

CHAPTER 6

Business Licenses and Regulations

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ARTICLE 1

Business Licenses

Sec. 6-1-10. Purpose.

The purpose of this Article is the regulation and registration of businesses operating within the Town for the health, safety and welfare of the citizens of the Town and to enable the Town to enforce the obligation of businesses to remit sales, use and additional taxes to support the Town. (Ord. 1 §1, 2012)

Sec. 6-1-20. License required.

(a) Every person must obtain a license from the Town before operating, conducting or carrying on any retail trade, profession or business with a physical storefront within the Town (zone district PD or VC); except that nonprofit state corporations, excluding federal, state or municipal corporations, are hereby exempt from the license requirements set forth in this Article.

(b) Each license shall be granted and issued by the Town Clerk and shall be in force and effect until the thirty-first day of December 31 of the year in which it is issued, unless sooner revoked. Such license shall be granted or renewed only upon an application which states the name and address of the person desiring such license, the name of such business and location and such other facts as the Town Clerk may require. (Ord. 15 §1, 1995; Ord. 1 §1, 2012)

Sec. 6-1-30. 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. (Ord. 1 §1, 2012)

Sec. 6-1-40. License fees.

(a) Every person required to be licensed by the provisions of this Article shall pay a fee of fifty dollars (\$50.00). The fee for renewal of an existing license shall be thirty-five dollars (\$35.00). For a license obtained after July 1, the fee for the first year shall be thirty-five dollars (\$35.00).

(b) Before granting the license, the fee required for the license must be paid at the office of the Town Clerk. (Ord. 15 §1, 1995; Ord. 1 §1, 2012)

Sec. 6-1-50. Issuance.

Upon receipt of the required fee and compliance with Section 6-1-30, the Town Clerk will issue a license that indicates that the license tax has been paid for the specified year. (Ord. 1 §1, 2012)

Sec. 6-1-60. Carrying or posting license required.

Each license shall be numbered and shall show the name and place of business of the licensee and shall be posted in a conspicuous place in the place of business for which it is issued. If the business is not operated, conducted or carried on at a fixed location, then the licensee must carry the license upon his person when operating, conducting or carrying on any retail trade, profession or business. Every licensee shall produce his license for examination when requested to do so by any Town police officer or by any person representing the Town. (Ord. 15 §1, 1995; Ord. 1 §1, 2012)

Sec. 6-1-70. Separate license for each location.

Any storefront business operating, conducting or carrying on any retail trade, profession or business within the City must obtain a separate license for each location of such trade, profession or business. (Ord. 15 §1, 1995; Ord. 1 §1, 2012)

Sec. 6-1-80. License nontransferable.

No license issued under the provisions of this Article shall be transferable from person to person or place to place. (Ord. 15 §1, 1995; Ord. 1 §1, 2012)

Sec. 6-1-90. Period of license.

All licenses shall expire on January 1 of each calendar year. (Ord. 1 §1, 2012)

Sec. 6-1-100. Renewal.

(a) An application for renewal of a general business license shall be considered in the same manner as an original application.

(b) It shall be the duty of each such licensee on or before January 1st of each year during which this Article remains in effect to obtain a renewal thereof if the licensee remains in retail business or is liable to account for the tax provided for in Chapter 4 of this Code, but nothing herein contained shall be construed to empower the Town Clerk to refuse such renewal except revocation for cause of licensee's prior license.

(c) Any applicant who fails to submit the renewal application and fee within the required time shall be subject to the following additional fees: an additional twenty-five percent (25%) of the license fee for the first fifteen (15) days, and thereafter, and an additional fifty percent (50%) of such fee. (Ord. 15 §1, 1995; Ord. 1 §1, 2012)

Sec. 6-1-110. Suspension.

A license may be suspended:

(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 or his employee or agent violates any federal, state or local rule, regulation or law.

- (3) Upon failure to comply with the terms and conditions of the license.
- (4) Upon any grounds of suspension provided by this Code. (Ord. 1 §1, 2012)

Sec. 6-1-120. Revocation of license.

A license may be revoked by the Town:

- (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 failure to comply with the terms and conditions of the license.
- (4) Upon any grounds of revocation provided by this Code. (Ord. 15 §1, 1995; Ord. 1 §1, 2012)

Sec. 6-1-130. Notice and hearing prior to suspension or revocation.

All hearings to revoke, suspend or cancel a license shall be before the Board of Trustees. The suspension or revocation of any license shall not release or discharge anyone from his civil liability for the payment of the taxes, penalty and interest or from the prosecution of the offense. (Ord. 1 §1, 2012)

Sec. 6-1-140. Cease and desist.

If any business is operating without a license, the Town Clerk 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 with the Town Clerk. If the business does nothing, it shall cease operations on the third day. The hearing will be before the Board of Trustees. The proceedings shall not relieve or discharge anyone from the civil liability for the payment of the taxes, penalty and interest or from the prosecution of the offense. (Ord. 1 §1, 2012)

Sec. 6-1-150. Refund of fees.

Upon refusal by the Town of any license or permit, the fee therefor paid in advance shall be returned to the applicant. In the event that any license or permit is revoked by the Town, all monies paid therefor shall be and remain the monies of the Town and no refund shall be made to any licensee or holder of a permit. (Ord. 1 §1, 2012)

Sec. 6-1-160. Penalty.

Failure to comply with the terms of this Article shall constitute a violation of this Code. Any person who is found guilty of, or pleads guilty or nolo contendere to the violation of any section of

this Code shall be punished in accordance with the provisions of Section 1-4-20 of this Code. (Ord. 15 §1, 1995; Ord. 1 §1, 2012)

ARTICLE 2

Liquor Licensing Regulations

Division 1 Alcoholic Beverages

Sec. 6-2-10. Definitions.

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

Adult means a person lawfully permitted to purchase alcoholic beverages.

Alcoholic beverage means fermented malt beverage or malt, vinous or spirituous liquors; except that alcoholic beverage shall not include confectionery containing alcohol within the limits prescribed by Section 25-5-410(1)(i)(II), C.R.S.

Bed and breakfast means an overnight lodging establishment that provides at least one (1) meal per day at no charge other than a charge for overnight lodging and does not sell malt, vinous or spirituous liquors by the drink.

Brew pub means a retail establishment that manufactures not more than one million eight hundred sixty thousand (1,860,000) gallons of malt liquor on its premises each year.

Brewery means any establishment where malt liquors are manufactured, except brew pubs licensed under this Chapter.

Club means:

a. A corporation that:

1. Has been incorporated for not less than three (3) years;

2. Has a membership that has paid dues for a period of at least three (3) years;

and

3. Has a membership that for three (3) years has been the owner, lessee or occupant of an establishment operated solely for objects of a national, social, fraternal, patriotic, political or athletic nature, but not for pecuniary gain, and the property as well as the advantages of which belong to the members.

b. A corporation that is a regularly chartered branch, lodge, or chapter of a national organization that is operated solely for the objects of a patriotic or fraternal organization or society, but not for pecuniary gain.

