

CHAPTER 6

Business Licenses and Regulations

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ARTICLE I

Alcoholic Beverages

Sec. 6-1. Definitions.

As used in this Article, unless the context otherwise requires:

(1) *Retail license* means a grant to a licensee to sell fermented malt beverages pursuant to the Colorado Beer Code (Article 46 of Title 12, C.R.S.) or a grant to a licensee to sell malt, vinous or spirituous liquors pursuant to the Colorado Liquor Code (Article 47 of Title 12, C.R.S.).

(2) *Retail licensee* or *licensee* means the holder of a license to sell fermented malt beverages pursuant to the Colorado Beer Code (Article 46 of Title 12, C.R.S.) or the holder of a license to sell malt, vinous or spirituous liquors pursuant to the Colorado Liquor Code (Article 47 of Title 12, C.R.S.). (Prior code 5.20.010)

Sec. 6-2. Power and purpose.

The Board of Trustees finds and determines that it is empowered by Articles 46 and 47 of Title 12, C.R.S., to fix and collect certain fees in connection with the application for issuance, transfer and renewal of certain types of beer, wine and liquor licenses. The Board of Trustees further finds that the fees established in this Article are reasonable and are in amounts sufficient to cover actual and necessary expenses incurred by the Town in connection with the handling of such licenses and applications therefor. (Prior code 5.12.010; Ord. 15-1997 §1)

Sec. 6-3. Licensing application fees.

In addition to the license fee as established by state statute, each application for a license as provided for in Article 46 or 47 of Title 12, C.R.S., shall be accompanied by a local license application fee in an amount as set forth in this Section.

(1) For a new license, the sum of five hundred dollars (\$500.00).

(2) For a change of location or transfer of ownership of a license, the sum of five hundred dollars (\$500.00).

(3) For renewal of a license, the sum of fifty dollars (\$50.00); except where a license has expired prior to the licensee making application for renewal, in which case the fee shall be five hundred dollars (\$500.00).

(4) For a temporary permit, the sum of one hundred dollars (\$100.00).

(5) For each fingerprint analysis and background investigation undertaken to qualify new officers, directors, stockholders or members for corporate applicants or limited liability companies, the sum of one hundred dollars (\$100.00) per person; however, such fee shall not be collected if the applicant has already undergone a background investigation by and paid a fee to the state licensing authority. (Prior code 5.12.020; Ord. 15-1997 §1)

Sec. 6-4. Suspension or revocation; fine.

(a) Whenever a decision of the Board of Trustees, acting as the local licensing authority, suspending a retail license for fourteen (14) days or less becomes final, whether by failure of the retail licensee to appeal the decision or by exhaustion of all appeals and judicial review, the retail licensee may, before the operative date of the suspension, petition the Board of Trustees, acting as the local licensing authority, for permission to pay a fine in lieu of having his or her retail license suspended for all or part of the suspension period. Upon the receipt of the petition, the Board of Trustees, acting as the local licensing authority, may, in its sole discretion, stay the proposed suspension and cause any investigation to be made which it deems desirable and may, in its sole discretion, grant the petition if it is satisfied:

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

(2) That the books and records of the retail licensee are kept in such a manner that the loss of sales of alcoholic beverages which the retail licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy therefrom; and

(3) That the retail licensee has not had his or her license suspended or revoked, nor had any suspension stayed by payment of a fine, during the two (2) years immediately preceding the date of the motion or complaint which has resulted in a final decision to suspend the retail license.

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

(c) Payment of any fine pursuant to the provisions of this Section shall be in the form of cash, certified check or cashier's check made payable to the Town Clerk and shall be deposited in the general fund of the Town.

(d) Upon payment of the fine pursuant to this Section, the Board of Trustees, acting as the local licensing authority, shall enter its further order permanently staying the imposition of the suspension.

(e) In connection with any petition pursuant to this Section, the authority of the Board of Trustees, acting as the local licensing authority, is limited to the granting of such stays as are necessary for it to complete its investigation and make its findings and, if it makes such findings, to the granting of an order permanently staying the imposition of the entire suspension or that portion of the suspension not otherwise conditionally stayed.

(f) If the Board of Trustees, acting as the local licensing authority, does not make the findings required in Subsection (a) above and does not order the suspension permanently stayed, the suspension shall go into effect on the operative date finally set by the Board of Trustees, acting as the local licensing authority. (Prior code 5.20.020)

Sec. 6-5. Delegation of authority to Town Clerk to issue licenses.

The Town Clerk is vested with authority to review and approve applications for liquor license renewals and transfers, special event licenses and temporary permits pursuant to the following criteria:

(1) Renewals and transfers.

a. The timely submission of a complete application and the payment of all fees by the applicant.

b. The referral of the application by the Town Clerk to the Police Department and other appropriate Town departments for review and comment.

c. For license transfers, whether the applicant satisfies the eligibility criteria set forth in Section 12-47-307, C.R.S.

d. Whether there exists facts or information on the application, or as provided in referral comments, illustrating reasonable grounds or good cause to deny the application.

(2) Special event licenses.

a. The timely submission of a complete application and the payment of all fees by the applicant.

b. The referral of the application by the Town Clerk to the Police Department and other appropriate Town departments for review and comment.

c. The timely and proper posting of a conspicuous public notice of the proposed license and protest procedures at the location sought to be licensed.

d. Whether the application and applicant satisfy the eligibility criteria set forth in Sections 12-48-102 and 12-48-103, C.R.S.

e. Whether there exists facts or information on the application, or as provided in referral comments or a protest against the license filed by affected persons, illustrating grounds or good cause to deny the application.

(3) Temporary permits.

a. The timely submission of a complete application and the payment of all fees by the applicant.

b. The timely filing of an application for the transfer of the liquor license corresponding to the application for a temporary permit.

c. Whether the premises subject to the proposed temporary permit is currently subject to a valid liquor license.

(4) In the event the Town Clerk cannot or will not approve a transfer or renewal of a license, or the issuance of a special event license or temporary permit, then the Clerk shall automatically and promptly agendize the application for public hearing before the Board of Trustees acting as the local liquor licensing authority. Written notice of the time and place of the hearing shall be mailed to the applicant by regular mail at least ten (10) days in advance thereof and shall contain such facts or reasons relied upon by the Clerk to initially deny the license or permit. Notice of the hearing shall also be timely published and posted on the subject premises in accordance with the requirements set forth in Section 12-47-311, C.R.S, and timely provided to any person who may have filed a protest against the issuance of the license with the Town Clerk. Additionally, any license or permit applicant dissatisfied with a decision of the Town Clerk under this Section may appeal the same to the Board of Trustees by filing a written protest with the Town Clerk not less than ten (10) days after the date of the decision appealed from. The Town Clerk shall promptly set the appeal for hearing before the Board of Trustees in accordance with the notice and hearing procedures described above.

(5) The Town Clerk shall not approve an application for the renewal or transfer of a license, nor issue a special event permit, where the Police Department has timely submitted written objections to the Clerk concerning such action. Whenever such an objection is received, the Clerk shall set the application for hearing before the Board of Trustees in accordance with the procedures set forth in Subsection (4) above.

