

CHAPTER 6

Business Licenses and Regulations

Article I	Business Licenses
	Sec. 6-1 Purpose
	Sec. 6-2 License required
	Sec. 6-3 License application
	Sec. 6-4 License fees
	Sec. 6-5 Payment of fee
	Sec. 6-6 Issuance
	Sec. 6-7 Carrying or posting license required
	Sec. 6-8 License nontransferable
	Sec. 6-9 Period of license; renewal
	Sec. 6-10 Suspension
	Sec. 6-11 Probation following suspension
	Sec. 6-12 Revocation of license
	Sec. 6-13 Notice and hearing prior to suspension or revocation
	Sec. 6-14 Appeal of suspension or revocation to Board of Trustees
	Sec. 6-15 Cease and desist
	Sec. 6-16 Penalty
	Sec. 6-17 Special event permits; temporary businesses
	Sec. 6-18 Nonprofit organization required to register
Article II	Alcoholic Beverages
	Sec. 6-31 Definitions
	Sec. 6-32 Declaration of neighborhood
	Sec. 6-33 Declaration of policy and purpose
	Sec. 6-34 Application fees; investigation fee; license and permit fees
	Sec. 6-35 Collection
	Sec. 6-36 Penalties
	Sec. 6-37 Town not required to issue licenses
	Sec. 6-38 Reserved
	Sec. 6-39 Adoption of Colorado Liquor Code
	Sec. 6-40 Delegation of authority to Town Clerk
	Sec. 6-41 Tastings
Article III	Peddlers and Solicitors
	Sec. 6-51 License required
	Sec. 6-52 Definitions
	Sec. 6-53 Sale of certain agricultural products excluded
	Sec. 6-54 License fees
	Sec. 6-55 Exhibition of license
	Sec. 6-56 Revocation of license
Article IV	Public Assembly or Special Event
	Sec. 6-71 Permit required
	Sec. 6-72 Permit application
	Sec. 6-73 Application deadline
	Sec. 6-74 Review process
	Sec. 6-75 Conditions authorized
	Sec. 6-76 Appeals
	Sec. 6-77 Deposit required for rental of public facilities

- Sec. 6-78 Fee required
- Sec. 6-79 Terms of permit
- Sec. 6-80 Penalty

Article V Rental Property

- Sec. 6-91 License required
- Sec. 6-92 Definitions
- Sec. 6-93 Application for license
- Sec. 6-94 Inspection
- Sec. 6-95 Issuance of license
- Sec. 6-96 Renewal
- Sec. 6-97 Enforcement
- Sec. 6-98 Board of Trustees review

Article VI Sidewalk Display

- Sec. 6-111 Permit required
- Sec. 6-112 Permit requirements
- Sec. 6-113 Permit application procedures
- Sec. 6-114 Permit periods; renewals
- Sec. 6-115 Transfers of permit
- Sec. 6-116 Termination of permit
- Sec. 6-117 Temporary termination of permits

Article VII Explosives

- Sec. 6-131 Generally
- Sec. 6-132 Definitions
- Sec. 6-133 Permit required
- Sec. 6-134 Qualifications for permit
- Sec. 6-135 Blasting operations
- Sec. 6-136 Notification prior to blasting operations
- Sec. 6-137 Blasting plan
- Sec. 6-138 Blasting specifications
- Sec. 6-139 Manufacture and storage of explosives
- Sec. 6-140 Corrective measures
- Sec. 6-141 Revocation of permit
- Sec. 6-142 Violation and penalties

Article VIII Miscellaneous Permits

- Sec. 6-161 Permits for amplified music
- Sec. 6-162 Chicken hen permit

Article IX Licensing of Sexually Oriented Businesses

- Sec. 6-181 Definitions
- Sec. 6-182 License required
- Sec. 6-183 Fees
- Sec. 6-184 Application for license
- Sec. 6-185 Duty to supplement application
- Sec. 6-186 Investigation and application
- Sec. 6-187 Issuance of license
- Sec. 6-188 Expiration of license
- Sec. 6-189 Suspension of license
- Sec. 6-190 Revocation of license
- Sec. 6-191 Suspension or revocation hearing
- Sec. 6-192 Transfer of license
- Sec. 6-193 Manager's license required; change of manager; inactive status

Sec. 6-194	Application for manager's license
Sec. 6-195	Expiration of manager's license
Sec. 6-196	Suspension of manager's license
Sec. 6-197	Revocation of manager's license
Sec. 6-198	Suspension or revocation hearing
Sec. 6-199	Notice
Sec. 6-200	Judicial review
Sec. 6-201	Inspection

Article X

Medical Marijuana Business Licensing

Sec. 6-231	Short title
Sec. 6-232	Findings
Sec. 6-233	Purpose
Sec. 6-234	Authority
Sec. 6-235	Definitions
Sec. 6-236	License required
Sec. 6-237	Application for license
Sec. 6-238	Application fee
Sec. 6-239	Investigation of application
Sec. 6-240	Standards for issuance of license
Sec. 6-241	Denial of license
Sec. 6-242	Authority to impose conditions on license
Sec. 6-243	Decision by Town Administrator
Sec. 6-244	Notice of decision
Sec. 6-245	Appeal of denial or conditional approval of license
Sec. 6-246	Contents of license
Sec. 6-247	Inspection of premises
Sec. 6-248	License not transferable
Sec. 6-249	Notice of issuance of license
Sec. 6-250	Duration of license; renewal
Sec. 6-251	Duties of licensee
Sec. 6-252	Posting of license
Sec. 6-253	Suspension or revocation of license
Sec. 6-254	Limitation on sale of marijuana
Sec. 6-255	Medical marijuana business location
Sec. 6-256	Hours of operation
Sec. 6-257	Signage
Sec. 6-258	Required warnings to be posted
Sec. 6-259	Paraphernalia
Sec. 6-260	Display of medical marijuana
Sec. 6-261	Confidentiality of information related to medical marijuana businesses
Sec. 6-262	Taxes
Sec. 6-263	Required record
Sec. 6-264	Unlawful acts; penalties; injunctive relief
Sec. 6-265	No Town liability
Sec. 6-266	Indemnification of Town
Sec. 6-267	Other laws remain applicable
Sec. 6-268	Rules and regulations

Article XI

Regulation of Marijuana

Sec. 6-269	Short title
Sec. 6-270	Findings
Sec. 6-271	Purpose
Sec. 6-272	Authority

Sec. 6-273	Definitions
Sec. 6-274	Hemp farming
Sec. 6-275	Marijuana establishment application
Sec. 6-276	Confidentiality of information
Sec. 6-277	Investigation of application
Sec. 6-278	Denial and appeals
Sec. 6-279	Issuance of license
Sec. 6-280	Contents of license
Sec. 6-281	Renewal of license
Sec. 6-282	Duties of licensee
Sec. 6-283	Time of operation
Sec. 6-284	Place of operation
Sec. 6-285	Manner of operation
Sec. 6-286	Unlawful acts; penalties; injunctive relief
Sec. 6-287	Suspension; revocation; fines
Sec. 6-288	No Town liability
Sec. 6-289	Other laws remain applicable
Sec. 6-290	Signs

ARTICLE I

Business Licenses

Sec. 6-1. Purpose.

The purpose of this Article is the regulation and registration of businesses operating within the Town to protect the health, safety and welfare of the citizens of the Town and ensure the proper collection of taxes which support the Town. (Ord. 218 §1, 1982; Ord. 435 §1, 1996; Ord. 689 §1, 2011)

Sec. 6-2. License required.

Every person or entity responsible for collecting municipal sales taxes must obtain a license from the Town before operating, conducting or carrying on any trade, profession or business within the Town. Businesses that serve the public but do not collect sales tax due to the service nature of their operations must also obtain a license. A separate license shall be obtained for each location of the business, and multiple businesses housed in the same fixed location shall require separate licenses. A change of business location or ownership shall necessitate application for a new license. It is unlawful for any person to engage in the business of selling tangible personal property at retail without having obtained such license. Nonprofit organizations, federal, state or municipal corporations, are hereby exempt from the license requirements set forth in this Article. (Ord. 218, §3, 1982; Ord. 435 §1, 1996; Ord. 689 §1, 2011)

Sec. 6-3. License application.

An application for a business license shall be made to the Town Clerk on forms provided by the Town. Every applicant shall state under oath or affirmation such facts as may be required for the granting of such license. It is unlawful for any person to make any false statement or misrepresentation in connection with any application for a license. The Town Administrator is hereby authorized to promulgate any necessary rules or regulations associated with the license application. (Ord. 218 §3, 1982; Ord. 435 §1, 1996; Ord. 689 §1, 2011)

Sec. 6-4. License fees.

Each application for a new or renewal license shall be accompanied by an annual license fee as set forth in the Town's fee schedule. If a licensee submits a renewal application after the end of the quarter in which it is due, he or she shall be assessed a twenty dollar (\$20.00) late fee in addition to the annual license fee. (Ord. 435 §1, 1996; Ord. 540 §2, 2000; Ord. 665 §1, 2008; Ord. 689 §1, 2011)

Sec. 6-5. Payment of fee.

Before issuance of any license, the fee required for the license must be paid at the office of the Town Clerk. (Ord. 435 §1, 1996; Ord. 689 §1, 2011)

Sec. 6-6. Issuance.

Upon receipt of the required fee and compliance with Section 6-4 above, the Town Clerk will issue a license that indicates that the license application or renewal fee has been paid for the specified year. (Ord. 435 §1, 1996; Ord. 689 §1, 2011)

Sec. 6-7. Carrying or posting license required.

The license for a particular business location shall be posted at all times in a conspicuous place in the place of business. If the business is not operated, conducted or carried on at a fixed location, then the licensee must carry the license upon his or her person when operating, conducting or carrying on any retail trade, profession or business. Every licensee shall produce his or her license for examination when requested to do so by any Town police officer or by any person representing the Town. (Ord. 435 §1, 1996; Ord. 689 §1, 2011)

Sec. 6-8. License nontransferable.

Except as provided in Section 6-7, no license issued under the provisions of this Article shall be transferable from person to person or place to place. (Ord. 435 §1, 1996; Ord. 689 §1, 2011)

Sec. 6-9. Period of license; renewal.

All licenses are valid for one (1) year and shall expire at the end of the calendar quarter during which the original application was made. The licensee shall be responsible for renewing the license each year. The Town Clerk may not refuse to issue such renewal except for revocation of the prior license for cause, as provided in this Code. (Ord. 218 §3, 1982; Ord. 435 §1, 1996; Ord. 689 §1, 2011; Ord. 725 §2, 2013)

Sec. 6-10. Suspension.

A license may be suspended by the Town Administrator or a designated representative after notice and an administrative hearing:

- (1) When any money due the Town has not been paid. This includes failure to pay civil penalties, fines, taxes, impact fees or any other money owed to the Town.
- (2) When any activity conducted by the licensee, his or her employee or agent violates any federal, state or local rule, regulation or law.
- (3) Upon failing to comply with the terms and conditions of the license.
- (4) Upon any grounds of suspension provided by ordinance. (Ord. 435 §1, 1996; Ord. 689 §1, 2011)

Sec. 6-11. Probation following suspension.

Each license suspended pursuant to Section 6-10 above shall, immediately after the period of suspension is completed, commence a ninety-day probationary period. During the probationary period, the licensed business may operate. The purpose of the probationary period is to provide the

licensee with adequate time to cure the conditions that formed the basis for the suspension. At the conclusion of the probationary period, the Town Administrator or a designated representative shall investigate the licensee's efforts to remedy the relevant conditions. If the Town Administrator or a designated representative determines that said conditions have been eliminated or otherwise adequately cured, no further action shall be taken by the Town. If the Town Administrator or designated representative determines that the reasons for suspension have not been eliminated or otherwise adequately cured, the Town Administrator shall conduct a hearing on the revocation of the license in accordance with Section 6-12 below. (Ord. 689 §1, 2011)

Sec. 6-12. Revocation of license.

A license may be revoked by the Town Administrator or a designated representative after notice and an administrative hearing:

- (1) When it appears that the license was obtained by fraud, misrepresentation or false statements within the application;
- (2) When it appears that the activity conducted pursuant to such license is a public nuisance as defined by this Code or statute or violates any federal, state or local rule, regulation or law.
- (3) Upon failing to comply with the terms and conditions of the license.
- (4) Upon a licensee's failure, during a post-suspension probationary period, to adequately cure the reasons for suspension of the license in accordance with Section 6-11 above.
- (5) Upon any ground of revocation provided by this Code. (Ord. 435 §1, 1996; Ord. 689 §1, 2011)

Sec. 6-13. Notice and hearing prior to suspension or revocation.

All hearings to revoke or suspend a license shall be before the Town Administrator or a designated representative. Should the licensee or his or her representative fail to appear at the hearing, the official conducting the hearing (the "hearing officer") may still conduct the hearing and take action if proper notice was given. For the purposes of this Section, notice of a hearing shall be deemed proper if sent to the licensee's last known mailing address by regular U.S. Mail, First Class, postage prepaid, postmarked at least ten (1) days prior to the hearing date. The suspension or revocation of any license shall not release or discharge anyone from his or her civil liability for the payment of the taxes, penalty and interest nor from criminal prosecution for any related offense. The hearing officer shall give prompt written notice of his or her decision to the licensee. (Ord. 435 §1, 1996; Ord. 689 §1, 2011)

Sec. 6-14. Appeal of suspension or revocation to Board of Trustees.

A licensee may appeal a hearing officer's decision to suspend or revoke his or her license to the Board of Trustees by filing a written request with the Town Clerk within ten (10) days of the date of the hearing officer's written decision. The Town Clerk shall set the appeal before the Board of Trustees at the next available regular meeting for which the Board of Trustees' packet deadline can be met. The Board of Trustees shall give prompt written notice of its decision to the licensee. The

Board of Trustee's decision shall constitute the Town's final decision on the matter and may be appealed to District Court in accordance with the Colorado Rules of Civil Procedure. (Ord. 689 §1, 2011)

Sec. 6-15. Cease and desist.

If any business is operating without a license, the Town Administrator or his or her designee may issue an order to the business to cease and desist all further operation until a license is issued for the business. The order shall give the business three (3) days to pay all amounts due the Town; or to post a bond in the amount owing the Town and to request in writing a hearing. If the business does nothing, it shall cease operations on the third day. The hearing, if requested, shall be before the Board of Trustees and scheduled as provided by Section 6-13 above. These proceedings shall not relieve or discharge anyone from the civil liability for the payment of the taxes, penalty and interest nor from criminal prosecution for any related offense. (Ord. 435 §1, 1996; Ord. 689 §1, 2011)

Sec. 6-16. Penalty.

Failure to comply with the terms of this Article shall constitute a civil infraction punishable by the Municipal Court. Any person who is found guilty of, or pleads guilty or nolo contendere to the commission of, the civil infraction shall be subject to the fine as set forth in Section 1-72 of this Code. For each day, or portion thereof, during which any violation continues, a person may be cited for a separate civil infraction. The penalties specified in this Section shall be cumulative and nothing shall be construed as either prohibiting or limiting the Town from pursuing such other remedies or penalties, including an action at law or equity. (Ord. 435 §1, 1996; Ord. 689 §1, 2011)

Sec. 6-17. Special event permits; temporary businesses.

At the request of a sponsor of a community-wide event, the Town Administrator or a designated representative may issue a special event permit to such sponsor in accordance with Article IV of Chapter 6 of this Code. Such a special event permit shall allow all concessionaries, temporary merchants, street vendors and other invitees of the sponsor who would otherwise be required to obtain individual business licenses under this Chapter to operate for the limited duration of the special event under the sponsor's special event license. (Ord. 689 §1, 2011)

Sec. 6-18. Nonprofit organization required to register.

Nonprofit organizations providing services or otherwise operating within Town limits are required to register with the Town Administrator and provide proof of their tax-exempt status on forms provided by the Town Administrator. (Ord. 689 §1, 2011)

Secs. 6-19—6-30. Reserved.

ARTICLE II

Alcoholic Beverages

Sec. 6-31. Definitions.

As used in this Article, the words or phrases shall have the same meanings as in Title 12, Articles 46, 47 and 48, C.R.S. (Ord. 107 §1, 1968; Ord. 435 §1, 1996; Ord. 725 §3, 2013)

Sec. 6-32. Declaration of neighborhood.

For any license application pursuant to this Article, the neighborhood shall include all property within the boundaries of the Town. (Ord. 435 §1, 1996)

Sec. 6-33. Declaration of policy and purpose.

The Board of Trustees hereby finds, determines and declares that, considering the nature of the business of selling at retail 3.2% beer, malt, vinous and spirituous liquors for beverage purposes, the relation of such business as to the welfare, as well as to the relations thereof to the expenditures required of the Town and a proper, just and equitable distribution of tax burdens within the Town, and all other penalties proper to be considered in relation thereto, the classification of said business as a separate occupation is reasonable, proper, uniform, nondiscriminatory and the amount of tax imposed by this Article is reasonable, proper, uniform, nondiscriminatory and necessary for a just and proper distribution of tax burdens within the Town. (Ord. 107 §3, 1968)

Sec. 6-34. Application fees; investigation fee; license and permit fees.

(a) The fees to be paid as an application fee for the issuance of a license under this Article are the maximum amounts provided in Title 12, Articles 47 and 48, C.R.S.

(b) Each applicant shall pay a nonrefundable investigation fee at the time the application is filed in the amount then charged by the Colorado Department of Public Safety for each person who will be investigated. The Police Department shall furnish the results of such investigation to the Town Clerk, together with a recommendation with respect to the granting or denial of the license, and reasons therefor.

(c) The license and permit fees shall be paid, in advance, to the Town for a license and shall be of the maximum amounts provided in Title 12, Articles 47 and 48, C.R.S. (Ord. 393 §1, 1994; Ord. 435 §1, 1996; Ord. 646 §3, 2008)

Sec. 6-35. Collection.