Distillery means any establishment where spirituous liquors are manufactured.

Fermented malt beverage or 3.2 beer means any beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops or any similar product or any combination thereof in water containing not less than one-half of one percent (0.5%) alcohol by volume and not more than three and two-tenths percent (3.2%) alcohol by weight or four percent (4%) alcohol by volume; except that fermented malt beverage shall not include confectionery containing alcohol within the limits prescribed by Section 25-5-410(1)(i)(II), C.R.S.

Fine means a form of discipline imposed pursuant to this Chapter in lieu of a suspension. Any fine shall be the equivalent of twenty percent (20%) of the retail licensee's estimated gross revenues from sales of alcoholic beverages during the period of the proposed suspension, except that the fine shall be not less than two hundred dollars (\$200.00) nor more than five thousand dollars (\$5,000.00).

Good cause, for the purpose of refusing or denying a license renewal or initial license issuance, means:

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 Chapter or any rules and regulations promulgated pursuant to this Chapter;

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

c. In the case of a new license, the applicant has not established the reasonable requirements of the neighborhood or the desires of its adult inhabitants as provided in Section 12-47-301(2), C.R.S.; or

d. Evidence that the licensed premises have been operated in a manner that adversely affects the public health, welfare or safety of the immediate neighborhood in which the establishment is located, which evidence must include a continuing pattern of fights, violent activity or disorderly conduct. For purposes of this Paragraph, disorderly conduct has the meaning as provided for in Section 18-9-106, C.R.S.

Hard cider means an alcoholic beverage containing at least one-half of one percent (0.5%) and less than seven percent (7%) alcohol by volume that is made by fermentation of the natural juice of apples or pears, including but not limited to flavored hard cider and hard cider containing not more than 0.392 gram of carbon dioxide per hundred milliliters. For the purpose of simplicity of administration of this Chapter, hard cider shall in all respects be treated as a vinous liquor except where expressly provided otherwise.

Hotel means any establishment with sleeping rooms for the accommodation of guests and having restaurant facilities.

Inhabitant, with respect to cities or towns having less than forty thousand (40,000) population, means an individual who resides in a given neighborhood or community for more than six (6) months each year.

License means a grant to a licensee to manufacture or sell fermented malt beverages, or malt, vinous or spirituous liquors as provided by this Article.

Licensed premises means the premises specified in an application for a license under this Article which are owned or in possession of the licensee and within which such licensee is authorized to sell, dispense or serve fermented malt beverages or malt, vinous or spirituous liquors in accordance with the provisions of this Article.

Licensee means a person holding a license issued pursuant to this Article.

Limited winery means any establishment manufacturing not more than one hundred thousand (100,000) gallons, or the metric equivalent thereof of vinous liquors annually which uses not less than seventy-five percent (75%) Colorado-grown products in the manufacture of such vinous liquors.

Liquor license shall include the following classes of licenses:

- a. Retail liquor store license;
- b. Liquor-licensed drugstore;
- c. Beer and wine license;
- d. Hotel and restaurant license;
- e. Club license;
- f. Tavern or gaming tavern license;
- g. Optional premises license;
- h. Brew pub license;
- i. Arts license; and
- j. Racetrack license.

Liquor-licensed drugstore means any drugstore licensed by the state board of pharmacy that has also applied for and has been granted a license by the state licensing authority to sell malt, vinous and spirituous liquors in original sealed containers for consumption off the premises.

Local Licensing Authority means, for purposes of this Article, the Board of Trustees.

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

Malt liquors includes beer and shall be construed to mean any beverage obtained by the alcoholic fermentation of any infusion or decoction of barley, malt, hops or any other similar product, or any combination thereof, in water containing more than three and two-tenths percent (3.2%) of alcohol by weight or four percent (4%) alcohol by volume.

Meal means a quantity of food of such nature as is ordinarily consumed by an individual at regular intervals for the purpose of sustenance.

Medicinal spirituous liquors means any alcoholic beverage, excepting beer and wine, that has been aged in wood for four (4) years and bonded by the United States government and is at least one hundred (100) proof.

Nudity means uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola, or the covered human male genitals in a noticeably turgid state. For purposes of this definition, a *female breast* is considered uncovered if the nipple only or the nipple and the areola only are covered.

Optional premises means:

a. Premises specified in an application for a hotel and restaurant license under Title 12, Article 47, C.R.S., with related outdoor sports and recreational facilities for the convenience of its guests or the general public located on or adjacent to the hotel or restaurant which is licensed to serve alcoholic beverages in accordance with the provisions of this Article and at the discretion of the state and local licensing authorities; and

b. The premises specified in an application for an optional premises license located on an applicant's outdoor sports and recreational facility. For purposes of this Paragraph, *outdoor sports and recreational facility* means a facility that charges a fee for the use of such facility.

Person means a natural person, partnership, association, company, corporation or organization or a manager, agent, servant, officer or employee thereof.

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.

Racetrack means any premises where race meets or simulcast races with pari-mutuel wagering are held in accordance with the provisions of Article 60 of Title 12, C.R.S.

Rectify means to blend spirituous liquor with neutral spirits or other spirituous liquors of different age.

Rectifying plant means any establishment where spirituous liquors are blended with neutral spirits or other spirituous liquors of different age.

Resort complex means a hotel with related sports and recreational facilities for the convenience of its guests or the general public located contiguous or adjacent to the hotel.

Resort hotel means a hotel, as defined in this Section, with well-defined occupancy seasons.

Restaurant means an establishment, which is not a hotel as defined in this Section, provided with special space, sanitary kitchen and dining room equipment and persons to prepare, cook and serve meals, where, in consideration of payment, meals, drinks, tobaccos and candies are furnished to guests and in which nothing is sold excepting food, drinks, tobaccos, candies and items of souvenir merchandise depicting the theme of the restaurant or the geographical or historic subjects of the nearby area. Any establishment connected with any business wherein any business is conducted, excepting hotel business, limited gaming conducted pursuant to Article 47.1 of Title 12, C.R.S., or the sale of food, drinks, tobaccos, candies or such items of souvenir merchandise, is declared not to be a restaurant. Nothing in this Subsection shall be construed to prohibit the use in a restaurant of orchestras, singers or floor shows, coin-operated music machines, amusement devices that pay nothing of value and cannot by adjustment be made to pay anything of value or other forms of entertainment commonly provided in restaurants.

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

Retail licensee or licensee means the holder of a license to sell fermented malt beverages pursuant to the Colorado Beer Code or the holder of a license to sell malt, vinous or spirituous liquors pursuant to the Colorado Liquor Code.

Retail liquor store means an establishment engaged only in the sale of malt, vinous and spirituous liquors and soft drinks and mixers, all in sealed containers for consumption off the premises; tobaccos, tobacco products, smokers' supplies and nonfood items related to the consumption of such beverages; and liquor-filled candy and food items approved by the state licensing authority, which are prepackaged, labeled and directly related to the consumption of such beverages and are sold solely for the purpose of cocktail garnish in containers up to sixteen (16) ounces. Nothing in this Subsection shall be construed to authorize the sale of food items that could constitute a snack, a meal or portion of a meal.