(6) The Town Clerk, for good cause, may waive the forty-five-day time requirement for filing a license renewal application. (Ord. 12-2000 §1)

Sec. 6-6. Alcoholic beverage tastings authorized.

Pursuant to Section 12-47-301(10)(a), C.R.S., the Town authorizes alcoholic beverage tastings for licensed retail liquor stores and liquor-licensed drugstores within the Town. The Town shall not require a further application prior to allowing retail liquor licensees to conduct alcoholic beverage tastings and elects not to impose additional limitations on such tastings beyond those limitations set forth in Title 12, Chapter 47, C.R.S. (Ord. 7-2004)

Sec. 6-7. Elimination of distance restriction from schools.

Pursuant to Section 12-47-313(1)(d)(III) C.R.S., as amended, the distance restriction imposed by Section 12-47-313(1)(d)(I) C.R.S., as amended, is hereby reduced to one hundred fifty (150) feet from the Avery Parsons Elementary School and Chaffee County High School for hotel and restaurant classes of liquor licenses. (Ord. 5-2006 §1)

Secs. 6-8—6-20. Reserved.

ARTICLE II

Business Licenses

Sec. 6-21. Business license requirement.

It shall be unlawful for any person or entity to conduct, engage in or establish a business or place of business in the Town, including a home occupation, without having first obtained a business license. Additionally, certain businesses or business activities defined in this Article shall be subject to special supplemental licensing requirements. A separate business license shall be required for each place of business and, unless otherwise specifically provided on the license, a business license shall expire on December 31 of the year in which it was issued, unless sooner revoked. (Ord. 14-2002 §2)

Sec. 6-22. Definitions.

(a) *Business* means any activity engaged in with the object of financial or other gain, benefit, advantage or profit, either direct or indirect, including, by way of example, the sale, supply or delivery of goods or services, and including such activities conducted by home occupations and professions and nonprofit organizations.

(b) *Business license* means a license issued pursuant to the terms of this Article and includes peddler, solicitor and transient merchant licenses, general business licenses, special event business licenses, and tree service and massage parlor licenses.

(c) *General business license* means a license issued to engage in a business not subject to the special licensing requirements applicable to specific businesses or business activities identified in this Article.

(d) *Home occupation* means an occupation, vocation or business engaged in business from a residence in accordance with the regulations governing home occupations in Chapter 16 of this Code.

(e) *Massage parlor* shall have that meaning as provided under the Colorado Massage Parlor Code, Section 12-48.5-103, C.R.S.

(f) *Nonprofit business or organization* means a business or organization that has been lawfully established in accordance with the Colorado Revised Nonprofit Corporation Act and/or which has received nonprofit tax exempt status under the Internal Revenue Code by the Internal Revenue Service, U.S. Department of the Treasury.

(g) *Peddler* means any person, whether a resident of the Town or not, who goes from house to house, from place to place, or from street to street by foot or by vehicle, conveying or transporting goods, wares or merchandise and offering or exposing the same for sale, or making sales and delivering articles or services to purchasers.

(h) *Retailer or retail business* means a person or business engaged in the sale of tangible personal property, goods or services to a consumer or user, and not for resale.

(i) *Sales tax license* means the license required by the Colorado Department of Revenue for persons or businesses conducting retail sales or a retail sales business.

(j) *Solicitor* means any person, whether a resident of the Town or not, traveling either by foot or vehicle from place to place, from house to house, or from street to street, taking or attempting to take orders for the sale of goods, wares, merchandise or personal property of any nature whatsoever for future delivery, or for services to be performed or furnished in the future, whether or not such person 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.

(k) *Special business event* or *fund-raising event* means a special event occurring at one (1) or more locations and at which more than one (1) business, transient merchant or individual engages in the sale of tangible personal property, goods or services, whether conducted for profit or to raise funds for a nonprofit organization, e.g., craft shows and swap meets.

(l) *Transient merchant* means any person, whether as owner, agent, consignee or employee, and whether a resident of the Town or not, who engages in a temporary business of selling and delivering goods, wares, services or merchandise within the Town and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, trailer, tent, hotel room, lodging house, apartment, shop or storefront, or any street, alley or other place within the Town for the exhibition and sale of such goods, wares, services and merchandise.

(m) *Tree service* means a business engaged in the trimming, cutting or spraying of trees. (Ord. 14-2002 §2)

Sec. 6-23. License application; denials.

(a) An application for a general or other business license shall be made to the Town Clerk on forms provided therefor. Every applicant shall state under oath or affirmation such facts as may be required for the granting of such license, and it shall be unlawful for any person to make any false statement or misrepresentation in connection with any license application.

(b) Except as otherwise provided for in this Article, the Town Clerk shall have the power to grant or deny a license and to impose reasonable limitations and restrictions on any license so granted consistent with the provisions in this Article. Denials shall be for cause. Written notice of the denial shall be provided the applicant, which notice shall include the grounds for denial. Fifty percent (50%) of the license fee paid for any license so denied shall be returned to the applicant.

(c) The following nonexclusive reasons may constitute cause for denial of a business license:

(1) Previous revocation or suspension of a business license held by the applicant;

(2) Nonconformance of the premises or building to be used for the business with the requirements of pertinent Town health or safety codes;

(3) Nonconformance of the business with zoning regulations; however, issuance of a business license shall not mean, nor shall issuance of a business license be construed, as a determination that a proposed business, business activity, or business premises satisfies all applicable zoning or other land use regulations; and

(4) The failure of a person or business engaged in, or intending to engage in, retail sales to

possess a valid Colorado sales tax license.

(d) A denial of a business license application may be appealed by the applicant to the Board of Trustees by filing a written notice of appeal with the Town Clerk within ten (10) days from the date of the notice of denial. (Ord. 14-2002 §2)

Sec. 6-24. License fee.

(a) The fee for a business license shall be established and amended from time to time by written resolution adopted by the Board of Trustees, and must be deposited with the Town Clerk prior to consideration of a license application. A separate license fee may be assessed for each business license required under this Article. Notwithstanding the foregoing, nonprofit organizations shall be exempt from having to pay a business license fee, except for the fee for a special events license.

(b) Any licensee who fails to renew his or her business license for an existing business on or before January 31 of each year shall pay a late charge equal to fifty percent (50%) of the amount of the license fee in addition to the license fee. The late charge shall be paid to the Town Clerk prior to consideration of the application to renew the business license. (Ord. 14-2002 §2)

Sec. 6-25. License contents; record keeping; application forms.

All licenses shall specify the name of the licensee, a business address, the nature of the business, the term of the license, the place, if any, to which the license attaches, the amount payable thereon, and the date upon which it expires. The Town Clerk shall attest to all licenses granted and keep an adequate record thereof. (Ord. 14-2002 §2)

Sec. 6-26. Display of license.

Every license granted under the provisions of this Article shall be posted in a conspicuous place at the place of business for the full term of the license. Licenses shall be removed upon expiration. It shall also be the duty of every person to whom a license has been issued to show the same at any time during which business is being conducted when requested to do so by any Town official or business customer. (Ord. 14-2002 §2)

Sec. 6-27. License suspension or revocation; grounds.