The Town shall have the right to recover all sums due by the terms of this Article by an action of law in any court of competent jurisdiction. Such remedy shall be cumulative with all other remedies provided herein for the enforcement of this Article. (Ord. 107 §7, 1968)

Sec. 6-36. Penalties.

Failure to comply with the terms of this Article by payment of taxes, securing and posting a receipt therefor, and to otherwise comply with the terms of this Article shall constitute an offense and violation of this Article. Every person violating this Article shall upon conviction be fined as set forth in Section 1-72 of this Code. No conviction for any such violation shall be a basis for revocation or suspension of the license of the defendant issued under the laws of the State. (Ord. 107 §8, 1968; Ord. 435 §1, 1996)

Sec. 6-37. Town not required to issue licenses.

The adoption of this Article and tax shall not imply any obligation on the Town to issue licenses for any of these or other liquor license classifications, or to any applicants for any such licenses. (Ord. 107 §9, 1968)

Sec. 6-38. Reserved.

Sec. 6-39. Adoption of Colorado Liquor Code.

(a) Adoption. Pursuant to Section 31-16-201, C.R.S., the Colorado Liquor Code, Sections 12-47-101 through 12-47-901, C.R.S., are adopted by reference and shall have the same force and effect as if set forth herein in every particular.

(b) Exceptions. In the event a provision of the Colorado Liquor Code conflicts with a provision of this Code, the more restrictive provision shall govern.

(c) Penalties. Any person who, within the Town, violates a provision of the Colorado Liquor Code or causes such violation shall be subject to the penalties provided in Section 6-36 of this Code. (Ord. 553 §1, 2002)

Sec. 6-40. Delegation of authority to Town Clerk.

(a) The Town Clerk is hereby vested with authority to review and approve applications for liquor license renewals, special event licenses, transfers of ownership, art gallery permits and temporary permits.

(b) The Town Clerk shall not approve any such application unless all of the following are met:

(1) The applicant has timely submitted a complete application and the payment of all fees.

(2) The Police Department has reviewed the application and provided written comments that contain no objection concerning the application.

(3) There exist no facts or information on the application illustrating reasonable grounds or good cause to deny the application.

(4) There have been no violations of the Colorado Beer or Liquor Code by the applicant in the previous two (2) years.

(c) In addition, before approval, the Town Clerk shall confirm the following when appropriate:

(1) For special event licenses:

a. Timely and proper posting of a conspicuous public notice sign as required by Article 48, Title 12, C.R.S.

b. Whether the applicant satisfies the eligibility criteria set forth in Article 48, Title 12, C.R.S.

c. After investigation, no sufficient grounds for denial appear to exist and no protests have been filed by affected persons.

d. That the applicant has not exceeded and does not propose to exceed the maximum number or special event calendar days permitted by Article 48, Title 12, C.R.S.

(2) For temporary permits:

a. Timely filing of a complete application and payment of all fees for the transfer of the corresponding liquor license.

b. Whether the premises subject to the proposed permit are currently subject to a valid liquor license.

(3) For transfers of ownership: Whether the requirements of Section 12-47-307, C.R.S., and 1 C.C.R. § 203-2, Rule 47-302 or any analogous successor rule have been met.

(4) For an art gallery permit:

a. Whether the applicant operates an establishment whose primary purpose is to exhibit and offer for sale works of fine art as defined in Section 6-15-101, C.R.S., or precious or semiprecious metals or stones as defined in Section 18-16-102, C.R.S.

b. Whether the applicant has established that the applicant is able to offer complimentary alcohol beverages without violating Section 12-47-422, C.R.S., or creating a public safety risk to the neighborhood.

(d) In the event the Town Clerk cannot or will not approve any application, the Town Clerk shall automatically and promptly schedule the application for consideration by the Board of Trustees, acting as the Local Liquor Licensing Authority, at its next regular meeting.

(e) Any 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 within ten (10) days after the date of the decision being appealed. The Town Clerk shall promptly set the appeal before the Board of Trustees at its next regular meeting.

(f) The Town Clerk may, for good cause, waive the forty-five-day time requirement for filing a license renewal application.

(g) The Town Clerk shall regularly report to the Board of Trustees in a timely manner all licensing actions taken by the Town Clerk under the provisions of this Article.

(h) The Town Clerk shall report the issuance of any special event permit to the Colorado Liquor Enforcement Division in accordance with the requirements of Article 48, Title 12, C.R.S. (Ord. 646 §5, 2008; Ord. 648 §9, 2008; Ord. 662 §1, 2008; Ord. 695 §§2, 3, 2011)

Sec. 6-41. Tastings.

(a) Tastings, as that term is defined in the Colorado Liquor Code at Section 12-47-103(37.5), C.R.S., may be conducted by retail liquor store and liquor-licensed drugstore licensees in accordance with this Section and pursuant to Section 12-47-301, C.R.S. It is unlawful for any person or licensee to conduct tastings within the Town unless authorized in accordance with this Section.

(b) A retail liquor store or liquor-licensed drugstore licensee desiring to conduct tastings must submit a permit application or permit application renewal for that purpose in accordance with this Section.

(c) A tastings permit shall be valid for the period of the then-existing liquor license, and the permit may be renewed at the time of any liquor license renewal.

(d) An application for a tastings permit must be submitted to the Town Clerk no later than thirty (30) days prior to the date of the first tasting requested in the application or at the time of license renewal, whichever occurs first.

(e) At a minimum, the application must include the following information:

(1) The name of the licensee requesting the tastings permit and the location of the premises of the retail liquor store or liquor-licensed drugstore.

(2) A written plan, including diagrams, to establish how the applicant will conduct tastings in compliance with the provisions of the Colorado Liquor Code and this Code and without creating a public safety risk to the neighborhood.

(3) A schedule of the specific dates and times of requested tastings for the period of the permit. Such schedule shall conform to all requirements imposed by Subsection (h) below. Following approval of a tastings permit and the tastings schedule by the Town, the licensee may amend such schedule by delivering to the Town Clerk, at least seventy-two (72) hours prior to an unscheduled event, a notice of amendment of the Town-approved schedule.

(4) A copy of a certificate of training for individuals who will conduct tastings.

(5) Any other information requested by the Town Clerk reasonably necessary to ensure compliance with the requirements of this Section, state law or the applicant's license conditions.

(f) The application fee for an annual tastings permit shall be one hundred dollars (\$100.00) and shall be paid to the Town at the time of application.

(g) The Town Clerk shall approve, approve with restrictions or deny the application for a tastings permit or refer such decision to the Authority.

(1) The Town Clerk may deny an application if the application fails to establish that the applicant is able to conduct tastings in compliance with this Section or Section 12-47-301(10), C.R.S., or if such tastings create or threaten to create a public safety risk to the neighborhood. A decision to deny a tastings permit application shall be made in writing and shall be provided to the applicant within five (5) business days of the date of the decision. Approval of an application for a tastings permit shall also constitute approval of the schedule for tastings submitted with the application unless such schedule fails to conform to all applicable requirements imposed by Subsection (h) below.

(2) An application for a tastings permit may be denied by the Town Clerk if the licensee has violated the Colorado Liquor Code during the twelve (12) months immediately preceding the date of the application. If the applicant has violated the Colorado Liquor Code during the twelve (12) months immediately preceding the date of the application, the Town Clerk shall have discretion to approve or deny the application based upon the following criteria:

- a. The length of time the licensee has been in business;
- b. The number of previous violations by the licensee, if any;
- c. The degree of cooperation with police and Town officials in relation to the violation;
- d. Whether the licensee's staff has attended alcohol awareness training, the number of people who have attended and the number of times attended;
- e. Whether the licensee has a process in place on the licensed premises to prevent similar future violations;
- f. Whether the violation was committed by the owner or a person with a majority interest in the license or by employees of the licensee; and
- g. Any other circumstances provided by the licensee or others which may guide the Town Clerk in determining sanctions or whether to approve the application.

(3) A denial of the application may be appealed to the Local Liquor Licensing Authority. Said appeal shall be filed with the Town Clerk within ten (10) days of the Town Clerk's decision.

(h) The following regulations shall apply to all tastings:

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

(2) Tastings permits issued during the term of a current license shall be valid for the period of the then-existing liquor license. All other tastings permits shall be issued concurrent with the retail liquor store license and shall be valid for the term of said license.

(3) No tasting may be conducted unless the licensee has provided written notice to the Town Clerk at least seventy-two (72) hours in advance stating the specific days and hours on which the tastings shall occur. There shall be no limitation on the number of days which a licensee may specify in each notice. However, no notice may specify any date which is beyond the current license period.

(4) The size of an individual alcohol sample shall not exceed one (1) ounce of malt or vinous liquor or one-half (½) ounce of spirituous liquor. The licensee shall not serve more than four (4) individual samples to a patron during a tasting.

(5) Tastings shall be conducted only during operating hours in which the licensee on whose premises the tastings occur is permitted to sell alcoholic beverages, and in no case earlier than 11:00 a.m. or later than 7:00 p.m. Tastings may be no longer than five (5) hours, which need not be consecutive.

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

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

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

(9) Alcohol samples shall be in open containers and shall be provided to patrons free of charge.

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

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

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

(13) A copy of the state certified training certificates and the tasting schedule must be available for inspection by the Town Clerk or Town Marshal at all times during business hours.

(14) A licensee conducting a tasting shall be subject to the same revocation, suspension and enforcement provisions as otherwise apply to the licensee.

(i) The licensed premises, including any places of storage where alcohol beverages are stored or dispensed, shall be subject to inspection by the state or local licensing authorities and their investigators, or peace officers, during all business hours and all other times of apparent activity, for

the purpose of inspection or investigation. For examination of any inventory or books and records required to be kept by licensees, access shall only be required during business hours. Where any part of the licensed premises consists of a locked area, upon demand to the licensee, such area shall be made available for inspection without delay; and upon request by authorized representatives of the licensing authority or peace officers, such licensee shall open said area for inspection. (Ord. 652 §1, 2008)

Secs. 6-42—6-50. Reserved.

ARTICLE III

Peddlers and Solicitors

Sec. 6-51. License required.

It is unlawful for any solicitor or peddler, as defined in Section 6-52, to engage in such business within the corporate limits of the Town without first obtaining a permit and license therefor from the Town Clerk. (Ord. 435 §1, 1996)

Sec. 6-52. Definitions.

As used in this Article, the following words and phrases shall have the meanings ascribed to them in this Section:

Peddler means any person, whether a resident of the Town or not, who sells and delivers or offers for sale to consumers any goods, wares or merchandise, traveling from place to place, from house to house or from street to street, who sells or offers for sale and delivery any goods or other such articles while traveling on foot or by vehicle or any other type of conveyance. However, such definition shall not include members of nonprofit groups, including, but in no way limited to, Boy Scouts and Girl Scouts engaged in fundraising activities for such group.

Solicitor means any person whether a resident of the Town or not, traveling either by foot or vehicle or any other type of conveyance 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; provided, however, that such definition shall not include members of nonprofit groups including, but in no way limited to, Boy Scouts and Girl Scouts engaged in fundraising activities for such group. (Ord. 435 §1, 1996)

Sec. 6-53. Sale of certain agricultural products excluded.

The terms of this Article shall not apply to farmers or gardeners who sell and deliver or offer for sale fruits, vegetables or other country produce raised by them. (Ord. 435 §1, 1996)

Sec. 6-54. License fees.

(a) The license and permit fee which shall be charged in advance by the Town Clerk for any such license and permit, except those issued to nonprofit entities, shall be as set forth in Section 4-151:

(b) For full-time residents of the Town, an annual license fee and permit may be obtained by paying to the Town the sum as set forth in Section 4-151 per year in advance. The term of the annual license shall be from January 1 of the year for which application therefor is made to December 31 of such calendar year.

(c) For nonresidents of the Town, an annual license and permit may be obtained by paying to the Town the sum as set forth in Section 4-151 per year in advance. The term of an annual license shall be from January 1 of the year for which application therefor is made to December 31 of such calendar year.

(d) None of the license fees provided for in this Section shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a license fee is believed by the licensee or applicant for a license or permit to place an undue burden upon such commerce, he or she may apply to the Board of Trustees for an adjustment of the fees so they will not be discriminatory, unreasonable or unfair as to such commerce. Such application may be made before, at or within six (6) months after payment of the prescribed license fee. The applicant shall, by affidavit and supporting testimony, show his or her method of business and the gross volume of business and such other information as the Board of Trustees may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The Board of Trustees shall then conduct an investigation, comparing the applicant's business with other businesses of like nature, and shall make findings of fact from which they shall determine whether the fee fixed by this Section is unfair, unreasonable or discriminatory as to the applicant's business; and shall fix as the license fee for the applicant an amount that is fair, reasonable and not discriminatory; or, if the fee has already been paid, a refund shall be ordered of the amount over and above the fee so fixed. (Ord. 435 §1, 1996)

Sec. 6-55. Exhibition of license.

Solicitors and peddlers are required to exhibit their licenses and permits at the request of any citizen of the Town. (Ord. 435 §1, 1996)

Sec. 6-56. Revocation of license.

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

- (1) Fraud, misrepresentation or false statement contained in the application of the license;
- (2) Fraud, misrepresentation or false statement made in the course of carrying on his or her business as solicitor or as peddler;
- (3) Any violation of an ordinance of the Town;
- (4) Conviction of any crime or misdemeanor involving moral turpitude; or

(5) Conducting the business of soliciting or peddling in an unlawful manner or in such manner as to constitute a breach of the peace, or to constitute a menace to the health, safety or general welfare of the public.

(b) Notice of the hearing for revocation of a license shall be given in writing setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his or her local address as set forth on the application, at least five (5) days prior to the date set for the hearing. (Ord. 435 §1, 1996)

Secs. 6-57—6-70. Reserved.

ARTICLE IV

Public Assembly or Special Event

Sec. 6-71. Permit required.

A permit shall be required prior to the planned assemblage of forty (40) or more persons upon the streets or public places of the Town. (Ord. 197 §1, 1981; Ord. 688 §1, 2011; Ord. 726 §1, 2013)

Sec. 6-72. Permit application.

Application for such permit shall be made in writing to the Town Administrator or designee. Applications shall be made to the Town Administrator or designee on forms provided by the Town which shall request, at a minimum:

- (1) Name of the responsible organizer;
- (2) Address and phone number where the organizer can be reached;
- (3) Purpose, time, date and place of the assembly;
- (4) Projected number of persons expected; and
- (5) Other pertinent information as applicable to the assembly (see Section 6-75). (Ord. 197 §2, 1981; Ord. 688 §1, 2011; Ord. 726 §1, 2013)

Sec. 6-73. Application deadline.

Applications shall be made a minimum of four (4) weeks prior to the date of the planned assembly to allow for adequate and timely processing of the application in advance of the event. (Ord. 197 §3, 1981; Ord. 435 §1, 1996; Ord. 688 §1, 2011; Ord. 726 §1, 2013)

Sec. 6-74. Review process.

Upon receipt of an application for a public assembly/special event permit, the Town Administrator or designated representative shall submit it to the Town Marshal's office, the Nederland Fire Protection District Chief, the Public Works Manager and any other department potentially affected by

the proposed assembly. The Town Administrator or designated representative may convene a Technical Review Committee with the department representatives and the event organizer to discuss the event and any conditions the Town will be attaching to the permit. After completion of his or her review, the Town Administrator shall issue a written decision approving, conditionally approving or denying the application, which shall be either personally delivered to the applicant or sent via certified mail to the applicant's address indicated on the application. An applicant may request to receive verbal notification of the Town Administrator's decision in addition to written notice. The Town Administrator shall promulgate any rules or procedures necessary to administer the requirement of this Section. The Town Administrator or designee may refer an application to the Board of Trustees, in his or her discretion. (Ord. 197 §4, 1981; Ord. 435 §1, 1996; Ord. 688 §1, 2011; Ord. 726 §1, 2013)

Sec. 6-75. Conditions authorized.

The Town Administrator or designated representative or the Board of Trustees, in the event an application is referred to it, shall review the application and may approve, approve with conditions, withhold approval until certain conditions are met or deny the application. The Town Administrator or designee or the Board of Trustees shall consider the following concerns in making its determination and may impose reasonable conditions to address such concerns:

- (1) Availability of parking;
- (2) Methods of traffic control;
- (3) Trash, recycling and composting plan;
- (4) Hazard to persons or property and insurance coverage for related liability;
- (5) Availability and needs related to security;
- (6) Availability of sanitation facilities; and
- (7) Provision for cleanup. (Ord. 197 §5, 1981; Ord. 688 §1, 2011; Ord. 726 §1, 2013)

Sec. 6-76. Appeals.

An applicant may appeal the denial or any condition placed on the approval of his or her application by the Town Administrator or designee to the Board of Trustees by submitting a written request and explanation of the basis for the appeal to the Town Administrator within seven (7) days of the written decision issued in accordance with Section 6-74 above. The Town Administrator shall schedule the matter before the Board of Trustees at the next regular Board of Trustees meeting for which the packet deadline may be met. (Ord. 688 §1, 2011; Ord. 726 §1, 2013)

Sec. 6-77. Deposit required for rental of public facilities.

A deposit is required to assure completion of cleanup, collection of sales tax or compliance with specific conditions placed on the permit. The fee deposit for application conditions, except for collection of sales tax, shall be refundable upon successful completion of application conditions. The deposit shall not exceed the reasonable cost of compliance with such conditions. Nonfulfillment of

said specific conditions shall be sufficient basis for the applicant's forfeiture of his or her deposit, in which instance the Town shall use the deposit to meet the conditions. (Ord. 197 §6, 1981; Ord. 688 §1, 2011; Ord. 726 §1, 2013)

Sec. 6-78. Fee required.

The fee required by Section 4-151 of this Code shall be paid prior to issuance of any permit under this Article. (Ord. 197 §7, 1981; Ord. 435 §1, 1996; Ord. 688 §1, 2011; Ord. 726 §1, 2013)

Sec. 6-79. Terms of permit.