School means a public, parochial or nonpublic school that provides a basic academic education in compliance with school attendance laws for students in grades one (1) through twelve (12). *Basic academic education* has the same meaning as set forth in Section 22-33-104(2)(b), C.R.S.

Sealed containers means any container or receptacle used for holding an alcoholic beverage, which container or receptacle is corked or sealed with any stub, stopper or cap.

Sell or sale means any of the following: To exchange, barter or traffic in; to solicit or receive an order for except through a licensee licensed under this Chapter or Article 46 or 48 of Title 12, C.R.S.; to keep or expose for sale; to serve with meals; to deliver for value or in any

way other than gratuitously; to peddle or to possess with intent to sell; to possess or transport in contravention of this Chapter; to traffic in for any consideration promised or obtained, directly or indirectly.

Sell at wholesale means selling to any other than the intended consumer of fermented malt beverages or malt, vinous or spirituous liquors. Sell at wholesale shall not be construed to prevent a brewer or wholesale beer dealer from selling fermented malt beverages or malt, vinous or spirituous liquors to the intended consumer thereof or to prevent a licensed manufacturer or importer from selling such beverages to a licensed wholesaler.

Spirituous liquors means any alcoholic beverage obtained by distillation, mixed with water and other substances in solution, and includes among other things brandy, rum, whiskey, gin and every liquid or solid, patented or not, containing at least one-half of one percent (0.5%) alcohol by volume and which is fit for use for beverage purposes. Any liquid or solid containing beer or wine in combination with any other liquor, except as provided in the definitions of *meal* and *winery* in this Section, shall not be construed to be fermented malt or malt or vinous liquor but shall be construed to be spirituous liquor.

State licensing authority means the Executive Director of the Colorado Department of Revenue or the Deputy Director of the Colorado Department of Revenue if the Executive Director so designates.

Tavern means an establishment serving malt, vinous and spirituous liquors in which the principal business is the sale of such beverages at retail for consumption on the premises and where sandwiches and light snacks are available for consumption on the premises.

Vinous liquors means wine and fortified wines that contain not less than one-half of one percent (0.5%) and not more than twenty-one percent (21%) alcohol by volume and shall be construed to mean an alcoholic beverage obtained by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar.

Winery means any establishment where vinous liquors are manufactured.

(b) All other terms shall be defined as set forth in the provisions of the Colorado Beer Code, the Colorado Liquor Code and Special Event Permits, as the definitions presently exist or may hereafter be amended. (Ord. 3 §1, 2008; Ord. 1 §1, 2012)

Sec. 6-2-20. Application of state statutes.

The Colorado Beer Code, Section 12-46-101, et seq., C.R.S., the Colorado Liquor Code, Section 12-47-101, et seq., C.R.S., and Special Event Permits, Section 12-48-101, et seq., C.R.S., as they presently exist or may hereafter be amended, shall apply to the sale of fermented malt beverages, alcoholic beverages, special malt liquors, spirituous liquors and vinous liquors in the Town. (Ord. 1 §1, 2012)

Sec. 6-2-30. Power and purpose.

The Board of Trustees finds and determines that it is empowered by Section 12-47-505, C.R.S., to fix and collect certain fees in connection with the application for issuance, transfer and renewal of certain types of beer, wine and liquor licenses. The Board of Trustees further finds that the fees established in this Article are reasonable and are in amounts sufficient to cover actual and necessary expenses incurred by the Town in connection with the handling of such licenses and applications therefor. (Ord. 1 §1, 2012)

Sec. 6-2-40. Licensing fees.

The following fees shall be paid to the Town Clerk by the applicant at the time of filing the application or request:

- (1) For a new license, the sum of seven hundred fifty dollars (\$750.00);
- (2) For a transfer of location or ownership, the sum of seven hundred fifty dollars (\$750.00);
- (3) For renewal of a license, the sum of one hundred dollars (\$100.00); and
- (4) For a temporary liquor license, the sum of two hundred fifty dollars (\$250.00). (Ord. 1 §1, 2012)

Sec. 6-2-50. Suspension or revocation; fine.

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

- (1) That the public welfare and morals would not be impaired by permitting the retail licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purposes;
- (2) That the books and records of the retail licensee are kept in such a manner that the loss of sales of alcoholic beverages which the retail licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy therefrom; and
- (3) That the retail licensee has not had his license suspended or revoked, nor had any suspension stayed by payment of a fine, during the two (2) years immediately preceding the date of the motion or complaint which has resulted in a final decision to suspend the retail license.

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

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

(d) Upon payment of the fine pursuant to this Section, the Authority shall enter its further order permanently staying the imposition of the suspension.

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

(f) If the Authority does not make the findings required in Subsection (a) above and does not order the suspension permanently stayed, the suspension shall go into effect on the operative date finally set by the Authority. (Ord. 1 §1, 2012)

Sec. 6-2-60. Optional premises.

(a) An optional premises license and optional premises for a hotel and restaurant license may be issued by the Authority.

(b) The following standards shall be applicable to the issuance of a license under this Section, in addition to all other applicable standards set forth in the Colorado Liquor Code for optional premises license and optional premises for a hotel and restaurant license.

(1) Eligible facilities. Outdoor sports and recreational facilities as defined in Section 12-47-103(13.5), C.R.S., are eligible for licensing as an optional premises or an optional premises for a hotel and restaurant.

(2) Number of optional premises. There are no restrictions on the number of optional premises which any one (1) licensee may have on an outdoor sports or recreational facility.

(3) Minimum size of facility. There is no restriction on the minimum size of an outdoor sports or recreational facility which would be eligible for issuance of an optional premises license or optional premises for a hotel and restaurant license.

(c) The application for an optional premises license or optional premises for a hotel or restaurant license shall be accompanied by the following:

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

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

(3) A description of the provisions which have been made for storing malt, vinous and spirituous liquors in a secured area on or off the optional premises for the future use on the optional premises. (Ord. 1 §1, 2012)

Sec. 6-2-70. Alcoholic beverage tastings authorized.

Pursuant to Section 12-47-301(10), C.R.S., the Town authorizes alcoholic beverage tastings for licensed retail liquor stores and liquor-licensed drug stores within the Town. The Town shall not require a further application prior to allowing retail liquor licensees to conduct alcoholic beverage tastings, and elects not to impose additional limitations on such tastings beyond those limitations set forth in Chapter 47 of Title 12, C.R.S. (Ord. 1 §1, 2012)

Sec. 6-2-80. Educational requirements.

Every hotel and restaurant licensee, registered manager and licensee's employee is encouraged to obtain a certificate of completion from an educational program of training for intervention procedures for servers of alcohol. Those registered managers obtaining a certificate of completion may file a copy of the certificate of completion with the Authority with an application of renewal of a liquor license. (Ord. 1 §1, 2012)

Sec. 6-2-90. Persons prohibited as licensees.