The Board of Trustees shall have the power to revoke or suspend any license issued under this Article upon notice to the licensee and a hearing as hereinafter provided for any of the following reasons:

- (1) Providing false or fraudulent information on a license application or to the Town Clerk or other Town official;
- (2) Conviction on any violation of federal, state or municipal law committed in the course of operating a licensed business;
- (3) Repeated violations of one (1) or more Town ordinances at the licensee's place of business by the licensee;

- (4) The conduct of the licensee's business creates a breach of the peace or a public nuisance;
- (5) The business is of such a nature, or is operated in such a manner, that it is frequented by individuals who consistently disrupt the normal and reasonable peace and tranquility of the neighborhood, or who intimidate, threaten or harass any other business or person in the immediate neighborhood;
- (6) The licensee fails to keep and maintain permanent records which, in accordance with accepted accounting practices, are necessary for establishing the licensee's sales tax liability;
- (7) The licensee remains in arrears in payment of sales tax or other monies, including fines and fees, due the Town or Colorado Department of Revenue for more than thirty (30) days after payment is due, or fails to obtain and maintain a valid state sales tax license if engaged in retail sales. (Ord. 14-2002 §2)

Sec. 6-28. License suspension or revocation; hearing.

- (a) The Board of Trustees may, on its own motion or otherwise, proceed to suspend or revoke for just cause any business license after notice to the licensee and a hearing as provided in this Article.
- (b) Notice of a suspension or revocation hearing by Board of Trustees shall be posted at the licensee's place of business, if any, and mailed to the licensee by certified U.S. Mail, return receipt requested, or hand-delivered at least ten (10) days prior to the hearing.
- (c) Every notice of suspension, revocation and/or hearing shall set forth in plain language the grounds for suspension or revocation and direct the licensee to appear before the Board of Trustees at a specified time and date to show cause why the license should not be suspended or revoked.
- (d) The public hearing by the Board of Trustees shall include:
 - (1) A reading of the grounds set forth in the show cause/hearing notice allegedly warranting the suspension or revocation of the licensee's business license.
 - (2) The presentation by the Town Administrator or other Town official of any and all testimony, evidence, documents or other information supporting the suspension or revocation of the licensee's business, license.
 - (3) The presentation by the licensee of any testimony, evidence, documents or any other information in defense or rebuttal of the allegations or grounds asserted for the suspension or revocation of the licensee's business license. The licensee may present his or her defense by or with the assistance of legal counsel.
 - (4) The Mayor may place under oath persons testifying or otherwise providing information at the hearing, and all such persons shall be subject to examination by the Board of Trustees and the licensee.
- (e) Based on the record of the public hearing, the Board of Trustees may cause the licensee's business license to be suspended or revoked. All decisions by the Board of Trustees shall be reduced to writing and a copy shall be provided to the licensee. (Ord. 14-2002 §2)

Sec. 6-29. Licensing of business in annexed property.

In the event that any business, trade or occupation is being conducted on property at the time of the annexation of such property to the Town, and the person carrying on or engaging in the business, trade or occupation is doing so lawfully and in conformance with all existing laws and statutes governing such property, the conduct of such business, trade or occupation may be continued upon and subsequent to the annexation of the property to the Town; provided that the applicable license fee is paid within ten (10) days of annexation. In subsequent calendar years, the business must conform to all licensing requirements contained in this Article. (Ord. 14-2002 §2)

Sec. 6-30. Special events business license.

(a) Any person or organization conducting or sponsoring a special business or fund-raising event must apply for and obtain a special events business license from the Town and pay the fee therefor. Applications for a license shall be made on forms provided by the Town Clerk. No special events business license for an event occurring on Town-owned property or right-of-way shall be issued without the applicant or person or organization sponsoring the event having first obtained a permit from the Town to use or occupy the Town-owned property as required by Article VI of Chapter 11 of this Code.

(b) Applications for a special events business license must be submitted not less than thirty (30) days prior to the date of the special event and must identify the name and address of each person or organization sponsoring the event. Applications must be accompanied by a written plan describing, at a minimum, the manner in which the special event shall be conducted, including, without limitation, (i) a description of all proposed activities and any booths or other structures to be constructed or utilized, (ii) a list of all transient merchants and other businesses participating in the special event, and (iii) whether a street closure will be necessary.

(c) Applications for a special event business license shall be approved or denied by the Town Administrator. No license shall be issued for an event on Town-owned property or right-of-way without written verification that the licensee has and shall continue to maintain general liability insurance sufficient to insure and indemnify the Town against any injury to person or property that might arise from or during the event. Insurance coverage shall be in amounts not less than those recovery limits set forth in the Colorado Government Immunity Act, Section 24-10-114, C.R.S., or any successor statute thereto.

(d) All licensees shall inform each person or organization intending to make, or making, any retail sale at the special event of their duty to secure a Colorado sales tax license and to collect and remit the appropriate sales taxes, unless the event sponsor or organizer elects to collect and remit such taxes under its own sales tax license, if any.

(e) Where the event sponsor or organizer elects to collect sales taxes under its own sales tax license, said sponsor or organizer shall submit to the Town Clerk within thirty (30) days after the conclusion of the special event a written financial report reflecting, at a minimum, total sales of goods and/or services generated at the special event and the total sales tax revenues collected. Compliance with the reporting requirements in this Subsection shall be in addition to any required sales tax reporting due to the Colorado Department of Revenue.

(f) Any transient merchant or business authorized by the event sponsor to participate in a licensed special event shall be exempt from having to obtain an individual business license to conduct business at such event. (Ord. 14-2002 §2)

Sec. 6-31. Massage parlor license.

(a) Notwithstanding any other provision in this Article, no person, corporation, business or other entity shall operate a massage parlor within the Town without first having obtained a license as required under the Colorado Massage Parlor Code. Applications for a massage parlor license shall be made on forms furnished by the Town Clerk and shall be accompanied by a nonrefundable application fee as may be established by the Board of Trustees.

(b) An application for a new massage parlor license, or the renewal of an existing license, shall be processed and reviewed in accordance with the procedures and standards set forth in the Colorado Massage Parlor Code, Sections 12-48.5-101, *et seq.*, C.R.S., or any successor statute.

(c) The fee for a new or renewed massage parlor license shall be equal to the maximum amount authorized under the Colorado Massage Parlor Code, or such lesser amount as may be established by the Board of Trustees from time to time.

(d) This Section has been adopted to implement the provisions of the Colorado Massage Parlor Code. In the event of the repeal of the Colorado Massage Parlor Code by the Colorado General Assembly, this Section shall correspondingly be deemed to be repealed and of no further effect. (Ord. 14-2002 §2)

Sec. 6-32. Peddler, solicitor and transient merchant license; prohibitions.

(a) No peddler, solicitor or transient merchant shall engage in business or operate within the corporate limits of the Town without first having obtained a license from the Town Clerk, except as otherwise provided in this Section.