A permit issued under this Article shall authorize the one-time occurrence of a special event or assembly. Any change of the date, purpose, nature or other relevant aspect of the assembly or event shall require a new permit application. For annual or other periodic events, a new permit must be obtained each year or recurring period. (Ord. 197 §8, 1981; Ord. 688 §1, 2011; Ord. 726 §1, 2013)

Sec. 6-80. Penalty.

Any person found guilty of violating any provision of this Article shall be punished by a fine as set forth in Section 1-72 of this Code. (Ord. 197 §9, 1981; Ord. 435 §1, 1996; Ord. 688 §1, 2011; Ord. 726 §1, 2013)

Secs. 6-81—6-90. Reserved.

ARTICLE V

Rental Property

Sec. 6-91. License required.

The Board of Trustees finds that the use of homes zoned as single-family residences as multiunit or multifamily residences constitutes a serious threat to the public health, safety and welfare. Such uses violate the zoning laws of the Town, and result in the proliferation of cars, traffic, animals, trash and increased fire hazard. It is unlawful for any person to engage in the business of renting temporary or long-term living space within the Town without first having obtained a license as provided for in this Article. (Ord. 141 §1, 1976; Ord. 435 §1, 1996; Ord. 506 §1, 1999)

Sec. 6-92. Definitions.

For the purpose of this Article, the following terms are defined:

Landlord means a person who allows the use of living space in exchange of money or other goods or services or other valuable consideration whether or not such person owns the property or has a right to allow such use of the property.

Living space means a bed and breakfast, boardinghouse or roominghouse, dwelling unit, guest room, hotel or rooming unit, as such terms are defined in Section 16-6 of this Code, or similar units located within the Town.

Owner means a person who owns all or a portion of real property within the Town, as well as his or her agent or other representative who is authorized by an owner to rent out such property.

Renting means receiving monetary or other valuable consideration, including care taking, for the use of real property.

Separate unit means an individual living space.

Sewer service means Town sewer or County-approved septic system.

Water service means Town water or an approved well.

Zoning Administrator means the employee of the Town designated as the Zoning Administrator by the Board of Trustees, or the designee of such Zoning Administrator. (Ord. 141 §2, 1976; Ord. 435 §1, 1996; Ord. 506 §1, 1999)

Sec. 6-93. Application for license.

(a) Every owner who is renting out living space for valuable consideration shall apply for a license at least ten (10) days prior to first renting such living space.

(b) Application shall be made to the Town Clerk. The license application shall be accompanied by a fee as set forth in Section 4-151. Each license renewal application shall be accompanied by a fee as set forth in Section 4-151.

(c) The license application form shall require such information as is required to carry out the purposes of this Article. Such information shall include but is not limited to the number of separate leases for each building and the number of people authorized to live in the building by each lease. The determination of what information is required to carry out the purposes of this Article and the form of the license application shall be made by the Zoning Administrator and approved by the Board of Trustees. Failure to provide all requested information may result in the denial of an application.

(d) If ownership of a licensed living space is transferred, the new owner shall apply for an original license within ten (10) days after the transfer.

(e) Upon the complaint of the Zoning Administrator or Marshal or at least two (2) unrelated citizens of an alleged violation of this Article or a discrepancy in the rental license application and the use of the building, the information provided on the application shall be updated by the landlord. (Ord. 141 §3, 1976; Ord. 435 §1, 1996; Ord. 506 §1, 1999)

Sec. 6-94. Inspection.

(a) The Zoning Administrator shall inspect each separate unit to ascertain whether:

(1) Water service and sewer service are properly installed and in use;

(2) Off-street parking exists as required by this Code;

(3) The number of animals residing at the property does not exceed the number or type required by this Code;

(4) The number of tenants or living spaces complies with this Code;

(5) The property is zoned for the type of rental anticipated, and the building is being used as a legal use; and

(6) The living space and/or the property on which the living space is located does not contain obvious fire hazards, or violations of any applicable cause which may cause an immediate threat to the life or safety of any person, and has routes of escape as required by this Code.

(b) The Zoning Administrator shall report the inspection results to the Board of Trustees and to the owner seeking the license.

(c) Owners applying for a license shall open the living space for inspection at such reasonable time as may be requested by the Zoning Administrator. (Ord. 141 §4, 1976; Ord. 435 §1, 1996; Ord. 506 §1, 1999; Amended Ord. 506 §1, 1999)

Sec. 6-95. Issuance of license.

(a) If the Zoning Administrator reports that the separate units of living space meet the requirements of this Article, the Town Clerk shall issue a license for each separate unit to expire December 31 of the year of issue or the date of a transfer of ownership of the property, whichever comes first.

(b) If the Zoning Administrator reports that the living space does not meet the requirements of this Article, the Town Clerk shall not issue a license. The owner seeking the license may:

(1) Correct the defects contained in the Zoning Administrator's report, and, upon request of the owner seeking the license, the Zoning Administrator shall inspect and revise the report to accurately reflect the compliance or noncompliance with this Article after such improvements; or

(2) Seek review of the report by the Board of Trustees. (Ord. 141 §5, 1976; Ord. 435 §1, 1996; Ord. 506 §1, 1999)

Sec. 6-96. Renewal.

(a) If there have been no violations of this Code related to the property by any owner or tenants of the property during the past calendar year, the license shall automatically renew on January 1 of each year.

(b) If there have been any violations of this Code reported to the Town or for which a summons and complaint has been issued by January 15 of the following year, the owner shall apply for a renewal license except where the expiration is by transfer where Section 6-93(d) applies. The Zoning Administrator shall reinspect the applicable living space, and such inspection shall be processed as a new rental license. (Ord. 141 §6, 1976; Ord. 506 §1, 1999)

Sec. 6-97. Enforcement.

(a) Each landlord suspected of failing to obtain or renew a rental license in violation of this Article will be given a written notice as provided in Section 16-272(b) of this Code ten (10) days prior to the issuance of a summons and complaint. If the Zoning Administrator verifies that the suspected violation is corrected, a complaint will not be issued. The Town Clerk or the Zoning Administrator shall give such written notice.

(b) Conviction of a violation of this Article shall be punishable as set forth in Section 1-72 of this Code. (Ord. 141 §8, 1976; Ord. 435 §1, 1996; Ord. 506 §1, 1999)

Sec. 6-98. Board of Trustees review.

(a) In the event that a landlord determines to seek review of the Zoning Administrator's decision pursuant to Section 6-95(b) of this Article, the landlord shall, within ten (10) days of receipt of the Zoning Administrator's written decision, file a written statement responding in detail to each alleged violation cited in the Zoning Administrator's decision.

(b) The Board of Trustees shall review the decision of the Zoning Administrator and the response of the landlord at the next regular meeting of the Board of Trustees occurring at least five (5) days after receipt by the Town of the landlord's response. The Board of Trustees may conduct its review at an earlier time with the consent of the landlord. At such meeting, the Board of Trustees shall issue its determination, or set a public hearing to obtain additional information it determines is necessary in order to make its determination.

(c) The decision of the Board of Trustees shall be the final decision of the Town.

(d) The Town shall not prosecute alleged violations of this Article during the review set forth in this Section. (Ord. 506 §1, 1999)

Secs. 6-99—6-110. Reserved.

ARTICLE VI

Sidewalk Display

Sec. 6-111. Permit required.

No person shall sell, display for sale or advertise for sale any goods or services to the public without a permit issued in accordance with the provisions of this Article. (Ord. 240 §1, 1983; Ord. 435 §1, 1996)

Sec. 6-112. Permit requirements.

Applications for a sidewalk display permit will require:

- (1) Proof of sales tax permit or not-for-profit status;

(2) Proof of health department permit, if applicable;

(3) The applicant shall indemnify and save harmless the Town, its officers, employees and agents against any and all claims arising from any occurrence occasioned by the permitted use. The applicant for a sidewalk display permit shall agree to maintain and show proof that during the period of the permit, comprehensive general public liability and property damage insurance will be carried, covering any personal injury or property damage arising from the permitted use, with liability limits of fifty thousand dollars (\$50,000.00) for property damage and three hundred thousand dollars (\$300,000.00) for personal injury. The policy shall name the Town, its officers, employees and agents as insureds and shall provide that the insurance is primary insurance and that no other insurance maintained by the Town will be called upon to contribute to a loss covered by the policy. The policy shall further provide for thirty (30) days' notice of cancellation or material change to the Town;

(4) The applicant shall agree to be responsible for maintaining the area within and in proximity to the sidewalk display in a neat, clean and hazard-free condition;

(5) A photo/drawing of the set-up and an illustration of the required four-foot minimum pedestrian travel way shall be submitted;

(6) A permit processing fee (nonrefundable) as set forth in Section 4-151 shall accompany the application;

(7) A statement of intent shall be submitted, including proposed use, a description of products to be sold and hours of operation. (Ord. 240 §2, 1983; Ord. 435 §1, 1996)

Sec. 6-113. Permit application procedures.

The Town shall review each application and approve or disapprove the application. Applications shall be submitted for review by the Board of Trustees only after the Town Clerk finds all required information as presented in Section 6-112 above has been submitted by the applicant. A complete application must be received by the Town Clerk before the event and ten (10) days prior to a regularly scheduled Board meeting. (Ord. 240 §3, 1983; Ord. 435 §1, 1996)

Sec. 6-114. Permit periods; renewals.

A sidewalk display permit shall be valid from January 1 to December 31 of any single year. A renewal for a sidewalk display permit shall be automatic each year upon payment of a fee as set forth in Section 4-151, unless terminated or revoked in accordance with Section 6-116 below. (Ord. 240 §4 1983; Ord. 435 §1, 1996)

Sec. 6-115. Transfers of permit.

A sidewalk display permit shall not be transferable or assignable. Permits are issued to the permittee. (Ord. 240 §5, 1983)

Sec. 6-116. Termination of permit.

A sidewalk display permit issued hereunder may be revoked or terminated by the Town for a violation of this Article, or a breach of a condition of the permit. Upon revocation, termination or expiration of a permit, the permittee shall remove all structures or improvements from the permit area and restore the area to its condition prior to issuance of the permit. (Ord. 240 §6, 1983)

Sec. 6-117. Temporary termination of permits.

A sidewalk display permit issued hereunder may be temporarily revoked or terminated by the Town for purposes such as construction activity taking place in and around the area identified in the permit. The Town shall give thirty (30) days' notice of the temporary revocation or termination, unless construction activity is of an emergency nature, so determined by the Town. In an emergency situation, notification of the temporary revocation or termination may be given within twenty-four (24) hours. (Ord. 240 §7, 1983)

Secs. 6-118—6-130. Reserved.

ARTICLE VII

Explosives

Sec. 6-131. Generally.

The manufacture, storage and use of explosives within the Town is to be governed by this Article, which shall be known as the Blasting Ordinance of the Town. It shall be unlawful to manufacture, store or use explosives except in compliance with this Article. (Ord. 380 §1, 1994)

Sec. 6-132. Definitions.

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

Blasting operations means the use of explosives within the Town.

Blasting permit means a permit issued by the Town in accordance with the provisions of this Article to allow blasting operations within the Town.

Blasting plan means the plan for conduct of any blasting operations, and any amendments thereto, which has been approved by the Town as provided in this Article.

Explosives means any material or container containing a chemical compound or mixture that is commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustible materials or other ingredients in such proportions, quantities or packing that an ignition by fire, by friction, by compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects, but shall not mean the components for hand-loading rifle, pistol and

shotgun ammunition or rifle, pistol and shotgun ammunition, or fireworks. (Ord. 380 §1, 1994; Ord. 435 §1, 1996)

Sec. 6-133. Permit required.

A blasting permit issued by the Building Inspector shall be required for the use of any explosives within the Town. In order to obtain a permit, the applicant must pay a nonrefundable permit fee, as set forth in Section 4-151 of this Code, upon application and must have met all of the requirements of this Article and any other applicable local, state or federal law, ordinance, rule and regulation. A blasting permit is personal to the individual to whom it is issued and may not be assigned. (Ord. 380 §1, 1994; Ord. 383 §1, 1994; Ord. 435 §1, 1996)

Sec. 6-134. Qualifications for permit.

In order to obtain a blasting permit, the applicant must:

(1) Have been issued a current explosives permit issued by the State Department of Employment and Training pursuant to Section 9-7-101, et seq., C.R.S.

(2) Provide proof of workers' compensation insurance, and general liability and property damage insurance coverage in an amount of at least one million dollars (\$1,000,000.00).

(3) Provide a corporate surety bond in the principal sum of one million dollars (\$1,000,000.00) or a public liability insurance policy for the same amount for the purpose of the payment of damages to persons or property which arise from, or are caused by, the blasting operations of a holder of a blasting permit.

(4) Provide evidence that the permittee is qualified to safely use explosives, which may be shown by verification of attendance at an explosive safety class with the County Sheriff's Department. (Ord. 380 §1, 1994; Ord. 435 §1, 1996)

Sec. 6-135. Blasting operations.

(a) Blasting operations shall be conducted only between the hours of 8:00 a.m. and 5:00 p.m. Monday through Thursday, and 8:00 a.m. and 3:00 p.m. on Fridays unless the approved blasting plan provides for blasting at alternate times.

(b) Explosives may only be handled by the permittee.

(c) No person on the property for which a blasting permit is issued shall be under the influence of alcohol, intoxicants, narcotics or other DEA-controlled substances during blasting operations.

(d) No person on the property for which a blasting permit is issued shall smoke tobacco or any other substance or have in his or her possession any matches, lighters or other spark-producing materials during blasting operations.

(e) No open flames shall be allowed on the property for which a blasting permit is issued during blasting operations.

(f) Only nonelectric initiation systems with a twenty-five (25) ms delay interval may be used. Electric detonators or blasting caps are allowed only for the initiation of the blast.

(g) Prior to firing a blast, the permittee shall make certain that surplus explosive materials are in a safe place and that all persons and vehicles are at a safe distance or under sufficient cover.

(h) The permittee shall remove all debris, blasting caps and other materials related to the blasting operations from the site prior to leaving the site each day of blasting operations. (Ord. 380 §1, 1994)

Sec. 6-136. Notification prior to blasting operations.

(a) The Town Building Official, Town Marshal and Public Works Foreman shall be notified at least forty-eight (48) hours prior to any blasting operations. The Town Marshal shall again be notified thirty (30) minutes prior to any ignition of an explosive.

(b) The permittee must comply with the requirements of Section 9-1.5-101, et seq., C.R.S., regarding location of underground facilities prior to any blasting operations.

(c) The occupants of all property within two hundred (200) feet of the property for which a blasting permit is issued must be notified at least twenty-four (24) hours in advance, and again five (5) minutes in advance, of any blasting operations by placing a notice of such blasting operations on the doors of all buildings within such area. The permittee shall certify that such notice has been provided in writing to the Town. (Ord. 380 §1, 1994)

Sec. 6-137. Blasting plan.

The permittee must submit, as part of the permit application, a detailed plan of the proposed blasting operations. All blasting operations shall be conducted in strict accordance with the approved blasting plan. Any changes to the planned blasting operations must be submitted as an amendment to the blasting plan to the Town and approved by the Town prior to conducting any blasting operations. The plan shall include:

(1) A map to twenty (20) scale with North indicated by arrow, depicting the property for which a blasting permit is sought; the work area relative to any structures or other underground or overhead improvements; the location and duration of storage of any explosive materials to be used in the blast before, during and after each blast; the spacing, depth and diameter of bore holes; the area to be cleared of vehicles and persons immediately prior to and during any blast; and anything else required by applicable law, rule or regulation, or which the Town determines is necessary to reasonably protect the public health, safety and welfare of the residents of the Town.

(2) A description of the maximum amount of explosives per delay; the type of explosive product used; the method of ignition of the explosive; the loud warning signal that is to be sounded prior to each blast; the manner of locating and detonating any misfires; the manner in which qualified emergency and utility personnel are to be put on notice and called to respond in the event of an emergency; the manner of clearance of the site after blasting operations, including returning the site to its original condition; and anything else required by applicable law, rule or regulation, or which the Town determines is necessary to reasonably protect the public health, safety and welfare of the residents of the Town. (Ord. 380 §1, 1994)

Sec. 6-138. Blasting specifications.

The Town may not approve a blasting plan unless it meets the following minimum specifications:

- (1) The maximum borehole diameter shall be two and one-half (2½) inches;
- (2) The minimum borehole depth shall be four (4) feet;
- (3) A seismograph must be used to monitor vibrations next to a structure when a structure is less than one hundred (100) feet from a borehole loaded with explosives.
- (4) The amount of explosives must be a scaled distance formula of a minimum of: $S.D. = D/W^{1/2}$ by the use of a seismograph using a peak particle velocity of 1.5 inches per second:

S.D. =	65
D =	Distance from the blast to the structure of concern in feet
W =	Maximum charge weight of explosives, in pounds, per delay of 25 ms or more or by the use of a seismograph using a peak particle velocity of 1.5 inches per second

(5) All boreholes containing explosives shall be adequately covered. Absent extenuating circumstances, adequate coverage may be blasting mats when the distance to the nearest structure is less than or equal to two hundred fifty (250) feet, and earth cover when the borehole is more than two hundred fifty (250) feet from the nearest structure.

(6) No blasting may occur within ten (10) feet of a structure. (Ord. 380 §1, 1994)

Sec. 6-139. Manufacture and storage of explosives.

Explosives may not be manufactured or stored anywhere within the Town; provided however, that explosives may be stored at the location of blasting operations in accordance with the terms of a blasting plan. (Ord. 380 §1, 1994)

Sec. 6-140. Corrective measures.

(a) The Town, upon discovery of any defect in the work or for the permittee failing to complete the blasting operations or removal of debris for which a blasting permit is issued, may:

(1) In the event of an emergency, order a private contractor to do everything necessary to complete such work to acceptable standards, particularly where hazards exist due to the failure of the permittee to restore or maintain the site in accordance with the provisions and conditions of his or her permit.