- (a) No license provided by this Article shall be issued to or held by:
 - (1) Any person until the annual occupational tax has been paid;
 - (2) Any person who is not of good moral character;
 - (3) Any corporation, any of whose officers, directors or stockholders holding ten percent (10%) or more of the outstanding and issued capital stock of the corporation are not of good moral character;
 - (4) Any partnership, association or company, any of whose officers, or any of whose members holding ten percent (10%) or more interest, are not of good moral character;
 - (5) Any person employing, assisted by or financed in whole or in part by any other person who is not of good character and reputation satisfactory to the Board of Trustees;
 - (6) Any sheriff, deputy sheriff, police officer, prosecuting officer, the state licensing authority or any of its inspectors or employees;
 - (7) Any person whose character, record and reputation is not satisfactory to the Board of Trustees; and
 - (8) Any natural person under twenty-one (21) years of age.
- (b) Consideration.

(1) In making a determination as to character or when considering the conviction of a crime, the Authority shall be governed by the provisions of Section 24-5-101, C.R.S.

(2) With respect to club license applications by corporation only, an investigation of the character of the corporate president and the club manager shall be deemed sufficient to determine whether to issue the club license to the corporation.

(c) Criminal history and criminal justice agency.

(1) In investigating the qualifications of the applicant or a licensee, the Authority may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the Authority takes into consideration information concerning the applicant's criminal history record, the Authority 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.

(2) As used in Paragraph (1) of this Subsection, *criminal justice agency* means any federal, state or municipal court or any governmental agency or subunit of such agency that performs the administration of criminal justice pursuant to a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice. (Ord. 1 §1, 2012)

Sec. 6-2-100. Separate license for each business.

Each license issued under this Article is separate and distinct, and no person shall exercise any of the privileges granted under any license other than that which he holds. A separate license shall be issued for each specific business and each location, and in such license the particular liquors which the applicant is authorized to manufacture or sell shall be named and described. (Ord. 3 §1, 2008; Ord. 1 §1, 2012)

Sec. 6-2-110. Sale of all or part of business interest.

(a) Whenever any individual, corporation or partnership existing or licensed under this Article sells all or part of its corporate stock, partnership interest or business interest in a beer or liquor outlet and a new license application is required by the State, an application fee in an amount to be determined by the Town by resolution shall be paid to the Town at the time of making the application.

(b) The Town Clerk shall follow the procedures in this Article for the investigation of the applicant, and shall determine whether the investigation reveals any information tending to establish that the applicant may be prohibited from holding a license pursuant to Section 6-2-20. If the investigation reveals no information tending to establish that the applicant may be prohibited from holding a license, the Town Clerk shall issue a license to the applicant; provided, however, that if the investigation reveals any information tending to establish that the applicant may be prohibited from holding a license, the Town Clerk shall cause the new application for the existing outlet to be placed on the agenda not less than four (4) days nor more than thirty (30) days after the Town Clerk has received the application. The applicant, or his attorney, shall be in attendance at the Board of

Trustees meeting at which his application is presented. The date of presentation of the application to the Board of Trustees shall be deemed the date of filing the application. Upon receipt of the application, the Board of Trustees shall follow procedures set forth in this Article for the conduct of a public hearing. The Board of Trustees shall only consider the criteria listed in Section 6-2-20 when conducting the hearing.

(c) The Town Clerk shall have the authority to issue a temporary permit to any applicant under this Section who has also satisfied the applicable provisions of Section 12-47-303, C.R.S., and the provision of such statute shall apply to both the issuance and administration of such a temporary permit. The Town Clerk shall not charge a fee for a temporary permit if the application for the temporary permit is filed with the Town Clerk at the same time as the application to transfer ownership of a license. Otherwise, the Town Clerk shall charge a fee to be determined by the Town by resolution for a temporary permit. (Ord. 3 §1, 2008; Ord. 1 §1, 2012)

Sec. 6-2-120. Change of corporate officers or directors.

(a) Whenever any corporation causes a change in its corporate officers or directors, and a license addendum is required to be filed with the State, an application fee in an amount to be determined by the Town by resolution shall be paid.

(b) Upon the filing of a license addendum, the procedures set forth in Subsection 6-2-40(b) of this Article shall be followed. (Ord. 3 §1, 2008; Ord. 1 §1, 2012)

Sec. 6-2-130. Renewal fee and procedures.

(a) All renewal applications for malt, vinous and spirituous liquor licenses and fermented malt beverage licenses shall be submitted to the Town Clerk on the prescribed forms, together with the applicable license fee, no later than forty-five (45) days prior to the date on which the license expires. No renewal application shall be accepted by the Town Clerk which is not complete in every detail.

(b) Upon receiving the completed renewal application, the Town Clerk shall assemble the file of the applicant and review the file to determine whether "good cause" is present for nonrenewal. Whether "good cause" is present is a fact specific inquiry depending on the circumstances of the case, and may be based on evidence that continuation of the license would be contrary to the public interest, as well as the conduct of the licensee. If the Town Clerk's review indicates no facts or circumstances supporting "good cause" for nonrenewal, the Town Clerk shall issue a renewal license; provided, however, that in the event the renewal application is made by a financial institution which came into possession of the license by virtue of a deed in lieu of foreclosure, a hearing must be held before the Board of Trustees.

(c) If there is information before the Town Clerk tending to constitute good cause for not renewing a particular license for an additional year, the Town Clerk, at the direction of the Board of Trustees, shall cause to be issued a notice of hearing on the license renewal. In the event the Town Clerk issues a notice requiring a hearing to renew a license, the notice shall be served at least thirty (30) days prior to the expiration date on the license and a notice of the hearing shall be conspicuously posted on the premises at least ten (10) days prior to hearing.

(d) Hearings held on any renewal application, after proper notice has been given, may result in denial of renewal of the license for good cause.

(e) In the event that a license is renewed by the Authority, such renewal will not affect a pending show cause order which relates to an incident that occurred prior to the date of the renewal. The Authority shall be authorized to take whatever action is necessary against a licensee either in the form of suspension or revocation of the liquor license regardless of when such license has been renewed. (Ord. 3 §1, 2008; Ord. 1 §1, 2012)

Sec. 6-2-140. Application.

(a) The Authority may issue only the following malt, vinous and spirituous liquor licenses upon payment of the fee to be determined by the Town by resolution and Section 12-47-505, C.R.S.:

- (1) Retail liquor store license;
- (2) Liquor-licensed drugstore license;
- (3) Beer and wine license;
- (4) Hotel and restaurant license;
- (5) Tavern license;
- (6) Brew pub license;
- (7) Club license;
- (8) Arts license;
- (9) Racetrack license;
- (10) Optional premises license; and
- (11) Retail gaming tavern license.