(b) Applications for a license under this Section shall be filed with the Town Clerk on forms provided therefor. Such applications shall, at a minimum, contain the following information:

- (1) Full name and, if a natural person, physical description and date of birth;
- (2) Permanent and local addresses;
- (3) Brief description of the nature of the business and the goods or services to be sold, solicited or delivered;
- (4) Length of time during which business is to be conducted within the Town;
- (5) Proof of a valid state sales tax license, inclusive of the license number;
- (6) If a vehicle is to be used, a description of the vehicle, including the license plate number and vehicle identification number, and the name and driver's license information for the vehicle operator;

(7) A statement whether the applicant has been convicted of any crime, including misdemeanors and violations of municipal ordinances, other than traffic violations, including the jurisdiction and nature of the offense and the penalty imposed;

(8) No license shall be issued under this Section absent the payment of a fee as established by the Board of Trustees.

(c) Transient merchants participating in a licensed special event need not obtain a separate license as otherwise required under this Section if they have previously registered with the event sponsor.

(d) Except as may be otherwise allowed for sponsored special events, every individual who is a peddler, solicitor or transient merchant shall be required to make an individual application and obtain a license, which shall be issued in the individual's name. Any license issued to a firm, association or corporation shall include the name of the authorized representative of the firm, association or corporation, and the name of the individual authorized representative shall appear on the application. No license shall be transferable or be used by any other person than the individual whose name appears thereon and if a firm, association, corporation or other entity is to have more than one (1) representative engaged in business within the Town, then a separate license shall be required for each representative.

(e) It is unlawful for any peddler, solicitor or transient merchant to go uninvited upon any property, or approach any person upon property, that is posted by a sign that states "No Solicitors or Peddlers," or contains some similar warning or prohibition, or to engage in door-to-door sales or solicitations at private residences between the hours of 8:00 p.m. and 9:00 a.m. on the following day.

(f) The following persons, organizations or activities shall be exempt from the licensing requirements contained in this Section:

(1) Self-employed farmers or gardeners that go door-to-door or from place to place to sell and deliver, or offer for sale and delivery, fruits, vegetables or other agricultural produce grown by them; but excluding roadside or other temporary produce stands.

(2) Merchants who have acquired a business license and operate within their established business premises or at a licensed special event.

(3) Organizations or persons engaged in door-to-door political or religious advocacy or religious proselytizing.

(4) Salespersons or merchants engaged in selling products wholesale or delivering services directly to licensed retail businesses.

(5) Door-to-door newspaper delivery and persons delivering goods or services to preestablished residential customers pursuant to a regular schedule over a defined and established route. (Ord. 14-2002 §2)

Sec. 6-33. Tree service license.

(a) No person shall engage in the business of tree trimming, tree cutting or tree spraying within the corporate limits of the Town without first having obtained a license from the Town Clerk's office and paid a nonrefundable license fee in an amount established by the Board of Trustees.

(b) Application for a tree service license shall be made on forms provided therefor by the Town Clerk. Before such license shall be issued, the applicant must file with the Town Clerk proof of insurance issued by an insurance company authorized to do business in the State, which insurance shall provide general liability insurance coverage for property damage, personal injury or death arising from the applicant's operation of vehicles and equipment used in the trimming, cutting or spraying of trees, and which shall be in an amount not less than those judgment limitations set forth in the Colorado Government Immunity Act, Section 24-10-114, C.R.S., or any successor statute thereto. The insurance policy shall include liability coverage for any employee or agent of the licensee engaged in tree trimming, cutting or spraying. Such policy shall also carry an endorsement providing for written ten-day advance notice to the Town of any cancellation or discontinuance of coverage. A license issued under this Section shall be automatically revoked upon receipt by the Town of cancellation of the required insurance policy and notice to the licensee. (Ord. 14-2002 §2)

Sec. 6-34. Cease and desist orders.

If any business within the Town is operating without a license required under this Article, the Town Clerk may issue an order to the business to cease and desist all further operations until a license is issued for the business. The order shall give the business three (3) days to comply with all applicable licensing requirements, secure the necessary license, and pay all amounts due the Town, or to post a bond in the amount owing the Town and to request in writing a hearing before the Board of Trustees. If the business does nothing, it shall cease operations on the third day. If a hearing is requested, the Town Clerk shall promptly schedule same before the Board of Trustees and notify the subject business in writing of the time and date thereof. The proceedings shall not relieve or discharge anyone from the liability for the payment of the taxes, penalties and interest due and owing to the Town, or from the prosecution of any offense committed under the Town's ordinances. (Ord. 14-2002 §2)

Sec. 6-35. Sales tax license.

All persons or businesses engaged in retail sales or a retail business within the Town must obtain and retain a valid Colorado sales tax license as required under the Emergency Retail Sales Act of 1935 during all times in which such business is being conducted. (Ord. 14-2002 §2)

Sec. 6-36. Exemptions.

Notwithstanding the licensing provisions set forth in this Article, the following activities shall be exempt from the business license requirements:

- (1) That activity commonly known and referred to as a residential garage sale or rummage sale, or similar irregular private noncommercial activity; but only if the person or organization engaged in such activity conducts not more than four (4) such sales in any calendar year.

- (2) The door-to-door delivery of newspapers.
- (3) The performance of odd jobs or services by self-employed minors.
- (4) The door-to-door sale of food or other items by members of a nonprofit organization as part of a fund-raising campaign. (Ord. 14-2002 §2)

Sec. 6-37. Penalty.

Failure to comply with the terms of this Article shall constitute a violation of this Code. Any person found guilty of or who pleads guilty or *nolo contendere* to a violation of any section of this Article shall be subject to a fine not to exceed one thousand dollars (\$1,000.00) or a term of imprisonment not to exceed one (1) year, or both such fine and imprisonment. (Ord. 14-2002 §2)

Secs. 6-37--6-40. Reserved.

ARTICLE III

Commercial River Rafting and Kayaking Fees and Requirements

Sec. 6-41. Definitions.

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

- (1) *Commercial operator* means a person engaged in the business of providing rafting tours and excursions for profit; and a person engaged in the business of providing kayaking tours, excursions or instruction for profit.
- (2) *Kayak* means a portable boat styled like an Eskimo kayak.
- (3) *Launch* means the act of boarding passengers in a raft for the purpose of commencing a river rafting trip or excursion; and the act of inserting a kayak into a river for the purpose of commencing a kayaking trip, excursion or period of instruction.
- (4) *Raft* means an inflatable watercraft designed primarily to transport persons on sightseeing, fishing and similar tours.
- (5) *Town's launching facility* means that facility located on the Town's leasehold in the west one-half of Section 9, Township 14 South, Range 78 West of the 6th P.M., Chaffee County, Colorado, which is adjacent to the Arkansas River and which is specifically designed and constructed for the purpose of permitting river rafts, boats, kayaks and other watercraft to be placed in the Arkansas River. (Prior code 5.16.010)

Sec. 6-42. Annual permit and fee.

No commercial operator may launch a raft, kayak or other watercraft from the Town's launching facility without having first obtained an annual permit. Permits shall be obtained from the Town Clerk upon application and the payment of a nonrefundable fee, which fee shall be established by the

Board of Trustees. Permits shall only be issued upon proof of insurance as required in Section 6-43 of this Article and shall expire at the end of the calendar year in which they were issued. (Prior code 5.16.020; Ord. 6-1991 §1; Ord. 10-1992 §1; Ord. 6-1998, §3)

Sec. 6-43. Proof of insurance required.

