

CHAPTER 6

Business Licenses and Regulations

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ARTICLE I

Licenses

Sec. 6-1. Applications.

Applications for all licenses and permits required by any provision of this Code or any code adopted herein shall be made in writing to the Town Clerk in the absence of a specific provision to the contrary. Each application shall state the name of the applicant, the permit or license desired, the location to be used, if any, the time covered and the fee to be paid; and each application shall contain such additional information as may be needed for the proper guidance of the Town officials in the issuing of the permit or license applied for. (Ord. 1-1992, § 1)

Sec. 6-233338. Persons subject to license.

Whenever in this Code or in any code adopted herein a license or permit is required for the maintenance, operation or conduct of any business or establishment, or for doing business or engaging in any activity or occupation, any person shall be subject to the requirement if by himself or herself or through an agent, employee or partner, he or she holds himself or herself forth as being engaged in the business or occupation, or solicits patronage therefor, actively or passively, or performs or attempts to perform any part of such business or occupation in the Town. (Ord. 1-1992, § 1)

Sec. 6-3. Forms to be prepared and kept by Town Clerk.

Forms for all licenses and permits, and applications therefor, shall be prepared and kept on file by the Town Clerk. (Ord. 1-1992, § 1)

Sec. 6-4. Investigations.

Upon the receipt of an application for a license or permit where any provision of this Code or of any code adopted herein necessitates an inspection or investigation before the issuance of such permit or license, the Town Clerk shall refer such application to the proper officer, Board of Trustees or commission for making such investigation within forty-eight (48) hours of the time of such receipt. The officer, Board of Trustees or commission charged with the duty of making the investigation or inspection shall make a report thereon, favorable or otherwise, within ten (10) days after receiving the application or a copy thereof. The Building Inspector shall make or cause to be made any such inspections relative to the construction of buildings or other structures. All other investigations, except where otherwise specifically provided, shall be made by the Chief of Police or by another officer designated by the Board of Trustees. (Ord. 1-1992, § 1)

Sec. 6-5. Fees.

In the absence of any specific provision to the contrary, all fees and charges for licenses or permits shall be paid in advance at the time application therefor is made to the Town Clerk. When an applicant has not engaged in the business until after the expiration of part of the current license year, the license or permit fee shall be prorated by quarters in the absence of any specific provision to the contrary and the fee paid for each quarter or fraction thereof during which the business has been or

will be conducted. Except as otherwise provided, all license or permit fees shall become a part of the General Fund. (Ord. 1-1992, § 1)

Sec. 6-6. Termination of licenses; renewal.

In the absence of any specific provision to the contrary, all annual licenses shall terminate on the last day of the fiscal year. Unless specifically otherwise stated, all annual licenses may be renewed upon payment of the annual license fee to the Town Clerk without further examination or investigation. (Ord. 1-1992, § 1)

Sec. 6-7. Inspections.

(a) Whenever inspections of the premises used for or in connection with the operation of a licensed or permitted business or occupation are provided for or required by this Code or by any code adopted herein, or are reasonably necessary to secure compliance with any provision of this Code or any code adopted herein or to detect violation thereof, it shall be the duty of the licensee or holder of the permit, or the person in charge of the premises to be inspected, to admit thereto for the purpose of making the inspection any officer or employee of the Town who is authorized or directed to make such inspection at any reasonable time that admission is requested, and it shall be unlawful for such person to fail or refuse to admit such officer or employee for such purpose.

(b) Whenever an analysis of any commodity or material is reasonably necessary to secure conformance with any provision of this Code or any code adopted herein or to detect violations thereof, it shall be the duty of the licensee of the municipality whose business is governed by such provision to give to any authorized officer or employee of the Town requesting the same sufficient samples of such material or commodity for such analysis upon request, and it shall be unlawful for such licensee to fail or refuse to give such samples to such officer or employee.

(c) Conviction of a violation of any provision of this Section shall automatically forfeit and revoke any license issued under this Chapter; provided that there shall be no violation of this Section unless written demand is made upon the licensee or person in charge of the premises, in the name of the Town, stating that such inspection or sample is desired at the time it is sought to make the inspection of or obtain the sample. (Ord. 1-1992, § 1)

Sec. 6-8. Revocation.

The Board of Trustees may, upon seven (7) days' written notice to a licensee or holder of a permit stating the contemplated action and in general the grounds therefor, and after a reasonable opportunity to be heard, revoke any license or permit issued by the Town if it finds that:

- (1) The licensee or holder of a permit has failed to pay the annual license fee;
 - (2) The licensee or holder of a permit has failed to file any reports or furnish any other information that may be required by the provisions relating to the specific license;
 - (3) The licensee or holder of a permit has violated any of the terms of the provisions pertaining to his or her license or permit or any regulation or order lawfully made relating thereto;
- or

(4) Any fact or condition exists which, if it had existed or had been known to exist at the time of the application for such license or permit, would have warranted the refusal of the issuance of such license or permit. (Ord. 1-1992, § 1)

Sec. 6-9. Return of fees in case of refusal or revocation.