(b) An application for a new liquor license shall be filed with the Town Clerk. It shall be filed in duplicate on forms made available by the state licensing authority. It shall be accompanied by the following:

- (1) The application fee for the license as specified herein;
- (2) In the case of existing buildings, a plan of the interior of the building; in the case of buildings not yet built, architectural plans and specifications for the building;
- (3) Some evidence of ownership or right to possession of the premises, consisting of a copy of a deed or lease;

(4) In the case of a partnership, except between husband and wife, a certified copy of the partnership agreement and a statement showing the financial and management interests of each partner, along with their name and residence address and telephone number; and

(5) In the case of a corporation, a copy of its articles of incorporation, and, if a foreign corporation, evidence of qualification to do business in this State, and a sworn statement setting forth the name, residence address and telephone number of each stockholder, director and officer of the corporation. (Ord. 3 §1, 2008; Ord. 1 §1, 2012)

Sec. 6-2-150. Optional premises license.

(a) The requirements for an optional premises license shall be:

(1) An applicant or holder of a hotel and restaurant license desiring to sell or serve alcoholic beverages on an optional premises shall:

a. Provide a scale drawing showing the area to be licensed.

b. Show on the scale drawing the location at which alcoholic beverages are to be dispersed, and significant land or architectural factors.

c. An affidavit of the owner or the agent and manager of the facility showing the need, convenience or desirability of the optional premises license.

(b) An applicant for a hotel and restaurant license who desires to sell or serve alcoholic beverages on optional premises shall file with the optional premises permit application a list of the optional premises locations. Such application and list shall be filed with the state licensing authority and the Authority upon initial application, and each license year thereafter. Approval of the areas must be obtained from the state licensing authority and the Authority. The decision of each authority shall be discretionary. In the event that the state licensing authority and Authority allow the area or areas to be designated optional premises, no alcoholic beverages may be served on the optional premises without the licensee having provided written notice to the state licensing authority and Authority forty-eight (48) hours prior to serving alcoholic beverages on the optional premises. Such notice shall contain the specific days and hours on which the optional premises are to be used. This Subsection shall not be construed to permit the violation of any other provision of this Chapter under circumstances not specified in this Subsection.

(c) An applicant for an optional premises license who desires to sell, dispense or serve alcoholic beverages on optional premises shall file with the optional premises license application a list of the optional premises locations and the area in which the applicant desires to store malt, vinous and spirituous liquors for future use on the optional premises. The application and additional information shall be filed with the state licensing authority and Authority upon initial application, and each license year thereafter. Approval of the license and areas must be obtained from the state licensing authority and the Authority. The decision of each authority shall be discretionary. In the event that the state licensing authority and Authority allow the area or areas to be designated optional premises, no alcoholic beverages may be served on the optional premises without the licensee having provided written notice to the state licensing authority and Authority forty-eight (48) hours prior to serving alcoholic beverages on the optional premises. Such notice shall contain the specific days and

hours on which the optional premises are to be used. This Subsection shall not be construed to permit the violation of any other provision of this Article under circumstances not specified in this Subsection.

(d) After all information pertinent to the application has been provided, the Board of Trustee's decision shall be made by resolution within thirty (30) days. No public hearing shall be required, unless the Board of Trustees, in its discretion, determines that a public hearing is necessary. (Ord. 3 §1, 2008; Ord. 1 §1, 2012)

Sec. 6-2-160. Application fee.

An application fee in an amount to be determined by the Town by resolution shall be made to the Town at the time of making an application for a liquor license. This fee shall be used by the Town to defray the expenses incurred by the Town in investigating the applicant and conducting the hearing. No part of this fee shall be refundable to the applicant for any reason. This fee shall be in addition to the license fees set forth hereinbelow. (Ord. 3 §1, 2008; Ord. 1 §1, 2012)

Sec. 6-2-170. Initial appearance before Board of Trustees.

(a) The Town Clerk shall place on the agenda of a Board of Trustees meeting the request for a new liquor license. The meeting shall be held not less than four (4) days nor more than thirty (30) days after the Town Clerk has received the application. When the application is presented to the Board of Trustees, either the applicant or his attorney shall attend the meeting. The date the application is received by the Town Clerk shall be deemed the date of filing of the application.

(b) The applicant shall be instructed to, and shall prepare and furnish at the public hearing, a survey map showing the neighborhood and the location and nature of other liquor outlets.

(c) The Board of Trustees shall also set a date for public hearing. The public hearing shall be held not less than thirty (30) days from the date of the Board of Trustees meeting in which the application was presented. (Ord. 3 §1, 2008; Ord. 1 §1, 2012)

Sec. 6-2-180. Public notice.

The applicant for a liquor license shall cause to be posted and published a public notice of the hearing:

(1) The sign used for posting such notice shall be of suitable material, not less than twenty-two (22) inches wide and twenty-six (26) inches high, composed of letters not less than one (1) inch in height and stating the type of license applied for, the date of the application, the date of hearing, the name and address of the applicant and such other information as may be required to fully apprise the public of the nature of the application. If the applicant is a corporation, association or other organization, the sign shall contain the names and addresses of the president, vice president, secretary and manager or other managing officers.

(2) The published notice shall contain the same information as that required for signs, and shall be composed of eight-point boldface type set so as to be not less than one (1) column in width nor less than six (6) inches in length.

(3) If the building in which liquor is to be sold is in existence at the time of the application for the license, the sign shall be placed on the premises so as to be conspicuous and plainly visible to the general public from the exterior of the building. If the building is not in existence at the time of the application, the sign shall be posted upon the premises where the building is to be constructed in such a manner that it shall be conspicuous and plainly visible to the general public. (Ord. 3 §1, 2008; Ord. 1 §1, 2012)

Sec. 6-2-190. Investigation of applicant.

The rules of procedure to be followed in conducting the public hearing for the liquor license application shall be established by the Mayor. (Ord. 3 §1, 2008; Ord. 1 §1, 2012)

Sec. 6-2-200. Consideration of factors.

Before entering any decision approving or disapproving the liquor license application, the Board of Trustees shall consider the following:

(1) The facts and evidence of the investigation;

(2) The reasonable requirements of the neighborhood for the type liquor license for which application has been made, including reference to the number, type and availability of liquor outlets in or near the neighborhood under consideration;

(3) The desires of the adult inhabitants of the neighborhood as evidenced by petitions, remonstrances or otherwise;

(4) The use of additional law enforcement resources; and

(5) Other pertinent facts and evidence affecting the qualifications of the applicant. (Ord. 3 §1, 2008; Ord. 1 §1, 2012)

Sec. 6-2-210. Decision of Board of Trustees.

The decision of the Board of Trustees approving or denying the application for a liquor license shall be in writing stating the reasons and shall be issued within thirty (30) days after the date of the public hearing. A copy of the decision shall be sent by mail to the applicant at the address shown in the application. (Ord. 3 §1, 2008; Ord. 1 §1, 2012)

Sec. 6-2-220. Business premises prerequisite.

