The special event permit authorizes the permittee to conduct only such special event as is described in the permit in accordance with the terms and conditions of the permit. It is unlawful for the permittee to knowingly violate the terms and conditions of the permit, or for any special event participant with knowledge of the permit to knowingly violate the terms and conditions of the permit. (Ord. 2005-1212 §12; Ord. 2006-1236 §1)