Upon refusal 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, 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. 1-1992, § 1)

Sec. 6-10. Posting.

It shall be the duty of any person conducting a licensed or permitted business in the Town to keep his or her license posted in a prominent place on the premises used for such business at all times. (Ord. 1-1992, § 1)

Secs. 6-11—6-30. Reserved.

ARTICLE II

Alcoholic Beverages

Sec. 6-31. License required.

No person shall sell, keep, manufacture or offer for sale any malt, vinous, or spirituous liquors within the Town without having first received a license therefor under the provisions of the ordinances of the Town and the laws of the State. (Prior code 5.04.010)

Sec. 6-32. License; Board of Trustees' power.

The Board of Trustees, as the local licensing authority, shall have the power to promulgate rules and regulations concerning the procedures for hearings before it and the presentation of evidence at hearings. The Board of Trustees shall further have the power to require any applicant for a license to furnish any relevant information required by the Board of Trustees. The Town Clerk shall issue all licenses granted by the Board of Trustees upon receipt of such license fees as are required by law, and the Town Clerk shall serve as the secretary to the Board of Trustees sitting as the local licensing authority. (Prior code 5.04.020)

Sec. 6-33. License granted in accordance with state law.

All malt, vinous or spirituous liquor licenses granted by the Board of Trustees, sitting as the local liquor licensing authority, shall be granted in accordance with state law. (Prior code 5.04.030)

Sec. 6-34. Classified as separate occupation.

The Board of Trustees finds, determines and declares that, considering the nature of the business of selling at retail three and two-tenths percent (3.2%) beer, malt, vinous or spirituous liquors and the

relations of such business to the municipal welfare, as well as the relation thereof to the expenditures required of the Town and a proper, just and equitable distribution of the tax burdens within the Town and all other matters proper to be considered in relation thereto, the classification of such business as a separate occupation is reasonable, proper, uniform, nondiscriminatory and necessary for a just and proper distribution of tax burdens within the Town. (Prior code 5.04.040)

Sec. 6-35. Occupational license tax; designated.

(a) There is levied and assessed for each year an annual occupational license tax upon the business of selling malt, vinous or spirituous liquors as follows:

- (1) Retail liquor store license, the sum of five hundred dollars (\$500.00);
- (2) Liquor license drug store, the sum of five hundred dollars (\$500.00);
- (3) Beer and wine license, the sum of five hundred dollars (\$500.00);
- (4) Hotel and restaurant liquor license, the sum of five hundred dollars (\$500.00);
- (5) Extended hours hotel and restaurant license, the sum of five hundred dollars (\$500.00);
- (6) Club license, the sum of five hundred dollars (\$500.00);
- (7) Three and two-tenths percent (3.2%) beer license:
 - a. On-premises consumption and both on- and off-premises consumption, the sum of five hundred dollars (\$500.00);
 - b. Off-premises consumption only, the sum of seventy-five dollars (\$75.00);
- (8) Tavern license, the sum of five hundred dollars (\$500.00).

(b) In addition to the tax for each classification, there shall be an additional tax in the sum of one thousand dollars (\$1,000.00) for each classification which permits live entertainment upon the premises. No establishment falling within the above classifications shall permit live entertainment without first paying the tax prescribed, and failure to do so shall constitute a violation of this Article.

(c) Such occupational tax shall be due and payable to the Town Clerk on January 1 of each year and shall be delinquent on February 15 of the same year. Upon receipt of the tax, the Town Clerk shall execute and deliver to the licensee paying the tax a receipt showing the name of the licensee, the date of payment, the annual period for which such license is paid and the place at which the licensee conducts business. All persons licensed hereunder shall at all times post such receipt in a conspicuous place in the place of business stated in the license.

(d) Whenever any licensee begins business with a new license subsequent to January 1 of any year, the occupational license tax required herein shall be prorated on a monthly basis for the remaining portion of the year, but no refund shall be made to any person who discontinued business under a license before the expiration of the period covered by the tax. (Prior code 5.04.050)

Sec. 6-36. Occupational license tax; delinquency.

No delinquency in payment of the tax herein provided for shall be grounds for suspension or revocation of any license granted to any operator by the Board of Trustees sitting as the local licensing authority pursuant to state statutes, and in the performance of any duties imposed upon the Board of Trustees as licensing authority of the statutes, the Board of Trustees shall exclude from consideration any delinquency of payment of the tax herein provided. (Prior code 5.04.060)

Sec. 6-37. Violation.

The Town shall have the right to recover all sums due by the terms of this Article by judgment and execution thereon in a civil action in any court of competent jurisdiction. Such remedy shall be cumulative with all other remedies provided herein for the enforcement of this Article. It is unlawful to operate any three and two-tenths percent (3.2%) beer, malt, vinous or spirituous liquor establishment within the Town without paying the tax imposed by this Article, and any person doing so is guilty of a violation of this Article. Each day that this delinquency continues constitutes a separate offense. (Prior code 5.04.070)

Secs. 6-38—6-50. Reserved.