In the case of buildings not yet in existence, where the Board of Trustees votes in favor of the issuance of a liquor license, the license shall not be issued until the building in which the business is to be conducted is ready for occupancy, and then only after inspection of the premises has been made to determine that the applicant has substantially complied with the architect's drawings and plans and specifications submitted for such license. (Ord. 3 §1, 2008; Ord. 1 §1, 2012)

Sec. 6-2-230. Distance from schools.

(a) No liquor license provided for by this Article shall be issued to or held by any person who will operate any place where liquor is sold or is to be sold by the drink within five hundred (500) feet from any public or parochial school or the principal campus of any college, university or seminary.

(b) The provisions of Subsection (a) do not apply to

(1) The renewal or reissuance of any license once granted;

(2) Any licensed premises located or to be located on land owned by a municipality;

(3) A liquor license in effect and actively doing business before the principal campus was constructed; or

(4) Any club located within the principal campus of any college, university or seminary, as defined in Section 12-47-103, C.R.S., which limits its membership to the faculty or staff of such institution. (Ord. 3 §1, 2008; Ord. 1 §1, 2012)

Sec. 6-2-240. Transfer.

No liquor license granted under the provisions of this Article shall be transferable, except as provided in this Article. When a license has been issued to a husband and wife or to general or limited partners, the death of a spouse or partner shall not require the surviving spouse or partner to obtain a new license. All rights and privileges granted under the original license shall continue in full force and effect as to the survivors for the balance of the license. (Ord. 3 §1, 2008; Ord. 1 §1, 2012)

Sec. 6-2-250. Change of location.

If the holder of an existing liquor license changes location, then all of the procedures outlined in this Article shall apply. (Ord. 3 §1, 2008; Ord. 1 §1, 2012)

Sec. 6-2-260. Rehearing limitation; liquor license.

No application for the issuance of a liquor license shall be considered by the Board of Trustees if an application for a similar type of license has been denied for the same location within the two (2) years immediately preceding the date of the new application. (Ord. 3 §1, 2008; Ord. 1 §1, 2012)

Sec. 6-2-270. Penalty for violation.

(a) Any licensee who violates the terms of this Article may be subject to suspension or revocation of his license pursuant to Section 12-47-601, C.R.S.

(b) Whenever the Board of Trustees' decision to suspend a license for fourteen (14) or fewer days becomes final, whether by failure of the licensee to appeal the decision or by exhaustion of all appeals and judicial review, the licensee may, before the operative date of the suspension or such earlier date as the Board of Trustees may designate in its decision, petition for permission to pay a fine in lieu of having the license suspended for all or part of the suspension period. The Board of

Trustees may, in its sole discretion, stay the proposed suspension in part or in whole and grant the petition if it finds, after any investigation, that it deems desirable that:

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

(2) The books and records of the licensee are kept in such a manner that the loss of sales during the proposed suspension can be determined with reasonable accuracy; and

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

(c) Payment of any fine shall be in the form of cash, a certified check or a cashier's check payable to the Town. Such fine shall be paid into the general fund of the Town.

(d) The Board of Trustees may grant such conditional or temporary stays as are necessary for it to complete its investigations, to make its findings as specified in Subsection (b) of this Section, and to grant a permanent stay of the entire or part of the suspension. If no permanent stay is granted, the suspension shall go into effect on the operative date finally set by the Board of Trustees. (Ord. 3 §1, 2008; Ord. 1 §1, 2012)

Sec. 6-2-280. License fees.

The annual license fees to be paid in advance to the Town Clerk shall be determined by resolution. (Ord. 3 §1, 2008; Ord. 1 §1, 2012)

*Division 2
3.2 Beer Licenses*

Sec. 6-2-410. Application required; filing.

(a) An application for a 3.2 beer license shall be required for the following:

(1) Sales for consumption off the premises of the licensee;

(2) Sales for consumption on the premises of the licensee; and

(3) Sales for consumption both on and off the premises of the licensee.

(b) All new applications for 3.2 beer licenses shall be filed, in duplicate, on forms made available by the office of the Secretary of State, with the Town Clerk and shall be accompanied by the following:

(1) In the case of a partnership, except between husband and wife, a certified copy of the partnership agreement and a statement showing the financial and management interests of each partner along with his name, residence address and telephone number;

(2) In the case of a corporation, a copy of its articles of incorporation, and, if a foreign corporation, evidence of qualification to do business in this State, and a sworn statement setting forth the names, residence addresses and telephone numbers of each stockholder, director and officer of the corporation; and

(3) In the case of existing buildings, a plan of the interior of the building; in the case of buildings not yet built, architectural plans and specifications for the building. (Ord. 3 §2, 2008; Ord. 1 §1, 2012)

Sec. 6-2-420. Fee.

An application fee in the amount of five hundred dollars (\$500.00) and a license fee of twenty-five dollars (\$25.00) shall be made to the Town at the time of making an application for a 3.2 beer license, and an annual renewal fee of twenty-five dollars (\$25.00) shall be collected by the Town. This fee shall be used by the Town to defray the expenses incurred by the Town in investigating the applicant and conducting the hearing. No part of this fee shall be refundable to the applicant for any reason. (Ord. 3 §2, 2008; Ord. 1 §1, 2012)

Sec. 6-2-430. Initial appearance before Board of Trustees.

(a) The Town Clerk shall place on the agenda of a Board of Trustees meeting the request for a 3.2 beer license. The meeting shall be held not less than four (4) days nor more than thirty (30) days after the Town Clerk has received the application. When the application is presented to the Board of Trustees, either the applicant or his attorney shall attend the meeting. The date the application is received by the Town Clerk shall be deemed the date of filing the application.

(b) The applicant shall be instructed to, shall cause to be prepared and shall furnish at the public meeting a survey map showing the neighborhood as designated by the Town, and further showing on such map the location and nature of other 3.2 beer outlets.

(c) The Board of Trustees shall also set a date for public hearing, which date shall be held not less than thirty (30) days from the date the application is presented at the Board of Trustees meeting. (Ord. 3 §2, 2008; Ord. 1 §1, 2012)

Sec. 6-2-440. Public notice.

(a) The applicant for a 3.2 beer license shall cause to be posted and published a public notice of hearing. The sign used for posting such notice shall be of cardboard material, not less than twenty-two (22) inches wide and twenty-six (26) inches high, composed of letters not less than one (1) inch in height and stating the type of license applied for, the date of the application, the date of hearing, the name and address of the applicant, and such other information as may be required to fully apprise the public of the nature of the application. If the applicant is a partnership, the sign shall contain the names and addresses of all partners. If the applicant is a corporation, association or other organization, the sign shall contain the names and addresses of the president, vice president, secretary and manager or other managing officers.

(b) The published notice shall contain the same information as that required for signs, and shall be composed of eight-point boldface type set so as to be not less than one (1) column in width nor less than six (6) inches in length.