(2) In the event of a nonemergency, give notice to the permittee and his or her sureties in writing of the nature and location of such defects, including notice of a reasonable time, not less than twenty-one (21) calendar days, within which such defects are to be repaired. Such period of time may be extended by the Town upon application, for good cause shown.

(b) In the event of failure of the permittee to perform the required work within the period provided by such notice, a private contractor on order of the Town shall make such repairs as may be necessary.

(c) The Town shall recover any and all costs of work performed by its personnel or by a private contractor, including the cost of labor, equipment, materials and administrative costs at the expense of the permittee by applying any deposit, bond, letter of credit or other security in its possession to payment thereof, and shall recover any remaining unpaid balance of such costs from the permittee. (Ord. 380 §1, 1994; Ord. 435 §1, 1996)

Sec. 6-141. Revocation of permit.

The Town may revoke the permit granted by this Article if the applicant is found, after notice and a hearing, to have violated any of the provisions listed in Section 6-135 above, or in any of the following circumstances:

- (1) The permittee violates any of the provisions of the ordinances of the Town governing the activities permitted by the permit;
- (2) The permittee obtains a permit by fraud or misrepresentation;
- (3) Revocation is necessary to maintain the public health, safety and welfare; or
- (4) The permittee fails to maintain the required insurance, bond, letter of credit or other guarantees of performance during the course of the construction and of the warranty period specified by the Town.

The Town shall advise the permittee in writing of the grounds for revocation of the permit, and the permittee shall be allowed to appeal such revocation to the Board of Trustees. (Ord. 380 §1, 1994; Ord. 435 §1, 1996)

Sec. 6-142. Violation and penalties.

(a) Any person violating any provision of this Article shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a penalty as set forth in Section 1-72 of this Code.

(b) In addition, the Town is authorized to enforce this Article by injunction, including both the enjoining of contemplated actions or inactions in violation of this Article, including excavation or fill activities undertaken without or in violation of the terms of a permit; and mandatory injunction to require the removal of excavation or fill accomplished without or in violation of the terms of such a permit. In any such injunction action, the Town shall be awarded its costs of suit, and any costs incurred in the removal of fill and/or restoration of areas where fill or excavation activities have been undertaken in violation of the provisions of this Article. In addition, the Town shall be entitled to recover its attorneys' fees incurred in bringing any action to compel compliance with the provisions of this Article or to compel compliance with any plan approved hereunder. (Ord. 380 §1, 1994; Ord. 435 §1, 1996)

Secs. 6-143—6-160. Reserved.

ARTICLE VIII

Miscellaneous Permits

Sec. 6-161. Permits for amplified music.

The Zoning Administrator may grant permits for amplified music under the following conditions:

- (1) No more than four (4) total hours.
- (2) Not allowed between 9:00 p.m. and noon.
- (3) For special events: maximum one (1) per year.
- (4) For Town business: maximum of twelve (12) per year and one (1) per week. (Ord. 504 §3, 1999)

Sec. 6-162. Chicken hen permit.

(a) No person shall keep a chicken hen, as permitted by Chapter 7 of this Code, without having first obtained a chicken hen permit from the Town.

(b) An application for a chicken hen permit shall be made to the Town Administrator on forms provided by the Town Administrator. Filed applications must be accompanied by an application fee as established from time to time by resolution of the Board of Trustees, as authorized by Section 4-151 of this Code. No permit shall issue unless and until such permit fee has been paid in full.

(c) A chicken hen permit shall be issued by the Town Administrator if the proposed keeping of the animals complies with the requirements of Chapters 7 and 16 of this Code. The Town Administrator is authorized to impose conditions upon any such permit to ensure compliance with such requirements.

(d) A chicken hen permit may be suspended or revoked by the Town Administrator, after a hearing, for violating any term or condition of the permit or for violating any provision of this Code concerning the keeping of chicken hens. A permit holder shall be provided at least ten (10) days' written notice of any such hearing and of the alleged causes for suspension or revocation. The Town Administrator shall issue a written decision to the permittee within ten (10) days of the conclusion of such hearing.

(e) The chicken hen permit fee established by Subsection (b) above, is hereby established to be fifty dollars (\$50.00) as of August 2, 2011. This permit fee may be amended by the Board of Trustees by resolution as referenced in Subsection (b) above. (Ord. 694 §§3, 4, 2011)

Secs. 6-162—6-180. Reserved.

ARTICLE IX

Licensing of Sexually Oriented Businesses

Sec. 6-181. Definitions.

Certain words and phrases used in this Article shall have the meanings ascribed to them in Section 16-292 of this Code. (Ord. 633 §1, 2007; Ord. 648 §5, 2008)

Sec. 6-182. License required.

(a) No sexually oriented business license shall be issued for any sexually oriented business located within any zone district other than the industrial district.

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

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

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

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

- (1) The business does not have a sexually oriented business license;
- (2) The business has a sexually oriented business license that is under suspension;
- (3) The business has a sexually oriented business license that has been revoked;
- (4) The business has a sexually oriented business license that has expired;

(5) The business operates under a type B sexually oriented business license and allows alcoholic beverages or alcoholic liquors, as defined by the Colorado Liquor Code, and/or fermented malt beverages, as defined by the Colorado Beer Code, on the premises;

(6) The business is in violation of any applicable provision of this Chapter. (Ord. 633 §1, 2007; Ord. 648 §5, 2008)

Sec. 6-183. Fees.

(a) The annual fee for a sexually oriented business license is two hundred twenty-five dollars (\$225.00).

(b) The annual manager's license fee is seventy-five dollars (\$75.00).

(c) An applicant for either a type A or type B sexually oriented business license shall pay a nonrefundable application fee of five hundred twenty-five dollars (\$525.00) at the time of filing an application. (Ord. 633 §1, 2007; Ord. 648 §5, 2008)

Sec. 6-184. Application for license.

(a) As used in this Article, the term Licensing Officer shall refer to the Town Clerk, unless a different Town official is designated by resolution adopted by the Board of Trustees. The Licensing Officer is responsible for granting, denying, revoking, renewing and suspending sexually oriented business licenses for proposed or existing sexually oriented businesses.

(b) The Town Administrator is responsible for ascertaining whether a proposed sexually oriented business for which a sexually oriented business license application has been submitted complies with all location requirements of Section 16-294 of this Code.

(c) The Town Marshal is responsible for providing information on whether an applicant has been convicted of a specified criminal act during the time periods set forth in Subparagraph 6-187(c)(1)(i) below.

(d) The Building Official is responsible for inspecting a proposed sexually oriented business in order to ascertain whether it is in compliance with applicable building codes and ordinances.

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

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

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

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

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

(4) Whether the applicant or any of the other individuals listed pursuant to Paragraph (f)(1) or (2) above has been convicted of a specified criminal act within the times set forth in Section 6-

187(c)(1)(i) of this Article and, if so, the specified criminal act involved, the date of conviction and the place of conviction.

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

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

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

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

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

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

(11) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be oriented to the north or to some designated street or object and shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches. The Licensing Officer may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

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

a. The property lines and the structures of the property to be certified;

b. The location of the property lines of any church, school, dwelling, public park or child care facility within two hundred (200) feet of the property to be certified; and

c. The location of the property lines and structures on the property of any other sexually oriented business within one hundred (100) feet of the property to be certified.

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

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

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

(h) The fact that a person possesses or is required to possess other types of state or town licenses does not exempt him or her from the requirement of obtaining a sexually oriented business license. (Ord. 633 §1, 2007; Ord. 648 §5, 2008)

Sec. 6-185. Duty to supplement application.

(a) Applicants for a sexually oriented business license under Section 6-184 above shall have a continuing duty promptly to supplement any application information required by that Section in the event that said information changes in any way from what is stated on the application.

(b) The failure to comply with said continuing duty to supplement an application within thirty (30) days from the date of such change shall be grounds for suspension of a sexually oriented business license. (Ord. 633 §1, 2007; Ord. 648 §5, 2008)

Sec. 6-186. Investigation and application.

(a) Upon receipt of an application for a sexually oriented business license properly filed with the Licensing Officer and upon payment of the nonrefundable application fee, the Licensing Officer shall immediately stamp the application as received and send copies of the application to the Town Administrator, the Building Official and the Town Marshal. The Town Administrator, the Building Official and the Town Marshal shall promptly conduct an investigation of the applicant, application and proposed sexually oriented business in accordance with his or her responsibilities under this Section. Investigations shall be completed within twenty (20) days of receipt of the application by the Licensing Officer. At the conclusion of their investigations, the Town Administrator and the Building Official shall indicate on the copy of the application his or her approval or disapproval of the application, date it, sign it and, in the event of disapproval, state the reasons therefor. The Town Marshal shall only be required to provide the information specified in Subsection 6-184(c) above and shall not be required to approve or disapprove applications.

(b) The Director of Community Development and the Building Official may disapprove an application if he or she finds that the proposed sexually oriented business will be or is in violation of any provision of any statute, code, ordinance, regulation or other law in effect in the Town. After

their investigations and review, the Town Administrator, the Building Official and the Town Marshal shall immediately return the copy of the application to the Licensing Officer. The Licensing Officer shall not issue a sexually oriented business license unless signed copies of the application for the same have been delivered to said officer by the Town Administrator and the Building Official and unless the Town Marshal has supplied said officer with the information specified in Subsection 6-184(c) above. (Ord. 633 §1, 2007; Ord. 648 §5, 2008)

Sec. 6-187. Issuance of license.

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

(b) Grant of application for sexually oriented business license.

(1) The Licensing Officer shall grant the sexually oriented business license unless one (1) or more of the criteria set forth in Subsection (c) below is present.

(2) The sexually oriented business license, if granted, shall state on its face the name of the person to whom it is granted, the expiration date and the address of the sexually oriented business. The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it can be easily read at any time.

(c) Denial of application for sexually oriented business license.

(1) The Licensing Officer shall deny the application for any of the following reasons:

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

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

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

d. The premises to be used for the sexually oriented business have been disapproved by an inspecting agency pursuant to the provisions of Subsection 6-186(b) above.

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

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

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

h. The applicant has or had a sexually oriented business license under this Article, or under the regulatory provisions of another jurisdiction, that was suspended or revoked within the previous twelve (12) months. In the case of a denial of an application due to the suspension or revocation of the applicant's license in another jurisdiction, the applicant shall be entitled to a hearing before the Board of Trustees. After the hearing, the Board of Trustees may grant the application without regard to the suspension or revocation of the applicant's license in another jurisdiction if it finds that the grounds for suspension or revocation in that jurisdiction would not be grounds for suspension or revocation of a license pursuant to this Article.

i. An applicant has been convicted of a specified criminal act or acts for which:

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

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

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

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

5. If the Licensing Officer denies the application, he or she shall notify the applicant, by first class mail to the address on the application, of the denial and state the reasons for the denial. A copy of such denial shall be forwarded to the Town Attorney. (Ord. 633 §1, 2007; Ord. 648 §5, 2008)

Sec. 6-188. Expiration of license.

(a) Each sexually oriented business license shall expire one (1) year from the date of issuance and may be renewed only by making application as provided in Section 6-184 of this Article, including but not limited to a review of whether the applicant has been convicted of a specified criminal act or acts (for renewals, filing of the original survey shall be sufficient). Application for renewal of a sexually oriented business license shall be made at least thirty (30) days before the expiration date of the sexually oriented business license.

(b) If, subsequent to denial of renewal, the Licensing Officer finds that the basis for denial of the renewal of the sexually oriented business license has been corrected, the applicant shall be granted a sexually oriented business license if no more than ninety (90) days have elapsed since the date denial became final. (Ord. 633 §1, 2007; Ord. 648 §5, 2008)

Sec. 6-189. Suspension of license.

(a) The Licensing Officer may suspend a sexually oriented business license for a period not to exceed one hundred fifty (150) days, unless the period is extended by operation of Subsection (b) below, if he or she determines that a licensee or an employee of a licensee has:

(1) Violated or is not in compliance with any section of this Article or any provision of Chapter 16 of this Code.

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

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

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

(5) Operated the sexually oriented business in violation of the hours of operation provisions in Section 16-301 of this Code.

(6) Transferred a sexually oriented business license contrary to Section 6-192 of this Article. In the event of such suspension, the Licensing Officer shall forthwith notify the original licensee and the transferee of the suspension. The suspension shall remain in effect until the applicable provisions of Section 6-192 have been satisfied.

(7) Committed or allowed the commission of any specified sexual activity or any specified criminal act on the licensed premises, as such terms are defined in Section 16-292 of this Code.

(8) Displayed or allowed to be displayed any specified anatomical areas on the licensed premises, as such term is defined in Section 16-292 of this Code.

(b) The suspension shall remain in effect until and including the last day in the Licensing Officer's order and until the violation of the statute, code, ordinance or regulation in question has been corrected. (Ord. 633 §1, 2007; Ord. 634 §2, 2007; Ord. 648 §5, 2008)

Sec. 6-190. Revocation of license.

(a) The Licensing Officer shall revoke a sexually oriented business license upon determining that:

(1) A cause of suspension in Section 6-189 of this Article occurred, and the sexually oriented business license has been suspended within the preceding twelve (12) months;

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

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

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

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

(6) A licensee has been convicted of a specified criminal act for which the time period set forth in Subparagraph 6-187 (c)(1)(i) has not elapsed;

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

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

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

(b) When the Licensing Officer revokes a sexually oriented business license, the revocation shall continue for one (1) year, and the licensee shall not be issued a sexually oriented business license for one (1) year from the date revocation became effective. (Ord. 633 §1, 2007; Ord. 648 §5, 2008)

Sec. 6-191. Suspension or revocation hearing.

(a) A licensee shall be entitled to a hearing before the Board of Trustees if the Town seeks to suspend or revoke his or her sexually oriented business license based on a violation of this Article or any provision of Chapter 16 of this Code. The business may continue to operate during the hearing process.

(b) When there is probable cause to believe that a cause for suspension or revocation exists, the Town Attorney may file a written complaint with the Licensing Officer setting forth the circumstances of the alleged violation.

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

(d) At the hearing, the Board of Trustees shall hear such statements and consider such evidence as the Police Department or other enforcement officers, the owner, occupant, lessee or other party in interest or any other witness shall offer that is relevant to the violation alleged in the complaint. The Board of Trustees shall make findings of fact from the statements and evidence offered as to whether the violation occurred in or near the licensed establishment. If the Board of Trustees determines that a cause for suspension or revocation exists, it shall issue an order suspending or revoking the sexually oriented business license within thirty (30) days after the hearing is concluded, based on the findings of fact. A copy of the order shall be mailed to or served on the licensee at the address on the license. In performing its duties pursuant to this Section, the Board of Trustees may retain independent counsel to advise it with regard to any matter.

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

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

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

(h) In the event of suspension, revocation or cessation of business, no portion of the sexually oriented business license fee shall be refunded. (Ord. 633 §1, 2007; Ord. 648 §5, 2008)

Sec. 6-192. Transfer of license.

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

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

(1) Obtains an amendment to the sexually oriented business license from the Licensing Officer that provides that he or she is now the licensee, which amendment may be obtained only if he or she has completed and properly filed an application with the Licensing Officer setting forth the information called for under Section 6-184 in the application; and

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

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

(d) Any attempt to transfer a sexually oriented business license, either directly or indirectly in violation of this Section, is hereby declared void. (Ord. 633 §1, 2007; Ord. 648 §5, 2008)

Sec. 6-193. Manager's license required; change of manager; inactive status.

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

(b) In the event a manager ceases to be employed at the premises listed in his or her application, the manager shall immediately report such change to the Licensing Officer, but in no event shall such change be reported later than ten (10) days after cessation of employment.

(c) Provided that a manager has complied with the requirements of Subsection (b) above, his or her license shall remain in inactive status until it expires or is reactivated. A manager who is reemployed at the premises listed in the manager's license may reactivate his or her license, provided that the Licensing Officer determines that he or she still meets the requirements of Section 6-194 below. (Ord. 633 §1, 2007; Ord. 648 §5, 2008)

Sec. 6-194. Application for manager's license.

(a) A manager shall submit an application for a manager's license for each sexually oriented business the manager proposes to manage on a form to be provided by the Licensing Officer. The application shall contain the applicant's name, address, date of birth, telephone number, address, the name and address of the sexually oriented business that manager proposes to manage and the information required in Paragraph 6-184(f)(4) of this Article.

(b) The Police Department shall conduct an investigation of the applicant to determine if the applicant has been convicted of a specified criminal act within the times set forth in Subparagraph 6-187(c)(1)(i) of this Article.

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

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

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

(3) The license fee has not been paid;

(4) The applicant has been convicted of a specified criminal act within the times set forth in Subparagraph 6-187(c)(1)(i) of this Article. (Ord. 633 §1, 2007; Ord. 648 §5, 2008)

Sec. 6-195. Expiration of manager's license.

(a) Each manager's license shall expire one (1) year from the date of issuance and may be renewed only by making application as provided in Section 6-194 above, including but not limited to a review of whether the applicant has been convicted of a specified criminal act or acts. Application for renewal of a manager's license shall be made at least thirty (30) days before the expiration date of the manager's license.

(b) If, subsequent to denial of renewal, the Licensing Officer finds that the basis for denial of the renewal of the manager's license has been corrected, the applicant shall be granted a manager's license if no more than ninety (90) days have elapsed since the date denial became final. (Ord. 633 §1, 2007; Ord. 648 §5, 2008)

Sec. 6-196. Suspension of manager's license.

(a) The Licensing Officer may suspend a manager's license for a period not to exceed ninety (90) days, unless the period is extended by operation of Subsection (b) below, if he or she determines that the manager has:

(1) Violated or is not in compliance with any section of this Article or any provision of Chapter 16 of this Code;

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

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

(4) Operated the sexually oriented business in violation of the hours of operation provisions in Section 16-301 of this Code.

(b) The suspension shall remain in effect until and including the last day in the Licensing Officer's order and until the violation of the statute, code, ordinance or regulation in question has been corrected. (Ord. 633 §1, 2007; Ord. 648 §5, 2008)

Sec. 6-197. Revocation of manager's license.