ARTICLE III

Amusement Devices

Sec. 6-51. Definitions.

For the purpose of this Article, the following words shall be used as defined in this Section:

(1) *Applicant* means any individual, association, partnership, private club or corporation requesting a license pursuant to this Article.

(2) *Amusement arcade* means a place or establishment where a private club, individual, association, partnership or corporation maintains three (3) or more amusement devices.

(3) *Amusement device* means any device which, upon insertion of a coin, slug, token, plate or disc, or payment of a consideration directly therein, may be used by the public for use as a game, entertainment, amusement or test of skill, either mental or physical, whether or not registering a score, but shall not include radios, devices that provide music only, televisions carrying commercial broadcasts only, devices for bowling such as bowling lanes, non-coin-operated pool and billiard tables or fixed-stand coin-operated kiddie rides.

(4) *Manager* means an individual who manages, directs, supervises, oversees and administers the acts and transactions of the agents or servants of any establishment governed by this Article, or who, through his or her own actions, directs, oversees and administers the affairs of any such establishment. The terms owner and manager will be used interchangeably. (Ord. 5-1984, § 1)

Sec. 6-52. License and payment of fee.

- (a) No amusement arcade shall conduct business within the Town without a valid license.
- (b) No amusement arcade shall conduct business within the Town without first paying the fee placed upon amusement devices imposed by this Article.
- (c) Nothing herein shall be construed to mean establishments with two (2) or fewer devices, which are clearly incidental to the conduct of the principal business, are required to be licensed. (Ord. 5-1984, § 1)

Sec. 6-53. License application; contents.

(a) The application for an amusement arcade license shall be made to the Town Clerk, shall be accompanied by the fees required by this Article and shall contain the following information:

- (1) The name and address of the establishment;
- (2) The name and address of the applicant, along with age, date and place of birth;
- (3) Prior felony convictions of any of the persons listed above, if any;
- (4) The number of amusement devices to be maintained at the amusement arcade; and
- (5) The name, age and prior felony convictions of any proposed manager or managers of the establishment;
- (6) Where the applicant is a corporation, association, partnership or private club, the information required in subsections (3) and (5) shall be furnished as to each member of the association or each officer of the corporation and members of the Board of Directors of the corporation and the holders of ten percent (10%) or more of the corporate stock of any class;

(b) All applications must be reviewed by the Planning and Zoning Commissions and approved by the Board of Trustees at regularly scheduled meetings of such bodies. Approval of such license shall be based on zoning regulations and other items listed in Section 6-54. (Ord. 5-1984, § 1)

Sec. 6-54. Approval of license.

(a) Application for the license required by this Article shall be made thirty (30) days prior to a regularly scheduled meeting of the Planning and Zoning Commissions, during which time an investigation will be conducted by the Police Department sufficient to verify all the information required by this Article. The Planning and Zoning Commissions shall review the application for compliance with applicable zoning and land use regulations and will report their findings in writing to the Board of Trustees.

(b) No license shall be issued to any applicant for an amusement arcade or amusement device if the following conditions exist:

- (1) Where the applicant is under the age of twenty-one (21) years;

(2) Where the applicant, manager or either of them have made false statements upon the application; or

(3) That the proposed amusement arcade is located within five hundred (500) feet of the boundary of any public or parochial school ground.

(c) The Board of Trustees may deny a license for any good cause. (Ord. 5-1984, § 1; Ord. 1-1991, § 1)

Sec. 6-55. Term of license.

All licenses granted pursuant to this Article shall be for a term of one (1) calendar year. Said term shall commence on the date said license is issued and terminate on December 31 of that year; first year license to be prorated by months. (Ord. 5-1984, § 1)

Sec. 6-56. License renewal.

Renewal of any of the licenses granted pursuant to this Article may be had by payment of the licensing fee along with a statement that the information listed on the original license application is still true and correct or a statement listing those items of information required for a license application which have changed in the year since the license was granted or last renewed. (Ord. 5-1984, § 1)

Sec. 6-57. Fees.

(a) Applicants or holders of an amusement arcade license shall pay an annual fee of one hundred dollars (\$100.00) per amusement device for the first five (5) machines and eighty dollars (\$80.00) for each additional device maintained upon the premises.

(b) Applicants for an amusement arcade license shall pay an investigation fee of fifty dollars (\$50.00) to cover the cost of investigation required by this Article.

(c) All applicants and holders of amusement arcade licenses shall report to the Town Clerk the addition of any amusement device or devices to their premises within fifteen (15) days and pay applicable fees. Failure to report additional amusement devices to the Town Clerk shall constitute a violation to this Article and be grounds for revocation or suspension of the license granted pursuant to this Article. (Ord. 5-1984, § 1)

Sec. 6-58. Suspension or revocation of license.