(c) Where the building in which the 3.2 beer is to be sold is in existence at the time of the application for the license therefor, the sign shall be placed on the premises so as to be conspicuous and plainly visible to the general public from the exterior of the building. If the building is not in existence at the time of such application, the sign shall be posted upon the premises upon which the building is to be constructed in such manner that it shall be conspicuous and plainly visible to the general public. (Ord. 3 §2, 2008; Ord. 1 §1, 2012)

Sec. 6-2-450. Investigation of applicant.

(a) The Town Clerk shall make an investigation of the applicant for a 3.2 beer license, and, in the case of a corporation, the board of directors of the applicant, and, in the case of a partnership, the partners of the applicant. Such investigation shall include the fingerprinting and photographing of the applicant and the obtaining from the Colorado Bureau of Investigation a report on the applicant.

(b) Not less than five (5) days prior to the date of the hearing on an application under this Chapter, the written report of the findings based on the investigation by the Town Clerk shall be made available to the applicant and other interested parties. (Ord. 3 §2, 2008; Ord. 1 §1, 2012)

Sec. 6-2-460. Procedure at hearing.

The rules of procedure to be followed in the conducting of the public hearing upon an application for a 3.2 beer license shall be established by the Mayor. (Ord. 3 §2, 2008; Ord. 1 §1, 2012)

Sec. 6-2-470. Considerations for approving or denying application.

Before entering any decision approving or denying the application for a 3.2 beer license, the Board of Trustees shall consider the following:

- (1) The desires of the adult inhabitants of the neighborhood as evidenced by petitions, remonstrances or otherwise;
- (2) The reasonable requirements of the neighborhood;
- (3) The character and reputation of the applicant; and
- (4) Other pertinent facts and evidence affecting the qualification of the applicant. (Ord. 3 §2, 2008; Ord. 1 §1, 2012)

Sec. 6-2-480. Approval or disapproval.

The decision of the Board of Trustees approving or denying the application for a 3.2 beer license shall be in writing stating the reasons and shall be issued within thirty (30) days after the date of the public hearing on the application. A copy of such decision shall be sent by mail to the applicant at the address shown in the application. (Ord. 3 §2, 2008; Ord. 1 §1, 2012)

Sec. 6-2-490. Issuance of license when building not yet constructed.

In the case of buildings not yet in existence, where the Board of Trustees votes in favor of the issuance of a 3.2 beer license, the license shall not be issued until the building in which the business is to be conducted is ready for occupancy, and then only after inspection of the premises has been made to determine that the applicant has substantially complied with the architect's drawings and specifications submitted with the application for such license. (Ord. 3 §2, 2008; Ord. 1 §1, 2012)

Sec. 6-2-500. Change of location.

All of the procedures outlined in this Article shall be applicable to a change of location of an existing 3.2 beer license. (Ord. 3 §2, 2008; Ord. 1 §1, 2012)

Sec. 6-2-510. Rehearing limitation; beer license.

No application for the issuance of a 3.2 beer license shall be considered by the Board of Trustees if an application for a similar type of license has been denied for the same location within the two (2) years immediately preceding the date of such new application. (Ord. 3 §2, 2008; Ord. 1 §1, 2012)

Sec. 6-2-520. Judicial review.

Any person applying to the courts for a review of any licensing authority's decision shall apply for review within thirty (30) days after the date of decision and shall be required to pay the cost of preparing a transcript of proceedings before the licensing authority when such a transcript is furnished by the licensing authority pursuant to court order. (Ord. 3 §2, 2008; Ord. 1 §1, 2012)

*Division 3
Alcoholic Beverage Tastings*

Sec. 6-2-610. Alcoholic beverage tastings.

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

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

(1) Tastings shall be conducted only by a person who has completed a server training program that meets the standards established by the Liquor Enforcement Division 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 a licensee, and only on a licensee's licensed premises.

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

(3) 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.

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

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

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

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

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

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

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

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

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

(13) A violation of a limitation specified in this Subsection (b) or of Section 2-47-801, C.R.S., by a retail liquor store or liquor-licensed drugstore licensee, whether by its employees, agents or otherwise, shall be the responsibility of the retail liquor store or liquor-licensed drugstore licensee who is conducting the tasting.

A retail liquor store or liquor-licensed drugstore licensee conducting a tasting shall be subject to the same revocation, suspension and enforcement provisions as otherwise apply to the licensee. (Ord. 6 §1, 2011; Ord. 1 §1, 2012)

ARTICLE 3

Permits

Sec. 6-3-10. Special event permits.

(a) Pursuant to Section 12-48-107(5)(a), C.R.S., the Local Licensing Authority ("Authority") elects not to notify the state licensing authority to obtain the state licensing authority's approval or disapproval of applications for special event permits.

(b) The Town Clerk shall report to the Colorado Liquor Enforcement Division, within ten (10) days after the Authority issues a special event permit, the name of the organization to which the permit was issued, the address of the permitted location and the permitted dates of alcoholic beverage service.

(c) Upon receipt of an application for a special event permit, the Town Clerk shall, as required by Section 12-48-107(5)(c), C.R.S., access information made available on the state licensing authority's website to determine the statewide permitting activity of the organization applying for the permit. The Authority shall consider compliance with the provisions of Section 12-48-105(3), C.R.S., which restricts the number of permits issued to an organization within a calendar year to fifteen (15), before approving any application.

(d) A special event permit may be issued only upon a satisfactory showing by an organization or a qualified political candidate that:

(1) Other existing facilities are not available or are inadequate for the needs of the organization or political candidate; and

(2) Existing licensed facilities are inadequate for the purposes of serving members or guests of the organization or political candidate, and that additional facilities are necessary by reason of the nature of the special event being scheduled; or

(3) The organization or political candidate is temporarily occupying premises other than the regular premises of such organization or candidate during special events such as civic celebrations or county fairs, and that members of the general public will be served during such special events.

(e) Each application for a special event permit shall be accompanied by an application fee in an amount equal to the maximum local licensing fee established by Section 12-48-107(2), C.R.S. (Ord. 4, 2011; Ord. 1 §1, 2012)

ARTICLE 4

Medical Marijuana

Sec. 6-4-10. Findings and legislative intent.

The Board of Trustees makes the following legislative findings:

(1) The Board of Trustees finds and determines that the Colorado Medical Marijuana Code, Section 12-43.3-101, et seq., C.R.S., clarifies state law regarding the scope and extent of Amendment 20 to the Colorado Constitution.

(2) The Board of Trustees finds and determines that the Colorado Medical Marijuana Code specifically authorizes in part that the governing body of a municipality may "vote to prohibit the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers' licenses."

(3) The Board of Trustees finds and determines that the Colorado Medical Marijuana Code further specifically authorizes a municipality in part "to prohibit the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers' licenses . . . based on local government zoning, health, safety, and public welfare laws for the distribution of medical marijuana."

(4) The Board of Trustees finds and determines, after careful consideration of the provisions of the Colorado Medical Marijuana Code, Article XVIII, Section 14 of the Colorado Constitution, and after evaluating, inter alia, the potential secondary impacts associated with the retail sale, distribution, cultivation and dispensing of medical marijuana through medical marijuana centers, optional premises cultivation operations and medical marijuana-infused products manufacturers' licenses, that such land uses have an adverse effect on the health, safety and welfare of the Town and the inhabitants thereof.