Before a commercial operator shall be permitted to launch a raft or kayak from the Town's launching facility, he or she shall first provide to the Town Clerk a copy of the current public liability insurance policy with one (1) or more insurance carriers licensed to do business in the State who are acceptable to the Town insuring claims and demands made by any person or persons for injuries received in connection with, or arising out of, the commercial operator's use of the Town's launching facility. Such policy or policies shall contain limits of liability of not less than the monetary limitations for judgments against municipalities provided from time to time by the Colorado Governmental Immunity Act, Section 24-10-101, *et seq.*, C.R.S., or any successor statute. Such policy shall name the Town and the raft operator as named insureds under such policy and shall be approved by the Town before the commercial operator shall be entitled to use the Town's launching facility. The commercial operator shall maintain such insurance in full force and effect at all times while using the Town's launching facility. The subject policy shall require at least ten (10) days' advance notice to the Town prior to cancellation of such policy. (Prior code 5.16.030; Ord. 9-1991 §1; Ord. 7-1992 §1; Ord. 4-1993 §1)

Secs. 6-44—6-49. Reserved.

ARTICLE IV

Medical Marijuana Centers

Sec. 6-50. Definitions.

As used in this Article, the following words and phrases shall have the following meanings unless the context plainly requires otherwise:

Medical marijuana means marijuana that is grown and sold for a purpose authorized by Article XVIII, § 14 of the Colorado Constitution.

Medical marijuana center means a person licensed to operate a business as described in the Colorado Medical Marijuana Code that sells medical marijuana and medical marijuana-infused products to registered patients or primary caregivers as defined in Article XVIII, § 14 of the Colorado Constitution, but is not a primary caregiver, and which a municipality is authorized to regulate as a matter of law.

Patient has the meaning set forth in Article XVIII, § 14(1)(c) of the Colorado Constitution.

Primary caregiver has the meaning set forth in Article XVIII, §14 (1)(f) of the Colorado Constitution. (Ord. 11 §1, 2010)

Sec. 6-51. Permit required.

No person shall operate a medical marijuana center within the Town without a valid permit issued in accordance with this Article. (Ord. 11 §1, 2010)

Sec. 6-52. Fee.

An applicant shall pay to the Town a nonrefundable application fee when the application is filed. The purpose of the fee is to cover the administrative costs of processing the application. The application fee, renewal fee and annual permit fee shall be fixed by the Board of Trustees by resolution. (Ord. 11 §1, 2010)

Sec. 6-53. Application requirements.

Prior to the establishment of any medical marijuana center, each of the following requirements shall be met:

(1) A application must be submitted for the medical marijuana center to ensure compliance with this Code. The application must contain the following items:

- a. The applicant's name, address, telephone number and social security number;
- b. The street address and unit number, if applicable, of the proposed medical marijuana center, and a complete description of the site for which the permit is being obtained;
- c. If the applicant is not the owner of the proposed location of the medical marijuana center, a notarized statement from the owner of such property authorizing the submission of the application;
- d. A deed, lease or other contractual document showing that the applicant has a right of possession of the proposed location for the medical marijuana center for the full duration of the permit period;
- e. A completed set of the applicant's fingerprints;
- f. An acknowledgement that the Town will conduct a background investigation;
- g. A business plan, which shall include:
 - 1. A description of proposed security provisions and systems;
 - 2. Proposed hours of operation;
 - 3. A lighting plan (interior and exterior);
 - 4. A description of any cultivation within the center, including where the plants will be grown, the number of plants to be grown, the number of plants within a given stage of growth at any given time, a description of the ventilation system for the premises and a lighting plan; and

5. A plan for the legal disposal of any unused and unmarketable marijuana;

h. Any additional information that the Board of Trustees reasonably determines to be necessary in connection with the investigation and review of the application.

(2) Criminal background check. A criminal background investigation shall be performed on all applicants and all owners, officers, managers and employees of applicants. No applicant or owner, officer, manager or employee of an applicant shall have discharged a sentence in the five (5) years immediately preceding the application date for a conviction of a felony or have at any time been convicted of a felony pursuant to any state or federal law regarding the possession, distribution or use of a controlled substance. The conviction for a felony by a permit holder or owner, officer, manager or employee of a permit holder shall be grounds for the revocation of an existing permit. If the Board of Trustees considers an individual's criminal history, the Board of Trustees shall also consider any information provided by the individual regarding such criminal history record, including but not limited to evidence of rehabilitation, character references and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of the individual's criminal history. If there is any change in ownership, officers, managers or employees, a background check must be performed on the new individuals. The permit holder has thirty (30) days in which to report any change of ownership, officers, managers or employees.

(3) The applicant must provide a State Sales Tax Number to the Town at the time of the business license application. (Ord. 11 §1, 2010)

Sec. 6-54. Center requirements.

Medical marijuana centers shall only be located in B-1, B-2, B-1 OT, I-1 and PUD zone districts and shall meet the following requirements:

(1) Location. No medical marijuana center shall be located within one thousand (1,000) feet of the following:

a. Any educational institution or school, either public or private.

b. Any licensed child care facility.

c. Any existing medical marijuana business whether such business is located within or outside of the Town.

(2) Advertisements. Advertisements, signs, displays or other promotional material depicting medical marijuana uses or symbols shall not be shown or exhibited off the premises or in any manner which is visible to the public, from roadways, pedestrian sidewalks or walkways, or from other public areas. No signage associated with a medical marijuana center shall use the word "marijuana," "cannabis" or any other word or phrase commonly understood to refer to marijuana unless such word or phrase is immediately preceded by the word "medical."

(3) Indoor use. All business related to medical marijuana shall be conducted indoors. Building openings, entries and windows shall be located and maintained in such a manner so as to

allow a reasonably unobstructed view into the interior; and for new construction, the building shall be constructed so as to reasonably allow viewing of the interior from the exterior of such structure.

(4) Security. Medical marijuana centers shall provide adequate security on the premises. At a minimum, such security shall include:

a. Security surveillance cameras installed to monitor the main entrance and the exterior of the premises to discourage and to facilitate the reporting of criminal acts as well as nuisance activities. Security video shall be preserved for at least seventy-two (72) hours.

b. Robbery and burglary alarm systems which are professionally monitored and maintained in good working condition.

c. Exterior lighting that illuminates the exterior walls of the premises, which is linked to motion-sensor devices during nonbusiness hours.

d. A battery back-up system that allows for the operation of the lighting and alarm systems during power outages.

(5) Additional limitations. Medical marijuana centers shall be subject to the following additional requirements:

a. The business may only be open for the sale of medical marijuana during the hours of 9:00 a.m. to 7:00 p.m.

b. No on-site consumption of marijuana is allowed.

c. All centers shall be equipped with a secure safe that is utilized for the purposes of storing marijuana when the business is not open.

d. A business license is required.

e. No mobile structure may be used to dispense medical marijuana.

f. No alcohol sales or consumption shall be permitted on site.

g. No sales of drug paraphernalia shall be permitted on site. (Ord. 11 §1, 2010)

Sec. 6-55. Standards for issuance of permit.