(a) The Board of Trustees may either suspend or revoke any license granted pursuant to this Article upon a finding of any of the following factors:

(1) That any of the amusement devices maintained upon the premises are being used for gambling purposes or high score prizes;

(2) That repeated disturbances of public peace have been occurring within the licensed establishment or upon any parking areas, sidewalks, walkways, access ways or grounds immediately adjacent to the licensed premises involving patrons, employees or the holder of the license of the establishment;

(3) That the holder of the license or any employees thereof are illegally offering for sale or illegally allowing to be consumed upon the licensed premises or upon any parking areas, sidewalks, walkways, access ways or grounds immediately adjacent to the licensed premises, narcotics or dangerous drugs;

(4) That the holder of the license or an approved manager is not upon the licensed premises at all times; and/or

(5) That where not specifically licensed by law, malt, vinous or spirituous beverages are being consumed continuously and repeatedly by patrons of the licensed establishment upon any parking areas, sidewalks, walkways, access ways or grounds immediately adjacent to the licensed premises.

(b) Conviction of a felony by either the owner or manager may be grounds for revocation of license.

(c) Nothing in this Article shall prohibit the Town from taking any other enforcement action provided for by this Code or the laws of the State or of the United States. (Ord. 5-1984, § 1)

Sec. 6-59. Hearings on suspension and revocation.

Temporary suspension, not to exceed thirty (30) days, may be imposed by the Board of Trustees without public hearing. Within forty-eight (48) hours after temporary suspension, the Board of Trustees shall set a date for public hearing to determine whether the license should be reinstated, suspended for an additional term or revoked, this public hearing to be held within twenty (20) days after the suspension. The licensee shall be given written notice of the public hearing no less than five (5) days prior to the public hearing. Notice shall be by either certified mail or personal service and by posting in a conspicuous place on the licensed premises. (Ord. 5-1984, § 1)

Sec. 6-60. Display and transfer of license.

(a) The holder of any license or receipt issued pursuant to the terms of this Article shall prominently display the same upon the premises for which the license is issued.

(b) Any license or receipt issued pursuant to the terms of this Article shall not be transferable to any other location in the Town. In the event of transfer of ownership of the business at the same location for which a license or tax receipt is issued pursuant to the terms of this Article, a license may be transferred to the new owner of the business; provided, however, that application therefor stating the same information as required by Section 6-53 is first presented to the Planning and Zoning Commissions for review and the Board of Trustees for approval or disapproval, as provided in Sections 6-53 and 6-54 of this Article, accompanied by the proper license fee and a fifty dollar (\$50.00) investigation fee as required by this Article. Approval or disapproval of such transfer shall be upon the same terms as approval or disapproval of a new license as required by the terms of this Article.

(c) The Board of Trustees shall revoke or not renew, as the case may be, any amusement license provided for by this Article if the Board of Trustees determines, pursuant to adequate investigation, that the licensed location has been inactive for at least sixty (60) days. The Board of Trustees shall

issue findings to support its determination and shall promptly notify the holder of such amusement license of the determination. (Ord. 5-1984, § 1)

Sec. 6-61. Gambling not permitted.

Nothing in this Article shall be construed to permit any unlawful gambling or wagering within the Town. (Ord. 5-1984, § 1)

Secs. 6-62—6-80. Reserved.

ARTICLE IV

Burglar Alarms

Sec. 6-81. Definitions.

For the purpose of this Article, the following words shall be used as defined in this Section:

(1) *Burglar alarm device*, as used in this Article, means any device located in a building in the Town which, when activated, causes a sound or noise to attract attention and directly or indirectly causes the Police Department to respond. It shall also include any device located in a building in the Town which, when activated, causes an alarm to be sent directly to the Police Department or other Town terminal, or which causes an alarm to be transmitted to the Police Department or other Town terminal indirectly from any switchboard, transferring terminal or other switching device, either by self-dialing prerecorded notification units, telephone lines, radio waves, sound waves or any other means, which alarm, whether sent directly or indirectly, is sent for the purpose of alerting any person or device of an intrusion, possible intrusion, open door, open window, holdup or for any other purpose, excluding fire alarm.

(2) *False alarm*, as used in this Article, means any alarm signal originating from a burglar alarm device or audible alarm device to which the police respond and which results from:

a. False activation, including reporting of a robbery where no actual or attempted robbery has occurred, or reporting a burglar alarm where there is no evidence to substantiate an attempted or forced entry to the premises;

b. Alarm malfunction, including a mechanical or electrical failure;

c. Alarm triggered by the negligence of the owner, tenant or occupant of the building where the alarm is located;

d. Trouble condition, including electrical failure or telephone company malfunction. If immediate notice is communicated to the Police Department that the alarm was accidentally activated, such alteration will not be considered a false alarm.

(3) *Main emergency terminal*, as used in this Article, means the telephone terminal utilized to receive emergency information for transmittal to the Police Department and any other such terminal utilized for like purposes. (Ord. 3-1985, § 1)

Sec. 6-82. Siren sound unlawful.

It is unlawful to install a burglar alarm device which, upon activation, emits a sound similar to sirens in use on emergency vehicles or for civil defense purposes. (Ord. 3-1985, § 1)

Sec. 6-83. Use and operation; responsibility of owner.