(a) The Licensing Officer shall revoke a manager's license upon determining that:

(1) A cause of suspension in Section 6-196 above occurred and the manager's license has been suspended within the preceding twelve (12) months;

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

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

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

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

(6) The manager has been convicted of a specified criminal act for which the time period set forth in Subparagraph 6-187 (c)(1)(i) has not elapsed; or

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

(b) When the Licensing Officer revokes a manager's license, the revocation shall continue for one (1) year, and the licensee shall not be issued a manager's license for one (1) year from the date revocation became effective. (Ord. 633 §1, 2007; Ord. 648 §5, 2008)

Sec. 6-198. Suspension or revocation hearing.

(a) A manager shall be entitled to a hearing before the Board of Trustees if the Town seeks to suspend or revoke the manager's license based on a violation of this Article or any provision of Chapter 16 of this Code. The manager may continue to manage a sexually oriented business during the hearing process.

(b) When there is probable cause to believe that a cause for suspension or revocation exists, the Town Attorney may file a written complaint with the Licensing Officer setting forth the circumstances of the alleged violation.

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

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

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

(f) The Board of Trustees shall have the power to administer oaths, issue subpoenas and, when necessary, grant continuances. Subpoenas may be issued to require the presence of persons and

production of papers, books and records necessary to the determination of any hearing which the Board of Trustees conducts. It is unlawful for any person to fail to comply with any subpoena issued by the Board of Trustees. A subpoena shall be served in the same manner as a subpoena issued by the district court of the State.

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

(h) In the event of suspension, revocation or cessation of business, no portion of the manager's license fee shall be refunded. (Ord. 633 §1, 2007; Ord. 648 §5, 2008)

Sec. 6-199. Notice.

Any notice required by this Article shall be deemed sufficient if it is deposited in first-class mail, postage prepaid, to the address on the application and shall be effective upon mailing. (Ord. 633 §1, 2007; Ord. 648 §5, 2008)

Sec. 6-200. Judicial review.

After denial of an application, denial of a renewal of an application or suspension or revocation of a license, such act shall be a final decision. Therefore, the applicant or licensee may seek judicial review of such administrative action pursuant to Colorado Rules of Civil Procedure. The court shall promptly review such administrative action. (Ord. 633 §1, 2007; Ord. 648 §5, 2008)

Sec. 6-201. Inspection.

(a) An applicant, licensee or manager shall permit representatives of the Licensing Officer, Building Official, Town Administrator, Police Department, County Health Department and Fire Department to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law at any time it is occupied or open for business.

(b) It shall be unlawful for any person, applicant, licensee or manager who operates a sexually oriented business or his or her agent to refuse to permit such lawful inspection of the premises at any time that it is occupied or open for business. (Ord. 633 §1, 2007; Ord. 648 §5, 2008)

Secs. 6-202—6-230. Reserved.

ARTICLE X

Medical Marijuana Business Licensing

Sec. 6-231. Short title.

This Article shall be known and may be cited as the "Town of Nederland Medical Marijuana Business Licensing Ordinance." (Ord. 690 §1, 2011)

Sec. 6-232. Findings.

The Board of Trustees adopts this Article based upon the following findings of fact:

(1) On November 7, 2000, the voters of the State of Colorado approved Amendment 20. Amendment 20 added Section 14 of Article XVIII to the Colorado Constitution and created a limited exception from criminal liability under Colorado law for seriously ill persons who are in need of marijuana for specified medical purposes and who obtain and use medical marijuana under the limited, specified circumstances described in Amendment 20.

(2) The intent of Amendment 20 was to enable certain specified persons who comply with the registration provisions of the law to legally obtain, possess, cultivate, grow, use and distribute marijuana without fear of criminal prosecution under Colorado law.

(3) On April 6, 2010, the voters of the Town approved Ballot Issue 1, which removed municipal penalties related to buying, selling, possessing, consuming, transporting, cultivating, manufacturing and dispensing marijuana and its concentrate and related paraphernalia among persons twenty-one (21) years of age and older.

(4) The Town is permitted under the Colorado Medical Marijuana Code to regulate medical marijuana-related businesses.

(5) If medical marijuana businesses operating pursuant to the Colorado Medical Marijuana Code were allowed to be established and to operate without appropriate local regulation of their location, medical marijuana businesses might be established in areas that would conflict with the Town's comprehensive land use plan; be inconsistent with surrounding uses; or otherwise be detrimental to the public health, safety and welfare.

(6) The medical marijuana regulations at the state level do not reflect the special character, size and nature of the Town, and so the Board of Trustees seeks to create a medical marijuana regulation that does so.

(7) Nothing in this Article allows a person to:

a. Engage in conduct that endangers others or causes a public nuisance;

b. Possess, cultivate, grow, use or distribute marijuana for any purpose other than for use as medical marijuana as authorized and limited by the Colorado Medical Marijuana Code and Ballot Initiative 1, and the implementing state statutes and administrative regulations;

c. Possess, cultivate, grow, use or distribute marijuana that is otherwise illegal under applicable law; or

d. Engage in any activity related to the possession, cultivation, growing, use or distribution of marijuana that is otherwise not permitted under the laws of the Town or the State.

(8) This Article is necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the order, comfort and convenience of the Town and the inhabitants thereof. (Ord. 690 §1, 2011)

Sec. 6-233. Purpose.

Recognizing that there is a potential conflict between federal and state law with respect to the operation of medical marijuana businesses, it is the purpose of this Article to:

- (1) Require that a medical marijuana business, as defined in Section 6-235 below, be operated in a safe manner that does not endanger the public welfare.
- (2) Mitigate potential negative impacts that a medical marijuana business might cause on surrounding properties and persons.
- (3) Regulate the conduct of persons owning, operating and using a medical marijuana business in order to protect the public health, safety and welfare.
- (4) Establish a nondiscriminatory mechanism by which the Town can control, through appropriate regulation, the location and operation of medical marijuana businesses within the Town.
- (5) Impose fees to cover the cost to the Town of licensing medical marijuana businesses in an amount sufficient for the Town to recover its costs of the licensing and enforcement procedures. (Ord. 690 §1, 2011)

Sec. 6-234. Authority.

The Board of Trustees hereby finds, determines and declares that it has the power to adopt this Article pursuant to:

- (1) The Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.;
- (2) Part 3 of Article 23 of Title 31, C.R.S., concerning municipal zoning powers;
- (3) Section 31-15-103, C.R.S., concerning municipal police powers;
- (4) Section 31-15-401, C.R.S., concerning municipal police powers; and
- (5) Section 31-15-501, C.R.S., concerning municipal authority to regulate businesses. (Ord. 690 §1, 2011)

Sec. 6-235. Definitions.

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

Adjacent means adjacent to, or contiguous with, the proposed location of a medical marijuana business through the presence of a shared ceiling, floor or wall, except that this definition shall not apply to multi-use buildings.

Amendment 20 means a voter-initiated amendment to the Colorado Constitution adopted November 7, 2000. Amendment 20 added Section 14 of Article XVIII to the Colorado Constitution.

Applicant means a person twenty-one (21) years of age or older who has submitted an application for a license pursuant to this Article.

Application means an application for a license submitted pursuant to this Article.

Ballot Issue 1 means a voter-initiated amendment to this Code adopted on April 6, 2010.

Building Official means the Building Official of the Town.

Catastrophic business interruption means the failure of a licensed medical marijuana business to conduct its ordinary and usual business activities due to catastrophic circumstances beyond the licensee's control, such as acts of God, weather, civil unrest, terrorism or the criminal activity of others.

Colorado Medical Marijuana Code means Article 43.3 of Title 12, C.R.S., which provides for state and local licensing and regulation of medical marijuana businesses.

Day means a calendar day, unless otherwise indicated.

Dwelling unit has the meaning provided in Section 16-6 of this Code.

Good cause means (for the purpose of refusing, denying, suspending or revoking a license under this Article):

a. The licensee has violated, does not meet or has failed to comply with any of the terms, conditions or provisions of this Article and any rule and regulation promulgated pursuant to this Article;

b. The licensee has failed to comply with any special terms or conditions that were placed on its license at the time the license was issued or that were placed on its license in prior disciplinary proceedings or that arose in the context of potential disciplinary proceedings; or

c. The licensee's medical marijuana business has been operated in a manner that adversely affects the public health, welfare or safety of the immediate neighborhood in which the medical marijuana business is located. Evidence to support such a finding can include: (i) a pattern of disorderly conduct as defined in Section 10-121 of this Code within the premises of the medical marijuana business, or in the immediate area surrounding the medical marijuana business, if such conduct was directly related to or arose from the operation of the medical marijuana business; (ii) a pattern of drug-related criminal conduct within the premises of the medical marijuana business, or in the immediate area surrounding the medical marijuana business, if such conduct was directly related to or arose from the operation of the medical marijuana business; or (iii) a continuing pattern of criminal conduct at any location directly related to or arising from the operation of the medical marijuana business.

Infused product facility means a property or structure within the Town used by a business owner to manufacture a product infused with medical marijuana that is intended for use or consumption other than by smoking, including but not limited to edible products, ointments and tinctures.

License means a license to operate a medical marijuana business issued by the Town pursuant to this Article.

Licensee means the person to whom a license has been issued pursuant to this Article.

Medical marijuana business means any medical marijuana center, optional premises for cultivation or infused product facility.

Medical Marijuana Center means a property or structure within the Town used by a business owner to sell, barter or trade medical marijuana in any manner, including through tinctures or infused products, to patients or primary caregivers in accordance with the Colorado Medical Marijuana Code, and the implementing of state statutes and administrative regulations. A medical marijuana center may not be used as a physician's office to examine or consult with patients.

Optional premises for cultivation means the premises specified in an application for a medical marijuana center license with related growing facilities in Colorado to grow, cultivate, and produce marijuana for a purpose authorized by Section 14 of Article XVIII of the Colorado Constitution for sale to, or distribution through, a licensed medical marijuana center.

Patient has the meaning provided in Amendment 20 of the Colorado Constitution.

Person has the meaning provided in Section 1-21 of this Code.

Primary caregiver has the meaning provided in the Colorado Medical Marijuana Code.

Primary entrance means the threshold of the entrance to the medical marijuana business, whether such entrance is indoors or outdoors, that is customarily used by the public to gain access to the business.

Town has the meaning provided in Section 1-21 of this Code.

Town Administrator means the Town Administrator of the Town or the Town Administrator's designee.

(b) In addition to the definitions provided in Subsection (a) above, the other defined terms in the Colorado Medical Marijuana Code are incorporated into this Article by reference. (Ord. 690 §1, 2011)

Sec. 6-236. License required.

(a) No person shall operate a medical marijuana business within the Town without a valid license issued in accordance with this Article.

(b) Any individual registered with the State as a primary caregiver and operating lawfully as such under the terms of Section 25-1.5-106(5)-(6), C.R.S., shall not be required to obtain a medical marijuana business license. Any primary caregiver operating within the jurisdictional limits of the Town and receiving compensation for such services is nevertheless subject to other Town license requirements. (Ord. 690 §1, 2011)

Sec. 6-237. Application for license.

(a) A person seeking to obtain a license pursuant to this Article shall file an application with the Town Administrator. The form of the application shall be provided by the Town Administrator.

(b) A separate license must be obtained for each medical marijuana business location.

(c) A license issued pursuant to this Article does not eliminate the need for the licensee to obtain all other required Town licenses and approvals related to the medical marijuana business.

(d) An application for a license under this Article shall contain the following information:

(1) The applicant's name, address, telephone number and social security number;

a. If the owner is a corporation, this shall include the name and address of any officer or director of the corporation, and of any person holding any financial interest in the corporation, whether as a result of the issuance of stock, instruments of indebtedness or otherwise; provided, however, this shall not require disclosure of information pertaining to a bank, savings and loan association or other commercial lender which has loaned funds to the applicant;

b. If the owner is a partnership, association or limited liability company, the name and address of all partners, members, managers or persons holding any financial interest in the partnership, association or limited liability company, including those holding an interest as the result of instruments of indebtedness; provided, however, this shall not require disclosure of information pertaining to a bank, savings and loan association or other commercial lender which has loaned funds to the applicant;

c. If the owner is not a natural person, the organization's documents for all entities identified in the application, and the contact information for the person that is authorized to represent the entity or entities;

(2) The name and address of the manager of the medical marijuana business, if the manager is proposed to be someone other than the owner or if the owner is an entity other than a natural person;

(3) The names and addresses of all persons holding any financial interest in the medical marijuana business (and the street address of the proposed medical marijuana business);

(4) Proof of the applicant's right to occupy and use the premises for the proposed medical marijuana business, whether by deed, lease or otherwise;

(5) A statement of the applicant's personal history, including whether:

a. The applicant has been denied an application for a medical marijuana business license pursuant to this Article or any similar state or local licensing law, or had such a license suspended or revoked;

b. Discharged a sentence in the five (5) years immediately preceding the application date for a conviction of a felony or a person who at any time has been convicted of a felony pursuant to any state or federal law regarding the possession, distribution or use of a controlled substance; or

c. Is under twenty-one (21) years of age.

(6) A completed set of the applicant's and manager's fingerprints on a form approved by the Town Administrator;

(7) A floor plan of the premises, drawn to scale, showing public and private areas, as well as secured areas for marijuana storage.

(8) A complete copy of the applicant's state medical marijuana application, as submitted to the state licensing authority;

(9) A statement to be initialed by the applicant that the Town accepts no legal liability in connection with the approval and subsequent operation of the medical marijuana business;

(10) Any additional information that the Town Administrator reasonably determines to be necessary in connection with the investigation and review of the application. (Ord. 690 §1, 2011)

Sec. 6-238. Application fee.

Each application submitted under this Article shall be accompanied by an application fee in the amount set forth on the fee schedule as established from time to time by resolution of the Board of Trustees in accordance with Section 4-151 of this Code. Ord. 690 §1, 2011)

Sec. 6-239. Investigation of application.

(a) Upon receipt of a properly completed application, together with all information required in connection therewith and the payment of the application fee as required by Section 6-238 above, the Town Administrator shall transmit copies of the application to:

(1) The Police Department;

(2) The Building Department;

(3) The Nederland Fire Department; and

(4) Any other person or agency which the Town Administrator determines should properly investigate and comment upon the application.

(b) Upon receipt of a completed application, the Police Department shall obtain and review a criminal background records search on the applicant and manager from the Colorado Bureau of Investigation.

(c) Within twenty (20) days of receipt of a completed application, those Town departments and other referral agencies described in Subsection (a) above shall provide the Town Administrator with comments concerning the application. (Ord. 690 §1, 2011)

Sec. 6-240. Standards for issuance of license.

The Town Administrator shall issue a license under this Article when the Town Administrator 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 Section 6-238 above;

(3) The application does not contain a material falsehood or misrepresentation;

(4) The application contains proof of the applicant's right to occupy and use the premises in the manner proposed by the application;

(5) The application, applicant and proposed medical marijuana business comply with all of the requirements of this Article, this Code and the Colorado Medical Marijuana Code;

(6) The applicant and manager have good moral character. In making this determination or when considering a criminal conviction, the Town Administrator shall be governed by the provisions of Section 24-5-101, C.R.S. If the Town Administrator takes into consideration information concerning the applicant's criminal history record, the Town Administrator shall also consider any information provided by the applicant 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 application for a license;

(7) If the application is for a medical marijuana center and there are no more than six (6) medical marijuana centers licensed within the Town at the time of application. There shall be no more than seven (7) medical marijuana centers licensed by the Town at any time.

(8) The proposed location of the medical marijuana business is permitted under Section 6-255 of this Article.

(9) The proposed medical marijuana business and the applicant, including each individual owner and manager, satisfy the requirements of the Colorado Medical Marijuana Code. (Ord. 690 §1, 2011)

Sec. 6-241. Denial of license.

(a) The Town Administrator shall deny an application for a license under this Article if the Town Administrator determines that:

(1) Information contained in the application, or supplemental information requested from the applicant, is found to be false in any material respect; or

(2) The application fails to meet any of the standards sets forth in Section 6-240 above.

(b) If an application is denied the application fee shall not be refunded. (Ord. 690 §1, 2011)

Sec. 6-242. Authority to impose conditions on license.

The Town Administrator shall have the authority to impose such reasonable terms and conditions on a license as may be necessary to protect the public health, safety and welfare, and to obtain compliance with the requirements of this Article and other applicable law. (Ord. 690 §1, 2011)

Sec. 6-243. Decision by Town Administrator.

(a) The Town Administrator 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 period of time if necessary for the Town Administrator to complete his or her review of the application. The Town Administrator shall issue a final decision on an application no later than thirty (30) days from the date that the Town Administrator's investigation is completed.

(b) If an application is denied, the Town Administrator shall clearly set forth in writing the grounds for denial.

(c) In the event an application is conditionally approved, the Town Administrator shall clearly set forth in writing the conditions of approval.

(d) For the purpose of regulating and controlling the licensing of medical marijuana businesses within the Town, the Town Administrator or his or her designated representative is the local licensing authority. The local licensing authority shall have those powers and duties as set forth in this Article and in the Colorado Medical Marijuana Code. (Ord. 690 §1, 2011)

Sec. 6-244. Notice of decision.

The Town Administrator shall notify the applicant of the decision on the application within three (3) business days of rendering the decision. Notice shall be given by mailing a copy of the Town Administrator's decision to the applicant by certified mail, postage prepaid, at the address shown in the application. Notice is deemed to have been properly given upon mailing. (Ord. 690 §1, 2011)

Sec. 6-245. Appeal of denial or conditional approval of license.

(a) An applicant has the right to appeal the Town Administrator's denial or conditional approval of an application to the Board of Trustees.

(b) An applicant's appeal of the Town Administrator's denial or conditional approval of an application shall be processed in accordance with Chapter 6, Article II of this Code; provided, however, that the applicant's written notice of appeal shall be filed with the Town Administrator within thirty (30) days after the date of mailing of the Town Administrator's decision on the application.