The Board of Trustees shall issue a permit under this Article when, from a consideration of the application and from such other information as may otherwise be obtained, the Board of Trustees determines that:

(1) The application (including any required attachments and submissions) is complete and signed by the applicant;

(2) The applicant has paid the application fee and any other fees required by this Code;

- (3) The application does not contain a material falsehood or misrepresentation;
- (4) The application complies with all of the requirements of this Article;
- (5) The criminal history of the applicant or the applicant's owners, officers, managers and employees does not disqualify the applicant from holding a permit; and
- (6) The proposed location of the medical marijuana center is permitted under Paragraph 6-54(1). (Ord. 11 §1, 2010)

Sec. 6-56. Authority to impose conditions on permit.

The Board of Trustees shall have the authority to impose such reasonable terms and conditions on a permit as may be necessary to protect the public health, safety and welfare, and to obtain compliance with the requirements of this Article and applicable law. (Ord. 11 §1, 2010)

Sec. 6-57. Review procedure.

(a) Not less than ten (10) days prior to the review by the Board of Trustees, written notice describing the requested use and the time and place for the review shall be prominently posted on the property subject to the application and sent by regular mail to the owners of all properties that abut or adjoin the subject property (excluding public rights-of-way).

(b) The Board of Trustees shall approve, deny or conditionally approve an application within thirty (30) days of the receipt of the completed application unless, by written notice to the applicant, the decision period is extended for an additional fourteen (14) days.

(c) If an application is denied, the Board of Trustees shall clearly set forth in writing the grounds for denial.

(d) In the event an application is conditionally approved, the Board of Trustees shall clearly set forth in writing the conditions of approval. (Ord. 11 §1, 2010)

Sec. 6-58. Final decision.

(a) The Town Clerk shall notify the applicant of the decision on the application within three (3) business days of the Board of Trustees rendering the decision. Notice shall be given by mailing a copy of the decision to the applicant by regular mail, postage prepaid, at the address shown in the application. Notice is deemed to have been properly given upon mailing.

(b) Any decision made by the Board of Trustees pursuant to this Section shall be a final decision and may be appealed to the District Court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. The applicant's failure to timely appeal the decision is a waiver the applicant's right to contest the denial or conditional approval of the application. (Ord. 11 §1, 2010)

Sec. 6-59. Ledger required.

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

- (1) The quantity of medical marijuana dispensed in each transaction;
- (2) The type and source of medical marijuana dispensed;
- (3) The total amount paid by the patient for the transaction for all goods and services provided;
- (4) The patient's medical marijuana identification card number, and any other identifying information permitted by law;
- (5) Confirmation that the permittee confirmed the identity of the patient receiving the medical marijuana with a valid photo identification; and
- (6) The date and time dispensed. (Ord. 11 §1, 2010)

Sec. 6-60. Limitations on quantity dispensed.

A permittee may not dispense more than two (2) ounces of a usable form of medical marijuana or, in the alternative, six (6) marijuana plants, three (3) or fewer of which may be mature flowering plants per patient, per day. (Ord. 11 §1, 2010)

Sec. 6-61. Penalty.

Failure to comply with the terms of this Article shall constitute a violation of this Code. Any person found guilty of or who pleads guilty or nolo contendere to a violation of any section of this Article shall be subject to a fine not to exceed one thousand dollars (\$1,000.00) or a term of imprisonment not to exceed one (1) year, or both such fine and imprisonment. (Ord. 11 §1, 2010)

Secs. 6-62—6-69. Reserved.

ARTICLE V

Sexually Oriented Businesses

Sec. 6-70. Purpose.

The purpose of this Article is to promote and protect the public health, safety and welfare by regulating sexually oriented businesses through the establishment of reasonable and uniform regulations to reduce the adverse secondary effects of sexually oriented businesses within the Town. This Article is not intended to limit or restrict the content of any communicative materials, including sexually oriented materials. This Article is not intended to restrict or deny access by adults to sexually oriented materials protected by the First Amendment of the United States Constitution or Article II, § 10 of the Colorado Constitution or to deny access of distributors or exhibitors of sexually oriented entertainment to their intended market. Finally, this Article is not intended to condone or legitimize the distribution of obscene material. (Ord. 20 §1, 2010; Ord. 24 §1, 2010)

Sec. 6-71. Definitions.

For purposes of this Article, the following terms shall have the following meanings, unless the context indicates otherwise:

Adult arcade means any commercial establishment in which the public is permitted or invited where, for any form of consideration, one (1) or more motion picture projectors, slide projectors, image or virtual reality producing machines or similar machines, for viewing by five (5) or fewer persons per machine at any one (1) time, are used regularly to show films, motion pictures, video cassettes, slides, digital images, electronic reproductions or photographs describing, simulating or depicting specified sexual activities or specified anatomical areas.

Adult cabaret means a nightclub, bar, restaurant or similar commercial establishment which, for any form of consideration, regularly features live performances which are characterized by the exposure of specified anatomical areas or by the exhibition of specified sexual activities.

Adult motion picture theater means a commercial establishment which is characterized by the showing, for any form of consideration, of films, motion pictures, video cassettes, slides, compact discs, digital video discs (DVDs), digital images or other visual representations that have an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

Adult store means any commercial establishment which, as one (1) of its principal business purposes, offers for sale or rent for any form of consideration one (1) or more of the following:

- a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, compact discs, digital video discs (DVDs), digital images or other visual representations which are characterized by their emphasis on the depiction or description of specified sexual activities or specified anatomical areas; or
- b. Instruments, devices or paraphernalia designed for use in connection with specified sexual activities.

Adult theater means a theater, auditorium or similar commercial establishment which, for any form of consideration, regularly features live performances which are characterized by an emphasis on exposure of specified anatomical areas or specified sexual activities.

Convicted means having been found guilty by a judge or a jury or entering a guilty plea or a plea of nolo contendere, and includes deferred judgments, deferred sentences, deferred adjudications and plea bargains, whether or not an appeal of such conviction is pending; excluding any conviction overturned or vacated by appeal or other force of law.

Employee means a person who works or performs work or service in or for a sexually oriented business on a full-time, part-time or contract basis, with or without compensation, regardless of whether such person is designated as an employee, independent contractor, agent, volunteer or any other status; excluding any person on the premises for repair or maintenance of the premises or for delivering or removing tangible personal property to or from the premises.

Licensed premises means the building or structure in which a licensed sexually oriented business is operating.

Sexually oriented business means an adult arcade, adult store, adult cabaret, adult motion picture theater or adult theater, except an establishment where a medical practitioner, psychologist, psychiatrist or similar professional licensed by the State engages in approved and recognized sexual therapy.

Specified anatomical areas means any of the following:

- a. Human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areola, which are not completely and opaquely covered; or
- b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified crime means and includes the following crimes committed under the penal or criminal code of any municipality, county, state or country: sex crimes against children; sexual abuse; sexual assault; possession or distribution of child pornography; distribution of an illegal controlled substance; prostitution, promotion of prostitution or pandering; and organized crime if such organized crime is committed within the premises of a sexually oriented business in the Town or elsewhere.