It shall be the responsibility of the owner to instruct and reinstruct his or her tenant, employees or occupant of the premises wherein the burglar alarm device is installed in the proper use and operation of the device, whether silent or audible, including all necessary instructions in turning off the alarm and in avoiding false alarms. (Ord. 3-1985, § 1)

Sec. 6-84. Certain false alarms unlawful.

A person allowing, permitting or causing a false alarm, as defined in Section 6-81(2)a, shall be guilty of a violation of this Code. (Ord. 3-1985, § 1)

Sec. 6-85. False alarms; penalty.

The owner, tenant and occupant of the premises wherein a burglar alarm device is installed shall be subject to a fifty dollar (\$50.00) penalty for each false alarm from the device which exceeds six (6) in any twelve (12) month period. (Ord. 3-1985, § 1)

Sec. 6-86. False alarms; charges.

All false alarm charges, as prescribed in Section 6-85, shall be billed by the Town Clerk and shall be paid to the Town Clerk within twenty (20) days of the notice date. (Ord. 3-1985, § 1)

Sec. 6-87. False alarms; appeal to Board of Trustees.

(a) It shall be the duty of the Town to notify the owner, tenant or occupant of the premises where the alarm is located, by written notice, of each false alarm. The owner, tenant or occupant may appeal, within twenty (20) days of the date of the notice, to the Board of Trustees to have the particular false alarm set aside. To perfect such an appeal, the owner, tenant or occupant must submit a written statement to the Town Clerk requesting that the Board of Trustees review the false alarm and state the reasons why the owner, tenant or occupant should not be held responsible for a specific false alarm. The Board of Trustees shall consider the request at its next regular meeting following the filing of the request.

(b) If the Board of Trustees determines, after considering all the circumstances, that the owner, tenant or occupant shall not be responsible for a specific false alarm, then that alarm shall not be considered a false alarm under the provisions of this Article. (Ord. 3-1985, § 1)

Sec. 6-88. Service personnel; posting of notice; submittal to police.

Every person maintaining an audible or silent burglar alarm device shall post a framed notice containing the names and telephone numbers of the persons to be notified to render service to the system during any hour of the day or night that such alarm sounds, unless such device also transmits notification to those persons upon its activation, and shall furnish the Police Department with those

names and telephone numbers. The framed notice shall be posted in such position as to be visible from the door, to which access may be gained to the building wherein such device is installed. (Ord. 3-1985, § 1)

Sec. 6-89. Service personnel; responsibility to render service.

The person or persons named in the posted notice required at Section 6-88, or the person or persons notified by the device, shall, upon proper notification, proceed immediately to the location of the activated alarm and render all necessary service. (Ord. 3-1985, § 1)

Sec. 6-90. Alarms without maintenance provided prohibited.

No person shall install, permit installation, maintain or cause to be maintained any burglar alarm device for which periodic service or maintenance is not provided. (Ord. 3-1985, § 1)

Secs. 6-91—6-110. Reserved.

ARTICLE V

Junkyards and Junk Dealers

Sec. 6-111. Definitions.

Except where otherwise indicated by the context, the following definitions shall apply in the interpretation and enforcement of this Article:

(1) *Person* means any person, firm, partnership, association, corporation, company or organization of any kind.

(2) *Junk* means old iron, steel, brass, copper, tin, lead or other base metals; old cordage, ropes, rags, fibers or fabrics; old rubber; old bottles or other glass; bones; waste paper and other waste or discarded material which might be prepared to be used again in some form; and any or all of the foregoing; and motor vehicles, no longer used as such, to be used for scrap metal or stripping of parts.

(3) *Junkyard* means a yard, lot or place, covered or uncovered, outdoors or in an enclosed building, containing junk as defined above, upon which occurs one (1) or more acts of buying, keeping, dismantling, processing, selling or offering for sale any such junk, in whole units or by parts, for a business or commercial purpose, whether or not the proceeds from such act or acts are to be used for charity.

(4) *Junk dealer* means a person who operates a junkyard, as defined above, within the Town.

(5) *Itinerant junk dealer* means an individual (natural person) who buys, sells, collects or delivers junk within the Town as a business or employment within the Town, but who is not an operator of a junkyard within the Town or an employee of such an operator.

(6) *Business premises* or *premises* means the area of a junkyard as described in a junk dealer's license or application for license, as provided for in this Article. (Ord. 2-1986)

Sec. 6-112. License required.

(a) It shall be unlawful for any person to act as a junk dealer in the Town, whether personally, by agents or employees, singly or along with some other business or enterprise, without first having obtained a license therefor from the Board of Trustees in accordance with the provisions of this Article. A junk dealer who operates more than one (1) junkyard within the Town shall be required to have in effect a separate license for each yard.

(b) It shall be unlawful for any individual to act as an itinerant junk dealer in the Town without first having obtained a license therefor from the Board of Trustees in accordance with the provisions of this Article. (Ord. 2-1986)

Sec. 6-113. Application.