(c) The applicant shall be provided with not less than ten (10) days prior written notice of the appeal hearing to be held by the Board of Trustees.

(d) The burden of proof in an appeal filed under this Section shall be on the applicant.

(e) If the Board of Trustees finds that the Town Administrator properly applied Sections 6-240, 6-241 and 6-242 above, the Board of Trustees shall uphold the decision of the Town Administrator. If the Board of Trustees finds that the Town Administrator misapplied said Sections 6-240, 6-241 and 6-242, the Town Administrator's decision shall be set aside and the license issued (if it was previously denied), or, the conditions of approval stricken or modified.

(f) 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 of the applicant's right to contest the denial or conditional approval of the application.

(g) If there is any conflict between the provisions and requirements of this Section and the provisions and requirements of Chapter 6, Article II of this Code, the provisions and requirements of this Section shall control. (Ord. 690 §1, 2011)

Sec. 6-246. Contents of license.

A license shall contain the following information:

- (1) The name of the licensee;
- (2) The name of the business that the licensee will be operating;
- (3) The date of the issuance of the license;
- (4) The address at which the licensee is authorized to operate the medical marijuana business;
- (5) The type of medical marijuana business that is being licensed;
- (6) Any special conditions of approval imposed upon the license by the Town Administrator;
and
- (7) The date of the expiration of the license. (Ord. 690 §1, 2011)

Sec. 6-247. Inspection of premises.

Prior to the issuance of a license, the premises at which the medical marijuana business will be operated shall be inspected by the Building Official to determine compliance with the Town's

building and technical codes. No license shall be issued if the premises at which the medical marijuana business will be operated do not comply with the Town's building and technical codes. Throughout the term of the license the Building Official may inspect the premises at which the medical marijuana business is operated to determine continuing compliance with the Town's building and technical codes. Access to such premises may be obtained by the Building Official in accordance with the applicable provisions of such codes or other applicable law. (Ord. 690 §1, 2011)

Sec. 6-248. License not transferable.

A license is nontransferable and nonassignable without the applicable required Town approval (change in ownership, change in location, etc.). Any attempt to transfer or assign a license without Town approval voids the license. (Ord. 690 §1, 2011)

Sec. 6-249. Notice of issuance of license.

Immediately upon the issuance of a license, the Town Administrator shall send notice of issuance of the license to:

- (1) The Police Department;
- (2) The Building Department;
- (3) The Nederland Fire Department;
- (4) The Town Clerk;
- (5) The Town Treasurer; and
- (6) Any other person as determined by the Town Administrator. (Ord. 690 §1, 2011)

Sec. 6-250. Duration of license; renewal.

(a) Except as otherwise provided in this Section, each license issued pursuant to this Article shall be valid for one (1) year from the date of issuance and may be renewed as provided in this Section.

(b) An application for the renewal of an existing license shall be made to the Town Administrator not less than forty-five (45) days prior to the date of expiration. No application for renewal shall be accepted by the Town Administrator after the date of expiration. The Town Administrator may waive the forty-five-day time requirement set forth in this Subsection if the applicant demonstrates an adequate reason, as determined by the Town Administrator.

(c) The provisions of Sections 6-237 through 6-243 of this Article, inclusive, shall apply to the processing of an application to renew a license. The timely filing of a renewal application shall extend the current license until a final decision is made on the renewal application, including any appeal of the Town Administrator's decision to the Board of Trustees.

(d) At the time of the filing of an application for the renewal of an existing license, the applicant shall pay the applicable fee.

(e) In the event a medical marijuana business suffers a catastrophic business interruption and fails to provide sales tax returns to the Town, it shall notify the Town within forty-five (45) days of such occurrence. During such period of business interruption, it shall comply with all state rules and regulations for such interruptions. A business that suffers a catastrophic business interruption shall not be deemed to be "inactive" in accordance with Subsection (f) below.

(f) In the event a medical marijuana center ceases operations for a period of sixty (60) or more consecutive days and said center possesses one (1) of the seven (7) maximum valid licenses for medical marijuana centers in Town, the license for such center shall be deemed "inactive." Inactive licenses shall expire immediately upon notice issued by the Town Administrator. A licensee whose license expires due to inactivity pursuant to this Subsection may appeal the Town Administrator's determination in accordance with Article II of this Chapter. The Town shall not issue another medical marijuana center license to take the place of one (1) of the seven (7) maximum center licenses found to be inactive until such determination of inactivity is final (through failure of the licensee to appeal within ten [10] days or the Board of Trustee's decision on the appeal).

(g) The Town Administrator may refuse to renew a license for good cause. (Ord. 690 §1, 2011)

Sec. 6-251. Duties of licensee.

It is the duty and obligation of each licensee to do the following:

(1) Comply with all of the terms and conditions of the license, and any special conditions on the license imposed by the Town Administrator pursuant to Section 6-242 of this Article;

(2) Comply with all of the requirements of this Article;

(3) Comply with all other applicable Town ordinances;

(4) Comply with all state laws and administrative regulations pertaining to the medical use of marijuana, including but not limited to Section 18-18-406.3, C.R.S.; the Colorado Medical Marijuana Code and the administrative regulations issued by the Colorado Department of Public Health and Environment, all as amended from time to time.

(5) Permit the inspection of its records, building and/or structure and operation by the Town Administrator for the purpose of determining the licensee's compliance with the terms and conditions of the license and all applicable laws. Nothing in this Section shall abrogate or affect any applicable confidentiality provision of state or federal law. (Ord. 690 §1, 2011)

Sec. 6-252. Posting of license.

A license shall be continuously posted in a conspicuous location at the medical marijuana business. (Ord. 690 §1, 2011)

Sec. 6-253. Suspension or revocation of license.

(a) A license issued pursuant to this Article may be suspended or revoked by the Town Administrator after a hearing for the following reasons:

(1) Fraud, misrepresentation or a false statement of material fact contained in the license application;

(2) A violation of any applicable Town or state law or regulation;

(3) A violation of any of the terms and conditions of the license, including any special conditions of approval imposed upon the license by the Town Administrator pursuant to Section 6-242 of this Article;

(4) Failure to permit the Town access to the premises for necessary inspections;

(5) Failure to timely pay any bills or fees due to the Town, including but not limited to water bills, sales tax, etc.;

(6) A violation of any of the provisions of this Article;

(7) The medical marijuana business has been deemed "inactive," pursuant to Section 6-250 above; or

(8) Ownership of the medical marijuana business has been transferred without the new owner obtaining a license pursuant to this Article.

(b) In connection with the suspension of a license, the Town Administrator may impose reasonable conditions.

(c) A hearing held pursuant to this Section shall be processed in accordance with Chapter 6, Article II of this Code.

(d) In deciding what conditions, if any, to impose in the event of a suspension, the Town Administrator shall consider:

(1) The nature and seriousness of the violation;

(2) Corrective action, if any, taken by the licensee;

(3) Prior violations, if any, by the licensee;

(4) The likelihood of recurrence;

(5) All circumstances surrounding the violation;

(6) Whether the violation was willful; and

(7) Previous sanctions, if any, imposed against the licensee.

(e) If the Town Administrator suspends or revokes a license, the licensee may appeal such action to the Board of Trustees in accordance with Chapter 6, Article II of this Code. The burden of proof in such an appeal is on the licensee to demonstrate that there was insufficient evidence of cause to suspend or revoke the license under Subsection (a) of this Section. The Board of Trustees may

affirm, reverse or modify the decision of the Town Administrator. 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 of the applicant's right to contest the denial or conditional approval of the application.

(f) No fee previously paid by a licensee in connection with the application shall be refunded if such license is suspended or revoked. (Ord. 690 §1, 2011)

Sec. 6-254. Limitation on sale of marijuana.

No marijuana may be sold, given away or transferred at a medical marijuana business except to patients and to primary caregivers. (Ord. 690 §1, 2011)

Sec. 6-255. Medical marijuana business location.

(a) Except as provided in Subsection (i) of this Section, no medical marijuana business shall be located at a location that does not conform to the requirements of this Section.

(b) No medical marijuana center shall be located except within zoning areas Neighborhood Commercial (NC), General Commercial (GC) and Central Business District (CBD).

(c) No medical marijuana optional premises for cultivation shall be located except in zoning areas Neighborhood Commercial (NC), General Commercial (GC) and Industrial (I). Medical marijuana optional premises for cultivation may also be located in zoning area Central Business District (CBD) as a special review use.

(d) No medical marijuana-infused product facility shall be located except in zoning areas Neighborhood Commercial (NC), General Commercial (GC), Central Business District (CBD) and Industrial (I).

(e) In addition to the zone district restrictions imposed by Subsections (b) through (d) above, no medical marijuana business shall be located:

(1) Within one hundred (100) feet of a licensed child care facility;

(2) Within one hundred (100) feet of any educational institution or school, college or university, either public or private;

(3) Within one hundred (100) feet of any facility or structure used to provide not-for-profit educational and recreational services for youth and teens;

(4) Adjacent to property upon which a dwelling unit is located; provided, however, this restriction does not apply to a mixed-use building containing both residential and commercial units;

(f) The distances described in Subsection (e) above shall be computed by direct measurement from the primary entrance of the structure used for child care, school, college, university or teen

center purposes to the primary entrance of the structure used for medical marijuana business purposes, using a straight line.

(g) Each medical marijuana business shall be operated from a permanent and fixed location. No medical marijuana business shall be permitted to operate from a moveable, mobile or transitory location.

(h) Subsection (g) above shall not prevent the physical delivery of medical marijuana to a patient or the patient's primary caregiver at a location off of the premises of the licensee's medical marijuana business if:

- (1) The marijuana was lawfully purchased by the patient or the patient's primary caregiver from the licensee's medical marijuana business;
- (2) The marijuana is delivered only to the patient or the patient's primary caregiver;
- (3) The marijuana is delivered only by the licensee or an employee of the licensee; and
- (4) The marijuana is delivered to a location within the Town.

(i) The suitability of a location for a medical marijuana business shall be determined at the time of the initial issuance of the license for such business. The fact that changes in the neighborhood that occur after the initial issuance of the license might render the site unsuitable for a medical marijuana business under this Section shall not be grounds to suspend, revoke or refuse to renew the license for such center so long as the license for the center remains in effect.

(j) No medical marijuana business shall be operated as a "home occupation" as described in Section 16-76 of this Code. (Ord. 690 §1, 2011)

Sec. 6-256. Hours of operation.

A medical marijuana center may open no earlier than 8:00 a.m. and shall close no later than 7:00 p.m. the same day. A medical marijuana center may be open seven (7) days a week. (Ord. 690 §1, 2011)

Sec. 6-257. Signage.

All signage for a medical marijuana business shall comply with the requirements of Chapter 18, Article 5 of this Code. (Ord. 690 §1, 2011)

Sec. 6-258. Required warnings to be posted.

There shall be posted in a conspicuous location in each medical marijuana business a legible sign containing the following warnings:

- (1) A warning that the diversion of marijuana for nonmedical purposes is a violation of state law;

(2) A warning that the use of medical marijuana may impair a person's ability to drive a motor vehicle or operate machinery, and that it is illegal under state law to drive a motor vehicle or to operate machinery when impaired by marijuana;

(3) A warning that loitering in or around the medical marijuana business is prohibited by state law; and

(4) A warning that possession, distribution and consumption of marijuana for nonmedical purposes is a violation of state law. (Ord. 690 §1, 2011)

Sec. 6-259. Paraphernalia.

Devices, contrivances, instruments and paraphernalia for inhaling or otherwise consuming marijuana, including but not limited to rolling papers and related tools, water pipes and vaporizers may lawfully be sold at a medical marijuana center. (Ord. 690 §1, 2011)

Sec. 6-260. Display of medical marijuana.

No marijuana shall be displayed so as to be visible to a person of normal visual acuity outside the medical marijuana business. (Ord. 690 §1, 2011)

Sec. 6-261. Confidentiality of information related to medical marijuana businesses.

(a) The following information related to a medical marijuana business shall be deemed a confidential record and shall be exempt from the Colorado Open Records Act:

(1) The location of an optional premises for cultivation for a medical marijuana business;

(2) All identifying personal information and financial information provided by the applicant on an application for a medical marijuana business.

(b) The Town shall keep the above information confidential and shall redact the same from public records requested under the Colorado Open Records Act or other public records laws.

(c) Notwithstanding any other provision of law to the contrary, the Town may share information regarding a medical marijuana business with a peace officer or a law enforcement agency. (Ord. 690 §1, 2011)

Sec. 6-262. Taxes.

Each licensee shall collect and remit sales tax on all medical marijuana, paraphernalia and other tangible personal property sold by the licensee at the medical marijuana business. (Ord. 690 §1, 2011)

Sec. 6-263. Required record.

(a) Each licensee shall maintain an accurate and complete record of all marijuana sold or dispensed at the medical marijuana center. The record shall contain the following information:

- (1) The quantity of marijuana sold or dispensed;
- (2) The source of the marijuana sold or dispensed; and
- (3) The date and time the marijuana was sold or dispensed.

(b) The licensee's records described in Subsection (a) of this Section shall be available for inspection by the Town upon a maximum of two (2) business days' advance notice. (Ord. 690 §1, 2011)

Sec. 6-264. Unlawful acts; penalties; injunctive relief.

(a) It shall be unlawful for any person to operate a medical marijuana business without a license as required by this Article, to violate any terms or conditions of a license issued pursuant to this Article or to violate any other requirement of this Article or this Code. Each day of any such violation shall constitute a separate offense and be subject to a three-hundred-dollar-per-day fine.

(b) The operation of a medical marijuana business without a valid license issued pursuant to this Article may be enjoined by the Town in an action brought in a court of competent jurisdiction. In any case in which the Town prevails in a civil action initiated pursuant to this Section, the Town may recover its reasonable attorney fees plus costs of the proceeding.

(c) The remedies provided in this Section are in addition to any other remedy provided by applicable law.

(d) Criminal acts prohibited by this Section shall constitute misdemeanors subject to those penalties set forth in Section 1-72 of this Code. (Ord. 690 §1, 2011)

Sec. 6-265. No Town liability.

By accepting a license issued pursuant to this Article, a licensee releases the Town, its officers, elected officials, employees, attorneys and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of the licensee, its operators, employees, clients or customers for a violation of state or federal laws, rules or regulations. The Town Administrator may require a licensee to execute a written instrument confirming the provisions of this Section. (Ord. 690 §1, 2011)

Sec. 6-266. Indemnification of Town.

By accepting a license issued pursuant to this Article, a licensee, jointly and severally if more than one (1), agrees to indemnify and defend the Town, its officers, elected officials, employees, attorneys, agents, insurers and self-insurance pool against all liability, claims and demands, on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other loss of any kind whatsoever, which arise out of or are in any manner connected with, the operation of the medical marijuana business that is the subject of the license. The licensee further agrees to investigate, handle, respond to and to provide defense for and defend against, any such liability, claims or demands at its expense, and to bear all other costs and expenses related thereto, including court costs and attorney fees. The

Town Administrator may require a licensee to execute a written instrument confirming the provisions of this Section. (Ord. 690 §1, 2011)

Sec. 6-267. Other laws remain applicable.

The provisions of this Article do not protect licensees, operators, employees, customers and clients of a permitted medical marijuana business from prosecution pursuant to any laws that may prohibit the cultivation, sale, use or possession of controlled substances. In addition, as of the date of the adoption of this Article, the cultivation, sale, possession, distribution and use of marijuana remain violations of federal and state law (except for conduct covered by Amendment 20), and this Article affords no protection against prosecution under such federal and state laws. Licensees, operators, employees, customers and clients of a permitted medical marijuana business assume any and all risk and any and all liability arising or resulting from the operation of the center under any state or federal law. Further, to the greatest extent permitted by law, any actions taken under the provisions of this Article by any public officer or officers, elected or appointed officials, employees, attorneys and agents of the Town, shall not become a personal liability of such person or of the Town. (Ord. 690 §1, 2011)

Sec. 6-268. Rules and regulations.

The Town Administrator shall have the authority from time to time to adopt, amend, alter and repeal administrative rules and regulations as may be necessary for the proper administration of this Article. (Ord. 690 §1, 2011)

ARTICLE XI

Regulation of Marijuana

Sec. 6-269. Short title.

This Article shall be known and may be cited as the "Regulation of Marijuana" Ordinance. (Ord. 720 §1, 2013)

Sec. 6-270. Findings.

The Town adopts this Article based upon the following findings:

(1) On November 6, 2012, the voters of the State of Colorado approved Amendment 64. Amendment 64 added Section 16 of Article XVIII to the Colorado Constitution and created a limited exception from criminal liability under Colorado law for adults twenty-one (21) and over to possess and cultivate marijuana for recreational use and to establish the licensing and regulation of marijuana establishments in a manner like alcohol as described in Amendment 64.

(2) The Town of Nederland is permitted under Section 16(5)(f) of Article XVIII of the Colorado Constitution to regulate marijuana-related establishments.

(3) The majority of Nederland residents voted to regulate marijuana like alcohol, and as such, the Town of Nederland will regulate marijuana establishments in a manner similar to alcohol.

(4) This Article is necessary and proper to provide for the health, safety and welfare of the Town and the inhabitants thereof. (Ord. 720 §1, 2013)

Sec. 6-271. Purpose.

It is the purpose of this Article to:

(1) Require that a marijuana establishment, as defined in this Article, be operated in a safe manner that does not endanger the public welfare.

(2) Mitigate potential negative impacts that a marijuana establishment might cause on surrounding properties and persons.

(3) Regulate the conduct of persons owning, operating and using a marijuana establishment in order to protect the public health, safety and welfare.

(4) Establish a nondiscriminatory mechanism by which the Town can control, through appropriate regulation, the time, place and manner of operation of marijuana establishments within the Town.

(5) Impose fees to cover the cost to the Town for licensing marijuana establishments in an amount sufficient for the Town to recover its costs of the licensing and enforcement procedures. (Ord. 720 §1, 2013)

Sec. 6-272. Authority.