Specified sexual activities means any of the following:

- a. Fondling or other intentional touching of human genitals, pubic region, buttocks, anus or female breasts;
- b. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation and sodomy;
- c. Masturbation, actual or simulated; or
- d. Human genitals in a state of sexual stimulation or arousal; human excretory functions as part of or in connection with any of the activities set forth in Subparagraphs a through d hereof. (Ord. 20 §1, 2010; Ord. 24 §1, 2010)

Sec. 6-72. License required.

All sexually oriented businesses in the Town shall be licensed as set forth in this Article, and it shall be unlawful for any person to operate a sexually oriented business in the Town without a valid license issued pursuant to this Article. (Ord. 20 §1, 2010; Ord. 24 §1, 2010)

Sec. 6-73. License application.

(a) Applicants for a sexually oriented business license shall submit a written application to the Town Clerk which includes the following:

(1) The name, address, telephone number and date of birth of the applicant and, if applicable, each of its officers, partners, directors and registered agents;

(2) The trade name of the applicant and copies of all documents recording the trade name, including the trade name affidavit;

(3) The name of any other sexually oriented business in which any officer, director or partner has a financial interest;

(4) The address of the premises to be licensed;

(5) If the applicant is a corporation, copies of the articles of incorporation, bylaws and last annual report;

(6) Copies of documents demonstrating that the applicant has a legal right to possession of the premises to be licensed;

(7) A sketch, drawing or diagram drawn to scale and showing the configuration of the premises, including total floor area to be occupied by each sexually oriented business; and

(8) The type or types of the sexually oriented business proposed, such as an adult store, adult cabaret, adult theater or adult motion picture theater.

(b) Each application shall be verified and acknowledged to be true by the applicant or the managing partner, president or other officer having the authority to sign for the applicant. (Ord. 20 §1, 2010; Ord. 24 §1, 2010)

Sec. 6-74. Background investigations.

(a) Upon receipt of a completed application, the Town Clerk shall perform a background investigation of the applicant and its officers, directors and partners and the information contained in the application.

(b) The Town Clerk may investigate any fact related to any of the criteria set forth in this Article that may be relevant to determine the eligibility of the applicant for a sexually oriented business license.

(c) The Town Clerk may seek and obtain the assistance of law enforcement agencies in conducting the background investigation.

(d) The background investigation shall be completed within forty-five (45) days of receipt of the completed application. (Ord. 20 §1, 2010; Ord. 24 §1, 2010)

Sec. 6-75. Issuance or denial.

(a) Within ten (10) days of the completion of the background investigation, the Town Clerk shall either issue the sexually oriented business license or issue a written statement of denial. The license or statement of denial shall be sent via United States mail, postage prepaid, to the applicant at the

address provided on the application. The Town Clerk shall issue the license unless one (1) or more of the following is true:

- (1) The applicant has not paid all required fees under this Article;
- (2) The applicant or any of its officers, directors or partners is under eighteen (18) years of age;
- (3) The applicant is not qualified to conduct business under applicable state or federal law or Town ordinances;
- (4) The applicant has knowingly provided false information to the Town on an application for a sexually oriented business license;
- (5) The location of the proposed sexually oriented business does not comply with the location requirements set forth in the Town's zoning ordinance;
- (6) The premises in which the sexually oriented business is proposed to be located do not comply with applicable Town ordinances, such as the building code, electrical code or fire code;
- (7) The applicant is delinquent in the payment of any taxes owed to the Town; or
- (8) The applicant or any of its directors, officers or partners has been convicted of a specified crime in the two (2) years preceding the date of the application.

(b) Within ten (10) days of the date of a written statement of denial, the applicant may submit a written request that the Town Clerk schedule a public hearing before the Board of Trustees on the application. The hearing shall be held at the next regularly scheduled Board of Trustees meeting occurring at least ten (10) days after receipt of the written request.

(c) At the hearing, the applicant may present additional evidence, either documentary or through witness testimony, which is relevant to the applicant's eligibility for a sexually oriented business license.

(d) At the conclusion of the hearing or within ten (10) days thereafter, the Board of Trustees shall either order that the Town Clerk issue the sexually oriented business license, or issue a written order denying the application for the sexually oriented business license.

(e) If the Board of Trustees denies the application for a sexually oriented business license, the Board of Trustees' decision shall be final, subject to judicial review pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. (Ord. 20 §1, 2010; Ord. 24 §1, 2010)

Sec. 6-76. Term of license; renewal.

(a) All sexually oriented business licenses issued under this Article shall be valid for one (1) year from the date of issuance, unless revoked or suspended as provided in this Article.

(b) Written application for renewal of a sexually oriented business license shall be filed with the Town Clerk at least sixty (60) days prior to the expiration of the current license, together with the

applicable annual license fee. If no application for renewal is timely filed, the licensee has waived its option to renew the license and must re-apply for a new license.

(c) Applications for renewal shall include the same information as an original application, except as the Town Clerk deems redundant.

(d) The procedures for renewal license applications shall be the same as the procedures for new license applications. (Ord. 20 §1, 2010; Ord. 24 §1, 2010)

Sec. 6-77. License nontransferable.

A sexually oriented business license issued under this Article is nontransferable. By way of example but not limitation, a new sexually oriented business license shall be required upon: the sale, lease or sublease of the sexually oriented business or the licensed premises; the transfer by sale, exchange or similar means of a controlling interest in the sexually oriented business; or the establishment of a trust, gift or similar legal device which transfers ownership or control of the sexually oriented business or the licensed premises, other than transfer by bequest or other operation of law upon the death of the person possessing ownership or control. (Ord. 20 §1, 2010; Ord. 24 §1, 2010)

Sec. 6-78. Suspension and revocation.

(a) The Town Clerk may suspend or revoke any sexually oriented business license issued under this Article if the Town Clerk receives reliable information to establish that:

- (1) A nuisance is being maintained on the licensed premises;
- (2) The licensed premises are unsanitary as certified by the Chaffee County Department of Health;
- (3) The licensed premises are unsafe as certified by the Building Official, the Fire Marshal or the Fire Chief with jurisdiction over the premises;
- (4) The licensee has knowingly permitted on the licensed premises: the possession, sale or use of illegal controlled substances; any specified sexual activity; or prostitution;
- (5) The licensee or any of its officers, directors, partners or employees has been convicted of a specified crime during the term of the license; or
- (6) The licensee knowingly provided false information on an application for a sexually oriented business license or renewal of such a license.

(b) At least twenty (20) days before the Town Clerk suspends or revokes any sexually oriented business license, the Town Clerk shall provide written notice to the licensee, via United States mail, postage prepaid, to the address provided on the most recent application, of the allegations supporting the suspension or revocation.

(c) During the twenty-day period, the licensee may file a written request for a stay of the suspension or revocation pending a public hearing before the Board of Trustees on the allegations to support the suspension or revocation.

(d) The public hearing shall be held at the next regularly scheduled Board of Trustees meeting at least ten (10) days after receipt of the request.

(e) At the hearing, the applicant may present additional evidence, either documentary or through witness testimony, which is relevant to the suspension or revocation.