An applicant for license under this Article shall file with the Town Clerk a written application signed by himself or herself, if an individual, by all partners, if a partnership and by the president or chief officer of a corporation or other organization, upon forms provided by the Town Clerk, together with two (2) copies of such application and a fee as hereinafter prescribed. The application shall be sworn to by each of its signers before a notary public or other officer authorized by law to administer oaths and shall include the following information or material:

(1) Junk dealer applications:

a. Name, residence address and telephone number of each individual owner, partner or, if a corporation or other organization, each officer and director.

b. Trade names used during the previous five (5) years by the applicant and each person signing the application, along with the locations of prior establishments.

c. Names and addresses of employers of each person signing the application during the previous five (5) years.

d. The name, residence address and telephone number of each person employed or intended to be employed in the business as of the time the application is filed.

e. Exact address or location of the place where the business is or is proposed to be carried on, plus a sketch of the actual premises to be used in connection with the business, giving distances in feet and showing adjoining roads, property lines, buildings and uses.

f. A description of the materials with which any buildings to be used in connection with the licensed business are or are to be made; a sketch giving distances, showing the location of such buildings on the business premises; and a diagram or plan giving distances and heights, showing floors, exits, entrances, windows, ventilators and walls.

g. Such other information as the Board of Trustees shall find reasonably necessary to effectuate the purposes of this Article and to arrive at a fair determination of whether the terms of this Article have been complied with.

(2) Itinerant junk dealer applications:

a. Name, residence address and telephone number.

b. Trade names and exact location and descriptions of any businesses operated by the applicant presently and during the past five (5) years.

c. Names and addresses of employers of the applicant presently and during the past five (5) years.

d. Names and addresses of two (2) persons, other than employers or relatives (preferably local residents), who know the applicant personally.

e. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance; the nature of the offense; the date of its commission; and the punishment or penalty assessed therefor.

f. A photograph of the applicant, taken within sixty (60) days immediately prior to the date of the filing of the application, which shall be two (2) inches by two (2) inches, showing the head and shoulders of the applicant in a clear and distinguishing manner.

g. Trade name, business address and telephone number of the applicant or any employer of the applicant in connection with his or her activities as an itinerant junk dealer; and a description of such activities.

h. Such other information as the Board of Trustees shall find reasonably necessary to effectuate the purposes of this Article and to arrive at a fair determination of whether the terms of this Article have been complied with. (Ord. 2-1986)

Sec. 6-114. Investigation; approval and issuance of license, junk dealer.

(a) Upon receipt of an application for a junk dealer's license as provided for herein, the Town Clerk shall furnish copies of the same to the members of the Board of Trustees. The Chief of Police shall cause an investigation to be made of the applicant's business responsibility and moral character. The proposed or existing premises and equipment with which the junkyard is being or is to be operated shall be examined by the other members of the Board of Trustees or their duly appointed representatives. No junk dealer's license shall be issued unless the application is approved by the Board of Trustees.

(b) The Chief of Police shall recommend approval for the application only if he or she finds that the applicant's business responsibility and moral character are satisfactory and that all agents or officers of the applicant, if any, who will take part in the operation of such business are of good character and reputation and capable of operating the business in a manner consistent with public health, safety and good morals.

(c) The Building Inspector shall recommend approval of the application only if he or she finds that any proposed or existing buildings or equipment with which the junkyard is being or is to be operated conform to the requirements of the Building Code and the requirements of this Article.

(d) The license as issued shall bear the following language on its face:

"IMPORTANT: This license applies only to the premises indicated herein and authorizes the licensee to operate a junkyard in a lawful place and manner only; it is not a substitute for any certificate of occupancy, building permit or other certificate or permit that might be required by law of the licensee, and it does not relieve the licensee of the responsibility to have all such required permits or certificates at all times and comply with all laws affecting the above-described business."

(e) The Town Clerk shall keep a permanent record of all applications filed and all licenses issued in accordance with this Section. (Ord. 2-1986)

Sec. 6-115. Investigation; approval and issuance of license; itinerant junk dealers.

(a) Upon receipt of an application for an itinerant junk dealer's license as provided for herein, the Town Clerk shall furnish copies of the same to the members of the Board of Trustees, and the Chief of Police shall cause an investigation to be made of the applicant's business responsibility and moral character. If the Board of Trustees finds that the applicant's business responsibility and moral character are satisfactory, that the zoning code requirements for the property have been met, and if the fee prescribed by this Article has been paid, the Board of Trustees shall, within thirty (30) days after the filing of the application, issue an itinerant junk dealer's license to the applicant. If the Board of Trustees finds that the applicant's business responsibility or moral character is unsatisfactory, the Board of Trustees shall, within thirty (30) days after the filing of the application, notify the applicant that his or her application is disapproved and that no license will be issued. Upon request, the Board of Trustees shall furnish the applicant with a brief written statement of the grounds upon which his or her application was disapproved.

(b) The Town Clerk shall keep a permanent record of all applications filed and all licenses issued in accordance with this Section. (Ord. 2-1986)

Sec. 6-116. Period of license and renewal procedure.

(a) Unless otherwise provided by the Board of Trustees, any license or renewal license issued hereunder shall be effective as of the date of its issuance and shall expire one (1) year thereafter.