The Town hereby finds, determines and declares that it has the power to adopt this Article pursuant to:

(1) The Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.;

(2) Part 3 of Article 23 of Title 31, C.R.S., concerning municipal zoning powers;

(3) Section 31-15-103, C.R.S., concerning ordinance adoption;

(4) Section 31-15-401, C.R.S., concerning municipal police powers;

(5) Section 31-15-501, C.R.S., concerning municipal authority to regulate businesses;

(6) Section 16(5)(e) of Article XVIII of the Colorado Constitution, concerning local regulation of marijuana;

(7) Section 16(5)(f) of Article XVIII of the Colorado Constitution, concerning the time, place and manner of operation;

(8) Article 14 of Title 25, C.R.S., concerning the Colorado Clean Indoor Air Act. (Ord. 720 §1, 2013)

Sec. 6-273. Definitions.

As used in this Article the following words shall have the following meanings, unless the context clearly requires otherwise. In addition to the definitions provided in this Section, the other defined terms in Section 16 of Article XVIII of the Colorado Constitution are incorporated into this Article by reference:

Applicant means a U.S. citizen and a Colorado resident of two (2) years who is twenty-one (21) years of age or older and who has submitted an application for license pursuant to this Article.

Application means an application for a marijuana establishment license submitted pursuant to this Article.

Approved means the application has been submitted with the application fee and vetted through all the appropriate Town agencies and has been deemed to be compliant with respect to zoning, fire and building safety and criminal background checks.

Board of Trustees means Nederland's Town Board of Trustees.

CCIAA means the Colorado Clean Indoor Air Act, Section 25-14-201, et seq., C.R.S., as existing or hereafter amended.

Clone means a marijuana cutting or plant culture that does not have roots, a rootball or root hairs observable to the naked eye and shall not be considered marijuana plant as defined in the federal sentencing guidelines at 2D1.1, Note 17.

Colorado Retail Marijuana Code (CRMC), Section 12-34.4-101, et seq., C.R.S., as existing or as hereafter amended.

Consumer means a person twenty-one (21) years of age or older who purchases marijuana or marijuana products for personal use by persons twenty-one (21) years of age or older, but not for resale to others.

Day means a calendar day, unless otherwise indicated, i.e. business day.

Display means to show or exhibit marijuana, marijuana resin or marijuana product; or otherwise make visible marijuana, marijuana resin or marijuana product.

Enclosed, locked space means to surround or encompass; to fence or hem in on all sides by some visible obstruction that shall include a device for securing a door, gate, lid, drawer, or the like in position when closed, consisting of a bolt or system of bolts propelled and withdrawn by a mechanism operated by a key, dial, etc.

Endanger means to present a risk of harm to oneself or others.

Exterior display means any form of display (see the definition of *display* above) viewable by general public, including a sign or advertisement containing images thereof.

Good cause means, for purposes of refusing or denying a license renewal, reinstatement, or initial license issuance:

- a. The licensee or applicant has violated, does not meet or has failed to comply with any of the terms, conditions, or provisions of this Article, any rules promulgated pursuant to this Article, any supplemental local law, rules or regulations, or the requirements of the CRMC and any rules and regulations promulgated thereunder;
- b. The licensee or applicant has failed to comply with any special terms or conditions that were placed on its license pursuant to an order of the state or local licensing authority;
- c. The licensed premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the establishment is located.

Industrial hemp means any product that is derived from the genus *Cannabis* that is intended to be used only for industrial and commercial purposes such as but not limited to food materials, seed, seed cake, oil, stalk, leaf, pulp, fiber, polymers, cell fluid or biofuels, but will not include any products or extracts that can induce impairment. *Industrial hemp* does not include marijuana or marijuana products intended for recreational use.

License means a license to operate a marijuana establishment issued by the Town pursuant to this Article.

Licensee means the person to whom a license has been issued pursuant to this Article.

Local licensing authority means the Town Board of Trustees.

Location means a particular parcel of land that may be identified by an address or other descriptive means.

Marijuana or marihuana means all parts of the plant of the genus *Cannabis*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin, including marihuana concentrate. *Marijuana or marihuana* does not include industrial hemp, nor does it include fiber produced from the stalks, oil or cake made from the seeds of the plant, sterilized seed of the plant which is capable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other product. Nor shall *marijuana* include any cultivation by-products such as but not limited to nonconsumable green waste plant material or soils.

Marijuana accessories means any equipment, products or materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing or containing marijuana or for ingesting, inhaling or otherwise introducing marijuana into the human body.

Marijuana cultivation facility means an entity licensed to cultivate, prepare and package marijuana and sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities and to other marijuana cultivation facilities, but not to consumers.

Marijuana establishment means an entity operating as a marijuana cultivation facility, a marijuana product manufacturing facility, a marijuana testing facility or a retail marijuana store.

Marijuana product means concentrated marijuana product and marijuana product that are comprised of marijuana and other ingredients and are intended for use or consumption, such as but not limited to edible products, ointments and tinctures.

Marijuana product manufacturing facility means an entity licensed to purchase marijuana; manufacture, prepare and package marijuana product; and sell marijuana and marijuana product to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

Marijuana resin means raw marijuana trichomes gathered by mechanical means such as but not limited to dry sieving or water sieving methods, but shall not include marijuana product extracted using industrial and commercial grade solvents such as but not limited to naphtha, butane, propane, hexane, natural gas or super critical CO₂.

Marijuana testing facility means an entity licensed to analyze and certify the safety and potency of marijuana.

Mature flowering plant means the gametophytic or reproductive state of marijuana in which the plant is in a designated flowering space with a light cycle intended to produce flowers, trichomes and cannabinoids characteristic of recreational marijuana.

Medical marijuana business means any business licensed by Article 43.3 of Title 12, C.R.S., which provides for state and local licensing and regulation of medical marijuana businesses.

Openly means not protected from unaided observation lawfully made from outside its perimeter not involving physical intrusion.

Operating fee means the fee charged by the Town to recover its proximate actual costs of administering this Article, including but not limited to costs related to inspection, administration and enforcement of marijuana establishments.

Person means the same as provided in Section 1-21 of this Code.

Premises means a distinct and definite location, which may include a building, a part of a building, a room or any other definite contiguous area.

Primary entrance means the threshold of the entrance to the marijuana establishment, whether such entrance is indoors or outdoors, that is customarily used by the public to gain access to the business.

Publicly means an area that is open to general access without restriction.

Retail marijuana store means a premises licensed to purchase marijuana from marijuana cultivation facilities and marijuana products from marijuana product manufacturing facilities and to sell marijuana and marijuana products to consumers.

Sealed containers means any container used for holding marijuana, marijuana resin or marijuana product, which container is sealed with the intended use for off-premises consumption.

State licensing authority means the Executive Director of the Colorado Department of Revenue.

Town has the same meaning provided in Section 1-21 of this Code.

Vegetative means the sporophytic state of the marijuana plant which does not produce resin or flowers and are bulking up to a desired production size for flowering in a designated space with a light cycle not intended to produce flowers, trichomes and cannabinoids characteristic of recreational marijuana. (Ord. 720 §1, 2013)

Sec. 6-274. Hemp farming.

The production, manufacture and processing of industrial hemp shall comply with Section 35-61-101, et seq., C.R.S. (State Industrial Hemp Regulatory Program). (Ord. 720 §1, 2013)

Sec. 6-275. Marijuana establishment application.

The local licensing authority shall have those powers and duties as set forth in this Article and Section 16 of Article XVIII of the Colorado Constitution and the CRMC, except when any such power, duty or authority is delegated to another entity or person, such as the Town Clerk, under this Article.

(1) No person shall operate a marijuana establishment within the Town without an approved state and local license for the specific type of establishment.

(2) A person seeking to obtain a license pursuant to this Article shall file an application with the local licensing authority on a form provided by the local licensing authority.

(3) The applicant shall be accompanied by the designated operating fee for the type of marijuana establishment, as established from time to time by resolution of the Board of Trustees.

(4) A license must be obtained for each marijuana establishment location.

(5) A license issued pursuant to this Article does not eliminate the need for the licensee to obtain all other required Town licenses and approvals related to the marijuana establishment.

(6) An application for a license under this Article shall contain the following information:

a. The applicant's name, address, telephone number and social security number, or federal employer ID number.

b. If the owner is a corporation, this shall include corporate articles of incorporation, the name and address of any officer or director of the corporation, and of any person holding any financial interest in the corporation, whether as a result of the issuance of stock, instruments of indebtedness, or otherwise; provided, however, this shall not require disclosure of information pertaining to a bank, savings and loan association or other commercial lender which has loaned funds to the applicant.

c. If the owner is a partnership, association or limited liability company, partnership agreement or operating agreement, the name and addresses of all partners, members, or persons holding any financial interest in the partnership, association or limited liability company, including those holding an interest as the result of instruments of indebtedness; provided, however, this shall not require disclosure of information pertaining to a bank, savings and loan association or other commercial lender which has loaned funds to the applicant.

d. If the owner is not a natural person, the organization documents for all entities identified in the application, and the contact information for the person that is authorized to represent the entity or entities.

e. The name and address of the manager of the marijuana establishment, if the manager is proposed to be someone other than the owner, or if the owner is an entity other than a natural person.

f. The names and addresses of all persons holding any financial interest in the marijuana establishment; and the street address of the proposed marijuana establishment.

g. Proof of the applicant's right to occupy and use the premises whether by deed, lease or otherwise.

h. A statement of the applicant's personal history, including:

1. If the applicant has been denied an application for a medical marijuana business or liquor license or any similar state or local licensing law, or had such a license suspended or revoked;

2. If the applicant has been convicted of a felony or has completed any portion of a sentence due to a felony conviction within the preceding five (5) years, or if the applicant has completed any portion of a sentence for a conviction of a felony regarding the possession, distribution, manufacturing, cultivation or use of a controlled substance within the preceding ten (10) years;

3. If the applicant is a U.S. citizen and Colorado resident of two (2) years and is twenty-one (21) years of age or older;

4. If the applicant is a law officer and/or employee of the state or local licensing authority, no license shall be issued to a law officer and/or employee of the state or local licensing authority; and

5. A completed set of the applicant's and manager's fingerprints on a form approved by local law enforcement.

i. A copy of the applicant's state and local sales tax licenses.

j. A floor plan of the premises, drawn to scale, showing public and private areas, as well as areas for marijuana storage, cultivation, testing, manufacturing and dispensing. (Ord. 720 §1, 2013; Ord. 721 §1, 2013)

Sec. 6-276. Confidentiality of information.

The following information related to a marijuana establishment shall be maintained in strict accordance with all applicable law, including but not limited to the Colorado Open Records Act, any other public records laws, and the CRMC. Notwithstanding any other provision of law to the contrary, the Town may share information regarding a marijuana establishment with state or local law enforcement in the course of an investigation.

(1) All protected personal information or documents provided by the applicant on an application for a marijuana establishment, such as bank account numbers, social security numbers and personal telephone numbers and addresses; and

(2) Any information about a marijuana consumer gathered in the course of business by a marijuana establishment. (Ord. 720 §1, 2013)

Sec. 6-277. Investigation of application.

No application shall be approved or license shall be issued if the premises at which the marijuana establishment will be operated does not comply with the Town's building and technical codes.

(1) Upon receipt of a properly completed application by certified mail, together with all information required in connection therewith and the payment of the local operating fee as required by Section 6-275, the Town Clerk shall transmit the required information to:

a. The Building Department;

b. The Fire Department;

c. The Police Department; and

d. Any other county or state agency which the Town Clerk determines should properly investigate the application and or premises to be licensed.

(2) Those Town departments and other local agencies described in Paragraph (1) of this Section shall investigate and notify the Town Clerk of their findings and conclusions concerning zoning, building safety, fire safety and criminal background check.

(3) The local licensing authority shall approve, deny or conditionally approve a pending application for a retail marijuana store, after conducting a public hearing on the application, within forty-five (45) business days of the receipt of the completed application received by certified mail.

Notice of the public hearing before the local licensing authority shall be posted and published not less than ten (10) days prior to the hearing in accordance with Section 12-43.4-302, C.R.S. The Town Clerk is authorized to approve, deny or conditionally approve a pending application for any other type of retail marijuana establishment without conducting a public hearing on the application. The Town Clerk shall render his or her decision within forty-five (45) business days of the receipt of the completed application by certified mail.

(4) the Town Clerk shall notify the applicant of the decision on the pending application by mailing a copy of the decision to the applicant by certified mail, postage prepaid, at the address designated in the application. Notice is deemed to have been properly given upon mailing. The Town Clerk is further authorized to notify the applicant of the decision verbally at the time of mailing. A marijuana establishment may not operate until it is licensed by the state licensing authority pursuant to the CRMC and approved by the Town in accordance with this Section.

(5) In the event an application is conditionally approved, the Town Clerk shall clearly set forth in writing the conditions of approval. (Ord. 720 §1, 2013; Ord. 721 §2, 2013)

Sec. 6-278. Denial and appeals.

(a) The local licensing authority or Town Clerk shall deny an application for a license under this Article if it determines that:

(1) Information contained in the application is found to be false in any material respect; or

(2) The application fails to meet any of the standards set forth in Section 6-279 below. If an application is denied, the operating fee shall be refunded by fifty percent (50%).

(b) An applicant has the right to appeal a decision of the Town Clerk to deny or to conditionally approve an application by filing a written notice of appeal within seven (7) days of the date of the decision. The matter shall be scheduled before the Board of Trustees no later than thirty (30) days from the date the notice of appeal is filed with the Town Clerk's office. On appeal, the Board of Trustees shall determine whether the Town Clerk's determination that denial is required by Paragraph 6-278(a)(1) or (2) above or, in the case of conditional approval, that the condition imposed is reasonably calculated to ensure compliance with this Article, is supported by a preponderance of the evidence available to the Town Clerk when he or she rendered his or her decision. The burden on appeal shall be on the applicant.

(c) Any decision made by the local licensing authority 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.

(d) The applicant's failure to timely appeal a decision in accordance with Subsection (b) or (c) hereof, as applicable, is a waiver of the applicant's right to contest the decision. (Ord. 720 §1, 2013; Ord. 721 §3, 2013)

Sec. 6-279. Issuance of license.

The Town Clerk shall issue a local license under this Article when the local licensing authority or Town Clerk, as appropriate, determines that:

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

(2) The applicant has paid all required fees.

(3) The application does not contain a material falsehood or misrepresentation.

(4) Prior to the issuance of a license, the premises at which the marijuana establishment will be operated has been inspected by the local agencies described in Paragraph 6-277(1) above to determine compliance with the Town's building and technical codes and is permitted under Section 6-284 of this Article.

(5) The application, applicant and proposed marijuana establishment complies with all of the requirements of this Article, this Code and all state laws and administrative regulations pertaining to retail marijuana.

(6) The applicant and manager are of good moral character. In making this determination or when considering a criminal conviction, the local licensing authority and Town Clerk shall be governed by the provisions of this Article and Section 24-5-101, C.R.S. If the local licensing authority or Town Clerk takes into consideration information concerning the applicant's criminal history record, the local licensing authority or Town Clerk shall consider the period of time between the applicant's last criminal conviction as described in Section 6-275 above in the consideration of the application for a license.

(7) The proposed marijuana establishment and the applicant, including each individual owner, investor and manager, satisfy the requirements of this Code.

(8) There are any special conditions on a license as may be necessary to protect the public health, safety and welfare, and to obtain compliance with the requirements of this Article and other applicable law but such conditions shall not be "unreasonably impracticable" as defined in Section 16 of Article XVIII of the Colorado Constitution.

(9) The license has not been transferred without the applicable required Town approval (change in ownership, change in location, fees, etc.). Any attempt to transfer or assign a license without Town approval voids the license. (Ord. 720 §1, 2013; Ord. 721 §§4, 5, 2013)

Sec. 6-280. Contents of license.

A license shall contain the following information:

(1) The name of the licensees;

(2) The name of the business that the licensees will be operating;

- (3) The date of the issuance of the license;
- (4) The address at which the licensees are authorized to operate the marijuana establishment;
- (5) The type of marijuana establishment that is being licensed;
- (6) Any special conditions of approval imposed upon the license by the local licensing authority or Town Clerk; and
- (7) The date of the expiration of the license. (Ord. 720 §1, 2013; Ord. 721 §6, 2013)

Sec. 6-281. Renewal of license.

(a) Except as otherwise provided in this Section, each license issued pursuant to this Article shall be valid for one (1) year from the date of issuance and may be renewed as provided in this Section.

(b) Ninety (90) days prior to the expiration date of an existing license, the Town Clerk shall notify the licensee of such expiration date by certified mail at the business's last known mailing address.

(c) A renewal of an existing license shall be made to the Town Clerk not less than forty-five (45) days prior to the date of expiration by certified mail. No renewal shall be accepted by the Town Clerk after the date of expiration. The Town Clerk may waive the forty-five-day time requirement set forth in this Subsection in writing sent by certified mail if the applicant demonstrates an adequate reason, as determined by the Town Clerk.

(d) At the time of renewal of an existing license, the applicant shall pay the applicable fees.

(e) The provisions of Sections 6-275 through 6-279, inclusive, shall be updated and applied if applicable to an existing application on file with the Town to renew a license. The timely payment of license fees shall extend the current license until a final decision is made on the renewal, including any appeal of the decision.

(f) The Town Clerk shall deny a renewal application upon a finding that the business or the applicant fails to meet the requirements of this Article or has failed to satisfy or comply with any conditions previously imposed upon the license.

(g) In addition to the denial criteria set forth under Subsection (f) above, the Town Clerk, in his or her discretion, may revoke or elect not to renew a retail marijuana store license if he or she determines that the licensed premises have been inactive, without good cause, for at least a period of one (1) year. Inactive licenses shall expire immediately upon written notice issued by the Town Clerk by certified mail.