(f) At the conclusion of the hearing or within ten (10) days thereafter, the Board of Trustees shall order that the sexually oriented business license be suspended for a period of time not to exceed one hundred eighty (180) days, that the license be revoked or that no action be taken with respect to the license.

(g) If the Board of Trustees orders suspension or revocation, the Board of Trustees' decision shall be final, subject to judicial review pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. (Ord. 20 §1, 2010; Ord. 24 §1, 2010)

Sec. 6-79. General regulations.

(a) All licensed premises shall comply with all applicable Town regulations and ordinances, including but not limited to the building code, fire code, electrical code and zoning regulations.

(b) Every sexually oriented business license issued under this Article shall be displayed in a conspicuous place on the licensed premises in a clear cover or frame and shall be available for inspection at all times by the public.

(c) All licensed premises shall be maintained in a clean and sanitary condition and shall be cleaned at least once daily and more frequently when necessary.

(d) Trash and garbage shall not be permitted to accumulate in any licensed premises or on the property outside any licensed premises.

(e) All materials, devices and novelties offered by a sexually oriented business which depict specified sexual activities or specified anatomical areas shall be displayed so that they cannot be seen by anyone other than customers who have entered the licensed premises. (Ord. 20 §1, 2010; Ord. 24 §1, 2010)

Sec. 6-80. Dance and entertainment requirements.

(a) An adult cabaret or adult theater at which employees dance shall have one (1) or more stages or similar structures specially designed for dancing, which shall be constructed in accordance with applicable building code regulations, and located inside the licensed premises. Employees shall dance only upon such stage or structure.

(b) When an employee dances on a structure which is designed to hold not more than two (2) persons, the structure shall be level, of sturdy construction and securely fastened to the floor or wall during dance performances. Steps and handrails shall be required on all such stages and structures

where the platform on which the employee dances is more than eight (8) inches above the surface upon which the structure rests.

(c) Any adult cabaret or adult theatre 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, and the stage shall be fixed and immovable.

(d) No seating for the audience shall be permitted within three (3) feet of the edge of any stage, and no members of the audience shall be permitted upon any stage or within three (3) feet of the edge of any stage. A physical barrier, such as a roped-off cordon, shall separate the edge of the stage from the area customers are permitted.

(e) No private rooms or screened areas that are accessible to non-employees are permitted inside an adult cabaret or adult theater, such as rooms or screened areas available for private dance performances by individuals or groups to the exclusion of other customers of the establishment.

(f) No activity, materials or merchandise inside a sexually oriented business shall be visible from the exterior. (Ord. 20 §1, 2010; Ord. 24 §1, 2010)

Sec. 6-81. Lighting requirements.

(a) When the occupant capacity of any licensed premises, as determined by the Fire Department, is at least fifty (50) persons, such licensed premises shall have electric, battery-operated emergency lights using reliable storage batteries properly maintained and charged.

(b) The interior portion of a licensed 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) foot-candles as measured at the floor level. It shall be the duty of the licensee and employees present on the premises to ensure that the illumination described above is maintained at all times that any patron is present on the premises. (Ord. 20 §1, 2010; Ord. 24 §1, 2010)

Sec. 6-82. Hours of operation.

It is 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 on any Monday through Saturday between 2:00 a.m. and 7:00 a.m.; and on any Sunday between 2:00 a.m. and 8:00 a.m. (Ord. 20 §1, 2010; Ord. 24 §1, 2010)

Sec. 6-83. Age restrictions.

(a) It is unlawful for a licensee to admit or permit the admission of any person under eighteen (18) years of age into any sexually oriented business.

(b) It is unlawful for any person to sell, barter, give or offer for sale, barter or gift, to any person under eighteen (18) years of age any service, material, device or thing sold or offered for sale by any adult store or adult motion picture theater.

(c) Employees of any sexually oriented business shall be at least eighteen (18) years of age. (Ord. 20 §1, 2010; Ord. 24 §1, 2010)

Sec. 6-84. Conduct.

(a) No licensee or employee shall encourage or knowingly permit any person on or within the licensed premises to touch, caress or fondle the genitals, pubic region, buttocks, anus or breasts of any person.

(b) No licensee or employee shall knowingly fail to immediately report to the Police Department any criminal conduct or violation of any Town ordinance or state or federal law, rule or regulation that occurs on or within the licensed premises.

(c) No person shall engage in specified sexual activities on or within a licensed premises.

(d) No licensee or employee mingling with 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.

(e) No employee shall receive tips from patrons except as provided herein. 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 employees shall be placed by patrons into the tip box. The licensee shall post one (1) or more signs to be conspicuously visible to patrons 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.

(Ord. 20 §1, 2010; Ord. 24 §1, 2010)

Sec. 6-85. Inspection.

Every licensee shall permit law enforcement officers, and any other federal, state, county or Town agency in the performance of any function connected with the enforcement of this Article and normally and regularly conducted by such agency, to inspect the licensed premises for the purpose of ensuring compliance with this Article at any time the licensed premises is occupied or open for business. (Ord. 20 §1, 2010; Ord. 24 §1, 2010)

Sec. 6-86. Employee identification.

Each licensee shall provide to the Town Clerk, in writing, the full name, any aliases, date of birth and the current address and telephone number of every employee of the licensee within five (5) days of employment. (Ord. 20-2010 §1; Ord. 24-2010 §1)

Sec. 6-87. Exemptions.

Notwithstanding anything to the contrary in this Article, the following businesses and activities shall be exempt from the requirements of this Article:

(1) Any adult store which derives less than ten percent (10%) of its gross income from the sale of materials depicting specified sexual activities or specified anatomical areas if such materials are located in a separate room or booth containing those materials only.

(2) Any college, junior college or university supported, in whole or in part, by tax revenue and offering educational programs which, for educational purposes, may include the depiction of specified sexual activities or specified anatomical areas. (Ord. 20-2010 §1; Ord. 24-2010 §1)

Sec. 6-88. Regulations not exclusive.

Nothing contained in this Article shall limit the effectiveness or applicability of any other provision of this Code to any sexually oriented business. (Ord. 20-2010 §1; Ord. 24-2010 §1)

Sec. 6-89. Penalties.

(a) Failure to comply with the terms of this Article shall constitute a violation of this Code. Any person found guilty of or who pleads guilty or nolo contendere to a violation of any section of this Article shall be subject to a fine not to exceed one thousand dollars (\$1,000.00) or a term of imprisonment not to exceed one (1) year, or both such fine and imprisonment. Each and every day of violation of the provisions of this Article shall constitute a separate offense punishable as such.

(b) In the event of violation of any of the terms and regulations set forth herein, the Town may obtain equitable relief, including injunctive relief, to require compliance with the provisions hereof. In the event the Town is successful in obtaining injunctive or other equitable relief, the costs and attorney fees incurred by the Town in such action shall be awarded to the Town in addition to any other relief.

(c) Nothing contained herein shall preclude the Town from enforcing the suspension and revocation provisions of this Article in addition to simultaneously or subsequently prosecuting alleged violations of this Article, under this Section. (Ord. 20-2010 §1; Ord. 24-2010 §1)