(5) The Board of Trustees therefore finds and determines that, as a matter of the Town's local land use and zoning authority, and consistent with the authorization provided by the Colorado Medical Marijuana Code, no suitable location exists within the corporate limits of the Town for the cultivation, manufacture and sale of medical marijuana by the operation of medical marijuana centers, optional premises cultivation operations and medical marijuana-infused products manufacturers' licenses.

(6) The Board of Trustees recognizes and affirms the protections afforded by Article XVIII, Section 14 of the Colorado Constitution and desires to affirm the ability of patients and primary caregivers to otherwise be afforded the protections of Article XVIII, Section 14 of the Colorado Constitution and Section 25-1.5-106, C.R.S. (Ord. 03 §1, 2013)

Sec. 6-4-20. Authority.

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

- (1) The Colorado Medical Marijuana Code, Section 12-43.3-101, et seq., C.R.S.;
- (2) The Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.;
- (3) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers);
- (4) Section 31-15-103, C.R.S. (concerning municipal police powers);

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

(6) Section 31-15-501, C.R.S. (concerning municipal authority to regulate businesses).
(Ord. 03 §1, 2013)

Sec. 6-4-30. Definitions.

For purposes of this Article, the following terms shall have the following meanings:

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

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

Medical marijuana-infused products manufacturer means a person licensed pursuant to the Colorado Medical Marijuana Code to operate a business known as a medical marijuana-infused products manufacturing license, and which a municipality is authorized to prohibit as a matter of law.

Optional premises cultivation operation means a person licensed pursuant to the Colorado Medical Marijuana Code to operate a business known as an optional premises grow facility in order to grow and cultivate marijuana for a purpose authorized by Article XVIII, Section 14 of the Colorado Constitution, and which a municipality is authorized to prohibit as a matter of law.

Patient has the meaning provided in Article XVIII, Section 14(1)(c) of the Colorado Constitution.

Person means a natural person, partnership, association, company, corporation, limited liability company or organization, or a manager, agent, owner, director, servant, officer or employee thereof.

Primary caregiver has the meaning provided in Article XVIII, Section 14(1)(f) of the Colorado Constitution. (Ord. 03 §1, 2013)

Sec. 6-4-40. Medical marijuana centers, optional premises cultivation operations and medical marijuana-infused products manufacturers' licenses prohibited.

It is unlawful for any person to operate, cause to be operated or permit to be operated a medical marijuana center, optional premises cultivation operation or facility for which a medical marijuana-infused products manufacturers' license could otherwise be obtained within the Town, and all such uses are hereby prohibited in any location within the Town or within any area hereinafter annexed to the Town. (Ord. 03 §1, 2013)

Sec. 6-4-50. Patients and primary caregivers.

Nothing in this Article shall be construed to prohibit, regulate or otherwise impair the use of medical marijuana by patients as defined by the Colorado Constitution, or the provision of medical marijuana by a primary caregiver to a patient in accordance with the Colorado Constitution and consistent with Section 25-1.5-106, C.R.S., and rules promulgated thereunder. (Ord. 03 §1, 2013)

Sec. 6-4-60. Penalty.

A violation of the provisions of this Article shall be punishable as follows:

(1) By a fine of not more than three hundred dollars (\$300.00) or imprisonment in the county jail for not more than ninety (90) days, or by both such fine and imprisonment;

(2) Each and every day a violation of the provisions of this Article is committed, exists or continues shall be deemed a separate offense;

(3) The Town is specifically authorized to seek an injunction, abatement, restitution or any other remedy necessary to prevent, enjoin, abate or remove the violation; and

(4) Any remedies provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law or in equity. (Ord. 03 §1, 2013)

ARTICLE 5

Marijuana

Sec. 6-5-10. Findings and legislative intent.

The Board of Trustees makes the following legislative findings:

(1) The Board of Trustees finds and determines that Article XVIII, Section 16 of the Colorado Constitution specifically authorizes in part that the governing body of a municipality may enact an ordinance to prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores.

(2) The Board of Trustees finds and determines, after careful consideration of the provisions of Article XVIII, Section 16 of the Colorado Constitution, and after evaluating, inter alia, the potential secondary impacts associated with the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores, that such land uses have an adverse effect on the health, safety and welfare of the Town and the inhabitants thereof.

(3) The Board of Trustees therefore finds and determines, that as a matter of the Town's local land use and zoning authority, and consistent with the authorization provided by Article XVIII, Section 16 of the Colorado Constitution, no suitable location exists within the corporate limits of the Town for the operation of marijuana cultivation facilities, marijuana product

manufacturing facilities, marijuana testing facilities and retail marijuana stores. (Ord. 03 §1, 2013)

Sec. 6-5-20. Authority.

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

- (1) Article XVIII, Section 16 of the Colorado Constitution;
- (2) The Local Government Land Use Control Enabling Act, Title 29, Article 20, C.R.S.;
- (3) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers);
- (4) Section 31-15-103, C.R.S. (concerning municipal police powers);
- (5) Section 31-15-401, C.R.S. (concerning municipal police powers); and
- (6) Section 31-15-501, C.R.S. (concerning municipal authority to regulate businesses). (Ord. 03 §1, 2013)

Sec. 6-5-30. Definitions.

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

Marijuana 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 marijuana concentrate. *Marijuana* 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 incapable of germination or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other product.

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 ingesting, inhaling or otherwise introducing marijuana to 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 a marijuana cultivation facility, marijuana testing facility, marijuana product manufacturing facility or retail marijuana store.

Marijuana product manufacturing facility means an entity licensed to purchase marijuana; manufacture, prepare and package marijuana products; and sell marijuana and marijuana

products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

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

Person means a natural person, partnership, association, company, corporation, limited liability company or organization, or a manager, agent, owner, director servant, officer or employee thereof.

Retail marijuana store means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities, and to sell marijuana and marijuana products to consumers. (Ord. 03 §1, 2013)

Sec. 6-5-40. Marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores – licenses prohibited.

It is unlawful for any person to operate, cause to be operated or permit to be operated any marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities or retail marijuana stores within the Town, and all such uses are hereby prohibited in any location within the Town or within any area hereinafter annexed to the Town. (Ord. 03 §1, 2013)

Sec. 6-5-50. Penalty.

A violation of the provisions of this Article shall be punishable as follows:

(1) By a fine of not more than three hundred dollars (\$300.00) or imprisonment for not more than ninety (90) days, or by both such fine and imprisonment;

(2) Each and every day a violation of the provisions of this Section is committed, exists or continues shall be deemed a separate offense;

(3) The Town is specifically authorized to seek an injunction, abatement, restitution or any other remedy necessary to prevent, enjoin, abate or remove the violation; and

(4) Any remedies provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law or in equity. (Ord. 03 §1, 2013)