(h) An applicant has the right to appeal a decision of the Town Clerk made under Subsection (f) or (g) of this Section by filing a written notice of appeal within seven (7) days of the date of the decision. The matter shall be scheduled before the Board of Trustees no later than thirty (30) days from the date the notice of appeal is filed with the Town Clerk's office. On appeal, the Board of Trustees shall determine whether the Town Clerk's findings and determination are supported by a

preponderance of the evidence available to the Town Clerk when he or she rendered his or her decision. The burden on appeal shall be on the applicant. (Ord. 720 §1, 2013; Ord. 721 §7, 2013)

Sec. 6-282. Duties of licensee.

It is the duty and obligation of each licensee to do the following:

- (1) Operate all licensed premises in a safe manner that does not endanger the public welfare.
- (2) Comply with all of the terms and conditions of the license, and any special conditions on the license imposed pursuant to Section 6-279 of this Article;
- (3) Comply with all of the requirements of this Article;
- (4) Comply with all other applicable Town ordinances;
- (5) Comply with all state and local laws and administrative regulations pertaining to retail marijuana, including but not limited to Section 16 of Article XVIII of the Colorado Constitution, state statutes and the administrative regulations issued by the Colorado Department of Revenue, all as amended from time to time;
- (6) Permit the inspection of its records, building and/or structure, and operation by the licensing authorities for the purpose of determining the licensee's compliance with the terms and conditions of the license and all applicable laws. Nothing in this section shall abrogate or affect any applicable confidentiality provision of state or federal law;
- (7) Each licensee shall collect and remit all applicable taxes on all marijuana, marijuana product and other tangible personal property sold by the licensed marijuana establishment; and
- (8) All licenses shall be continuously posted in a conspicuous location at the marijuana establishment. (Ord. 720 §1, 2013; Ord. 721 §8, 2013)

Sec. 6-283. Time of operation.

- (a) Hours of operation may commence no earlier than 8:00 a.m. and end no later than midnight the same day.
- (b) A retail marijuana store may be open seven (7) days a week. (Ord. 720 §1, 2013)

Sec. 6-284. Place of operation.

- (a) No marijuana establishment shall be located at a location that does not conform to the requirements of this Section, except as provided in Subsection (h) of this Section (see Section 16-32 of this Chapter).
- (b) No retail marijuana store shall be located except within zoning areas Neighborhood Commercial (NC), General Commercial (GC) and Central Business District (CBD).

(c) No marijuana product manufacturing facility shall be located except in zoning areas General Commercial (GC) and Industrial (I).

(d) No marijuana testing facility shall be located except in zoning areas Residential (MR, LDR, MDR and HDR), Neighborhood Commercial (NC) as a special review use, Central Business District (CBD), General Commercial (GC) and Industrial (I).

(e) No marijuana cultivation facility shall be located except in zoning areas Forestry (F), Residential (MR, LDR, MDR and HDR), Neighborhood Commercial (NC), Central Business District (CBD), General Commercial (GC) and Industrial (I).

(f) A cultivation facility may be located in residential zoning as a licensed home occupation with an approved special review use permit, pursuant to Sections 16-32 and 16-76 of this Code and in the Central Business District (CBD) and the Neighborhood Commercial (NC) District as a special review use (See Section 6-32 of this Chapter).

(g) A marijuana testing facility may be located in residential zoning as a licensed home occupation with an approved special review use permit, pursuant to Sections 16-32 and 16-76 of this Code.

(h) In addition to the zone district restrictions imposed by Subsections (b) through (g) above, no retail marijuana store shall be located:

(1) Within one hundred (100) feet of a licensed child care facility;

(2) Within one hundred (100) feet of any educational institution or school, college or university, either public or private;

(i) The distances described in Subsection (h) shall be computed by direct measurement from the primary entrance of the structure used for child care, educational institution or school, college, university purposes to the primary entrance of the structure used for a retail marijuana store using a route of direct pedestrian access.

(j) Each marijuana establishment shall be operated from a permanent and fixed location. No marijuana establishment shall be permitted to operate from a moveable, mobile or transitory location.

(k) A person who holds both a business license pursuant to Article 43.3 of Title 12, C.R.S., and a business license pursuant to this Article may operate both licenses in the same premises provided they meet all applicable the requirements of the CRMC and of this Article.

(l) The suitability of a location for a marijuana establishment shall be determined upon receipt of an application by certified mail. The fact that changes in the neighborhood that occur after the initial issuance of the license might render the site unsuitable for a marijuana establishment under this Section shall not be grounds to suspend, revoke or refuse to renew the license for such an establishment so long as the license for the establishment remains active. (Ord. 720 §1, 2013; Ord. 721 §§9, 10, 2013)

Sec. 6-285. Manner of operation.

(a) All signage for a marijuana establishment shall comply with the requirements of Chapter 18, Article 5 of this Code (also see Section 18-96 of this Code).

(b) All cultivation of marijuana shall be in an enclosed, locked space and shall not have a plant count that exceeds more than one (1) plant per square foot and shall provide a minimum of at least a three-foot clearance for fire safety between all points of ingress and egress. The plant-per-square-foot limitations in this Section shall not apply to clones or seedlings or other means of propagation.

(c) All marijuana establishments shall maintain all security requirements as mandated by the CRMC and all other applicable state laws.

(d) Marijuana cultivation facility license:

(1) A marijuana cultivation facility license shall be issued to persons producing marijuana, marijuana clones, marijuana seeds or marijuana resin for the following purposes only:

a. To cultivate, manufacture, rectify or breed marijuana;

b. To sell marijuana, marijuana clones, marijuana seeds or marijuana resin of their own manufacture within the State. A marijuana cultivation facility licensed under this Article may solicit business directly from a licensed marijuana cultivation facility, marijuana product manufacturing facility or retail marijuana store but not consumers; any marijuana sold at wholesale by a marijuana cultivation facility shall be subject to applicable wholesale taxes.

c. Marijuana cultivation facilities shall not be open to the public, except other marijuana establishment license holders.

(2) Marijuana cultivation facility licenses may be combined in a common area solely for the purposes of cultivating, manufacturing, rectifying or breeding marijuana, marijuana clones, marijuana seeds or marijuana resin and used to provide marijuana to more than one (1) licensed marijuana establishment so long as the holder of the licenses is also a common owner of each licensed marijuana establishment to which marijuana is provided.

(3) Each marijuana cultivation facility licensee shall retain evidence of each transaction of marijuana, marijuana clones, marijuana seeds or marijuana resin with a licensed marijuana establishment in the form of a receipt (may be issued on paper or electronically) showing the name of the licensed marijuana establishment, the date of transaction, a description of the marijuana, marijuana clones, marijuana seeds or marijuana resin, and the price paid for each. The licensee shall retain all receipts for a period of three (3) years and make it available to the state and local licensing authorities at all times during regular business hours.

(e) Marijuana product manufacturing facility license:

(1) A marijuana product manufacturing facility license shall be issued to persons manufacturing and selling marijuana products for the following purposes:

a. To purchase, manufacture, prepare, package marijuana and/or sell marijuana products manufactured within the State. A marijuana product manufacturing facility licensed under this Section may solicit business directly from a licensed marijuana cultivation facility, marijuana product manufacturing facility or a retail marijuana store but not consumers; any marijuana or marijuana products sold at wholesale by a marijuana product manufacturing facility shall be subject to applicable wholesale taxes.

(2) Prior to operating an additional sales room location, a marijuana product manufacturing facility that has received a license pursuant to this Article shall send a copy of the application or supplemental application for an additional sales room to the local licensing authority. The local licensing authority may deny the proposed sales room location if the local licensing authority determines that issuance of the proposed sales room license would be in conflict with the reasonable requirements of the neighborhood.

(3) A marijuana product manufacturing facility that also holds a marijuana cultivation facility license may engage in the wholesale sale of marijuana, marijuana clones, marijuana seeds or marijuana resin that the licensee manufactured at its licensed premises where the marijuana was manufactured or at a licensed sales room to another licensed marijuana establishment. Any marijuana sold at wholesale by a marijuana manufacturing facility shall be subject to applicable wholesale taxes.

(4) Each marijuana product manufacturing facility licensee shall retain evidence of each transaction of marijuana or marijuana product with a licensed marijuana establishment in the form of a receipt (may be on paper or electronically) showing the name of the licensed marijuana establishment, the date of transaction, a description of the marijuana or marijuana product and the price paid for each. The licensee shall retain all receipts for a period of three (3) years and make it available to the state and local licensing authorities at all times during business hours.

(f) Retail marijuana store license:

(1) A retail marijuana store license shall be issued to persons retailing or displaying marijuana, marijuana clones, marijuana seeds, marijuana resin, marijuana products and marijuana accessories to consumers, provided that:

a. Marijuana intended for off- premises consumption must be in properly labeled sealed containers compliant with state regulations;

b. The marijuana, marijuana clones, marijuana seeds, marijuana resin or marijuana products are purchased from a licensed marijuana establishment, other than those that are manufactured by the licensee; and

c. At no time shall marijuana be externally displayed in any storefront or other publicly viewed fashion.

(2) There shall be posted in a conspicuous location in each retail marijuana store a legible sign with a minimum height of fourteen (14) inches and a width of eleven (11) inches with each letter to be a minimum of one half (½) inch in height, which shall read as follows:

WARNING

It is illegal to sell marijuana to any person under twenty-one years of age and it is illegal for any person under twenty-one years of age to possess or to attempt to purchase the same. Identification cards which appear to be fraudulent when presented by purchasers may be confiscated by the establishment and turned over to a law enforcement agency.

It is illegal if you are twenty-one years of age or older for you to purchase marijuana for a person under twenty-one years of age.

It is illegal under state law to drive a motor vehicle or operate machinery when impaired by marijuana.

It is illegal to consume marijuana or marijuana products in public.

It is illegal to transport marijuana or marijuana products across state lines.

Fines and imprisonment may be imposed by the courts for violation of these provisions.

(3) A retail marijuana store that also holds a marijuana cultivation facility license may engage in the wholesale sale of marijuana, marijuana clones, marijuana seeds or marijuana resin that the licensee manufactured at its licensed premises where the marijuana was manufactured or at its retail marijuana store to another licensed marijuana establishment. Any marijuana sold at wholesale by a retail marijuana store shall be subject to applicable wholesale taxes.

(4) Each retail marijuana store licensee shall retain evidence of each transaction of marijuana, marijuana clones, marijuana seeds, marijuana resin or marijuana products with a licensed marijuana establishment in the form of a receipt showing the name of the licensed marijuana establishment, the date of transaction, a description of the marijuana, marijuana clones, marijuana seeds, marijuana resin or marijuana products and the price paid for each. The licensee shall retain all receipts for a period of three (3) years and make it available to the state and local licensing authorities at all times during regular business hours.

(5) It shall be unlawful for any retail marijuana store or any person, partnership, association, organization or corporation interested financially in or with a retail marijuana store to be interested financially, directly or indirectly, in the business of any other retail marijuana store licensed pursuant to this Article.

(g) Marijuana testing facility license. A marijuana testing facility license shall be issued to persons analyzing and certifying the safety and potency of marijuana, marijuana clones, marijuana seeds, marijuana resin or marijuana products at a licensed premises. The licensee shall retain all receipts for a period of three (3) years and make it available to the state and local licensing authorities at all times during regular business hours. (Ord. 720 §1, 2013)

Sec. 6-286. Unlawful acts; penalties; injunctive relief.

The provisions of this Article shall not apply to the sale or distribution of sacramental marijuana sold and used for religious purposes.

(1) It shall be unlawful for any person to operate a marijuana establishment without possessing both a valid state and local license. Each day of any such violation shall constitute a separate offense and be subject to a three-hundred-dollar-per-day fine; and may be enjoined by the Town in an action brought in a Court of competent jurisdiction. In any case in which the Town prevails in a civil penalty initiated pursuant to this Section, the Town may recover its reasonable attorney fees plus costs of the proceeding.

(2) It shall be unlawful to sell, advertise or consume marijuana, marijuana clones, marijuana seeds, marijuana resin or marijuana products in establishments that sell alcohol, or in any designated area used to serve anyone under twenty-one (21) years of age.

(3) It shall be unlawful to sell, serve, give away, dispose of, exchange or deliver marijuana or marijuana products to any person under the age of twenty-one (21) or to anyone who does not present a government issued identification at the time of purchase.

(4) It shall be unlawful to sell, serve, give away, dispose of, exchange or deliver or permit the sale, serving, giving or procuring of any marijuana or marijuana products to a visibly intoxicated person.

(5) It shall be unlawful for any adult twenty-one (21) years of age and over to purchase marijuana or marijuana products with the intent of delivering to a person under twenty-one (21) years of age or a non-Colorado resident for out-of-state transport with or without remuneration.

(6) It shall be unlawful to sell more than a quarter of an ounce of marijuana or more than a quarter of an ounce equivalent of marijuana products during a single transaction to a nonresident of the State.

(7) It shall be unlawful to sell a non-Colorado resident marijuana plants, seeds or clones.

(8) It shall be unlawful for any person to cultivate marijuana unless it is in an enclosed, locked space.

(9) It shall be unlawful for any person to exceed the personal use of marijuana limitations for vegetative and mature flowering plants per adult unless as authorized by Section 14 of Article XVIII of the Colorado Constitution. Limitations in this Section shall not apply to clones.

(10) It shall be unlawful for any person to extract marijuana concentrates using any industrial grade solvents such as but not limited to butane, diethyl ether, hexane, naphtha, petroleum ether, propane or natural gas or super critical CO₂ on any property zoned residential unless authorized by a special review use pursuant to Section 6-284 of this Article. This shall not apply to food grade ethanol. All extraction equipment in contact with solvents must be food grade stainless steel or glass.

(11) It shall be unlawful to sell marijuana cultivated, sprayed, fertilized or otherwise exposed with any chemical or substance banned by the department of agriculture for food production. Violation of this Section shall be grounds for revocation of a license.

(12) It shall be unlawful to sell marijuana or marijuana products that are contaminated with insects, mold or any other ingredient or agent not listed or publicly posted. Any product found to be contaminated shall be disposed of.

(13) It shall be unlawful to dispose of any fertilizers, pesticides, fungicides and or chemicals in a manner not compliant with safe disposal practices as defined by either the Department of Health and/or Department of Agriculture, whichever is applicable.

(14) The remedies provided in this Section are in addition to any other remedy provided by applicable law.

(15) Criminal acts prohibited by this Section shall constitute misdemeanors subject to those penalties set forth in Section 1-72 of this Code. (Ord. 720 §1, 2013; Ord. 727 §1, 2014)

Sec. 6-287. Suspension; revocation; fines.

(a) In addition to any fines or other sanctions prescribed by Article II of Chapter 6 of this Code, this Article or rules promulgated pursuant to this Article, the local licensing authority has the power, on their own motion or on complaint, after investigation and opportunity for a hearing at which the licensee shall be afforded an opportunity to be heard, to suspend, revoke or fine a marijuana establishment license issued by the Town for a violation by the licensee or by any of the agents or employees of the licensee. The Town Clerk has the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books and records necessary to the determination of a hearing that the local licensing authority is authorized to conduct for the following reasons:

(1) Fraud, misrepresentation or a false statement of material fact contained in the license application;

(2) A pattern of intentional violations of any applicable Town or state law or regulation;

(3) A violation of any of the terms and conditions of the license, including any special conditions of approval imposed upon the license pursuant to Section 6-279 of this Article;

(4) Refusal to permit the Town access to the premises for necessary inspections;

(5) Failure to timely pay any bills or fees due to the Town, including but not limited to water bills, sales tax, etc.;

(6) The marijuana establishment has been deemed "inactive," pursuant to Section 6-281; and

(7) Ownership of the marijuana establishment has been transferred without the new owner obtaining a license pursuant to this Article.

(b) In connection with the suspension of a license, the local licensing authority may impose special conditions but such conditions shall not be unreasonably impracticable.

(c) A hearing held pursuant to this Section shall be processed in accordance with Chapter 6, Article II of this Code.

(d) In deciding what conditions, if any, to impose in the event of a suspension the local licensing authority shall consider:

- (1) The nature and seriousness of the violation;
- (2) Corrective action, if any, taken by the licensee;
- (3) Prior violations, if any, by the licensee;
- (4) The likelihood of recurrence;
- (5) All circumstances surrounding the violation;
- (6) Whether the violation was willful; and
- (7) Previous sanctions, if any, imposed against the licensee.

(e) Any decision made by the local licensing authority 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 of the applicant's right to contest the denial or conditional approval of the application.

(f) No fee previously paid by a licensee in connection with the application shall be refunded if such license is suspended or revoked. (Ord. 720 §1, 2013; Ord. 721 §§11, 12, 2013)

Sec. 6-288. No Town liability.

By accepting a license issued pursuant to this Article a licensee releases the Town, its officers, elected officials, employees, attorneys and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of the licensee, its operators, employees or agents for a violation of any state or federal law. (Ord. 720 §1, 2013)

Sec. 6-289. Other laws remain applicable.

Except for conduct covered by the Colorado Constitution and this Article, this Article affords no protection against prosecution under other state laws. Licensees, operators, employees, customers of an approved marijuana establishment assume any and all risk and any and all liability arising or resulting from the operation of the marijuana establishment under state law. Further, to the greatest extent permitted by state law, any actions taken under the provisions of this Article by any public officer or officers, elected or appointed officials, employees, attorneys and agents of the Town shall not become a personal liability of such person or of the Town. (Ord. 720 §1, 2013)

Sec. 6-290. Signs.

In addition to complying with all other sign regulations of this Code, retail marijuana stores and medical marijuana dispensaries shall display a six-inch-by-six-inch sign, purchased from the Town, clearly visible and legible at the entrance to the business, that gives notice that it is a retail marijuana store or medical marijuana dispensary, and of the fact that the premises are off limits to minors or those under the age of twenty-one (21) years for retail stores, or eighteen (18) years for dispensaries,

as the case may be. No sign for a marijuana establishment business shall be lit with flashing lights or advertise marijuana or pictorial representations of marijuana other than the one provided by the Town. (Ord. 720 §3, 2013)

Secs. 6-291—6-300. Reserved.