(b) An applicant for a renewal license shall file with the Town Clerk a written application upon forms provided by the Town Clerk, signed and sworn to in the same manner required in the case of an original application, together with two (2) copies of the application and a fee as hereinafter prescribed. The application shall contain such information about the applicant's demeanor and the conduct and operation of the licensed business during the preceding license period as is reasonably necessary to enable the Board of Trustees to determine the applicant's eligibility for a renewal license. (Ord. 2-1986)

Sec. 6-117. License fees.

The annual fee to be paid for any license or renewal license issued hereunder shall be five hundred dollars (\$500.00) in the case of junk dealers and five hundred dollars (\$500.00) in the case of itinerant junk dealers, except that no fee shall be required of a nonprofit, charitable enterprise. (Ord. 2-1986; Ord. 4-1987, § 1; Ord. 4-1994, § 1)

Sec. 6-118. License not transferable.

No license issued under this Article shall be transferred or assigned or used by any person other than to whom it was issued, and no junk dealer's license shall be used at any location other than that described in the application upon which it was issued. (Ord. 2-1986)

Sec. 6-119. General operating requirements.

(a) The following general operating requirements shall apply to all junk dealers licensed in accordance with the provisions of this Article:

- (1) The license issued pursuant to this Article shall be plainly displayed on the business premises.
- (2) The junkyard, together with things kept therein, shall at all times be maintained in a sanitary condition.
- (3) No space not covered by the license shall be used in the licensed business.
- (4) No water shall be allowed to stand in any place on the premises in such a manner as to afford a breeding place for mosquitoes.
- (5) Weeds and vegetation on the premises, other than trees, shall be kept at a height of not more than four (4) inches.
- (6) No garbage or other waste liable to give off a foul odor or attract vermin shall be kept on the premises; nor shall any refuse of any kind be kept on the premises, unless such refuse is junk as defined herein and is in use in the licensed business.
- (7) No junk shall be allowed to rest upon or protrude over any public street, walkway or curb or become scattered or blown off the business premises.
- (8) Junk shall be stored in piles not exceeding the height of the enclosing wall or fence, but in no event higher than ten (10) feet in height, and shall be arranged so as to permit easy access to all such junk for fire fighting purposes.
- (9) No combustible material of any kind not necessary or beneficial to the licensed business shall be kept on the premises; nor shall the premises be allowed to become a fire hazard.
- (10) Gasoline and oil shall be removed from any scrapped engines or vehicles on the premises.

(11) No junk or other material shall be burned on the premises in any incinerator not meeting the requirements of the Building Code; and no junk or other material shall be burned on the premises in the open.

(12) No noisy processing of junk or other noisy activity shall be carried on in connection with the licensed business on Sunday, Christmas, Thanksgiving or at any time between the hours of 6:00 p.m. and 7:00 a.m.

(13) The area on the premises where junk is kept (other than indoors) shall be enclosed, with a solid, vertical, nontransparent wall or fence of a minimum height of six (6) feet measured from ground level. Entrances and exits shall not be wider or more numerous than reasonably necessary for the conduct of the licensed business. Front yard fencing shall conform with Section 16-56(c)(1) of this Code.

(14) The licensee shall permit inspection of the business premises by any member or representative of a member of the Board of Trustees at any reasonable time.

(15) No junk dealer licensed hereunder or his or her agent or employee shall purchase or receive any junk for use in the licensed business from any person under the age of eighteen (18) years without the written consent of a parent or guardian of such person. Such writing shall be held available for inspection by any member or representative of a member of the Board of Trustees for a period of at least one (1) year.

(16) Each acquisition of junk shall be recorded in English in a permanent type register kept on the business premises, giving the name and residence address of the person from whom the acquisition was made, a description of the junk acquired and the date of the transaction. Such data shall be held available for inspection by any member or representative of a member of the Board of Trustees for a period of at least one (1) year.

(17) No junkyard shall be allowed to become a nuisance; nor shall any junkyard be operated in such manner as to become injurious to the health, safety or welfare of the community or of any residents close by.

(b) The following general operating requirements shall apply to all itinerant junk dealers licensed in accordance with this Article:

(1) The licensee shall have the license issued to him or her under this Article in his or her immediate possession at all times when he or she is acting as an itinerant junk dealer in the Town and shall exhibit it to any person upon request.

(2) The licensee shall not purchase or receive any junk from any person under the age of eighteen (18) years without the written consent of a parent or guardian of such person. He or she shall retain such writing for a period of at least one (1) year and shall produce the same within a reasonable time upon the request of any member or representative of a member of the Board of Trustees. (Ord. 2-1986)

Sec. 6-120. Revocation and suspension.

When the Board of Trustees determines that the public interest so requires, it shall revoke or suspend the license of any junk dealer or itinerant junk dealer when it finds, after due investigation, that:

(1) The junk dealer or any agent or officer of such dealer who takes part in the operation of the licensed business, or the itinerant junk dealer, is not of good character or reputation or is not capable of operating the licensed business or carrying on the licensed activity in a manner consistent with public health, safety and good morals;

(2) The junk dealer has failed to comply with the provisions of this Article or any provision of law applicable to the premises, equipment or operation of the licensed business or the itinerant junk dealer has failed to comply with this Article or any provision of law applicable to his or her equipment or licensed operations;

(3) The licensee has obtained his or her license through any fraud or misstatement;

(4) The licensed business or activity is being conducted in a manner detrimental to the health, safety or general welfare of the public, is a nuisance, or is being operated or carried on in any unlawful manner; or

(5) The licensed business or activity is no longer being operated or carried on. (Ord. 2-1986)

Sec. 6-121. Violations.

It shall be unlawful and a violation of this Article to operate a junkyard or to carry on the business of a junk dealer without a license issued by the Town. It shall also be unlawful to violate any other provision of this Article. (Ord. 2-1986)

Secs. 6-122—6-140. Reserved.

ARTICLE VI

Massage Parlors

Sec. 6-141. Title.

This Article shall be known as the Town Massage Parlor Code and may be cited as such. (Prior code 5.20.010)

Sec. 6-142. Definitions.

As used in this Article, the following words and phrases shall have the meanings ascribed as follows:

External bath means massage by the use of water, vapor, steam, sweat, electricity, salt, alcohol or sitz bath.

Massage means pressure on, friction against, stroking and kneading the body by manual means or mechanical device used manually, with or without appliances such as, but not limited to, vibrators, infrared heat, sun lamps and external baths for the purpose of maintaining good health and good physical condition.

Massage apprentice means any person at least eighteen (18) years of age employed in a massage parlor or being taught, instructed or trained for the specific purpose of learning the method or art of massage practice.

Massage artist means any person engaged in the art of massage practice through ownership of or employment by a massage parlor.

Massage instructor means any person who teaches, instructs or trains any other person or persons in the art of massage practice.

Massage operator means any person, firm or corporation owning or operating a massage parlor. In the event of a corporate owner, the *operator* shall mean the manager or person in charge of the premises.

Massage parlor means a an establishment providing massage, but it does not include training rooms of public and private schools accredited by the State Board of Education or approved by the division charged with the responsibility of approving private occupational schools, training rooms of recognized professional or amateur athletic teams and licensed health care facilities. A facility which is operated for the purpose of massage therapy performed by a massage therapist is not a massage parlor.

Massage practice means the performance of massage with or without compensation.

Massage therapist means a person who has graduated from a massage therapy school accredited by the state education board or division charged with the responsibility of approving private occupational schools, or from a school with comparable approval or accreditation from another state with transcripts indicating completion of at least five hundred (500) hours of training in massage therapy.

State Massage Parlor Code means Title 12, Article 48.5, C.R.S. (Prior code 5.20.020; Ord. 1-2007 § 1)

Sec. 6-143. Exemptions from licensing requirements.

The following classes of persons and establishments are exempted from the licensing requirements of this Article:

(1) Physicians, surgeons, doctors, medical clinics, etc.: Persons licensed by the State to practice medicine, surgery, osteopathy, chiropractic and chiropody, their offices and clinics, and all personnel under their supervision and direction;

(2) Hospitals: Hospitals and all persons employed by institutions and establishments licensed by the State as hospitals while performing their usual duties within the hospital or institution so licensed;

(3) Nurses: Registered or licensed nurses performing these services as part of their usual nursing duties, while under supervision of a licensed individual as provided in Paragraph (1);

(4) Massage practiced or instructed in the athletic department of any state accredited school, college, university or seminary;

(5) Trainers of any amateur, semi-professional or professional athlete or athletic team;

(6) Clinics under the supervision of a licensed physician or surgeon, osteopath, chiropractor or chiropractor, nursing and convalescent homes licensed by the State or other similarly licensed institutions where massage and baths are administered;

(7) Massage practiced in an institution of learning established under the laws of the State;

(8) Massage therapy facilities. A facility which is operated for the purpose of massage therapy, performed by a massage therapist;

(9) Massage therapists: A person who has graduated from massage therapy school accredited by the state education board or division charged with the responsibility of approving private occupational schools or from a school with comparable approval or accreditation from another state with transcripts indicating completion of at least five hundred (500) hours of training in massage therapy. For the purposes of this Paragraph (9), a massage therapy school may include an equivalency program approved by the state education board or division charged with the responsibility of approving private occupational schools; and

(10) A massage therapist, as defined herein, shall not be exempt from all massage parlor licensing requirements as set forth in this Chapter, including licensing fees. (Prior code 5.20.030; Ord. 1-2007 § 1)

Sec. 6-144. License requirements generally.

(a) For the purposes of licensing requirements, a massage therapist, as defined in this Article, will be required to complete an application on a form provided by the Town Clerk and submit proof of the completion of at least five hundred (500) hours of training in massage therapy from an accredited school.

(b) No person shall be licensed to practice massage, train others in the art of massage, conduct a massage parlor for giving massages or conduct other services within the definition of massage for financial compensation unless the requirements set forth in Sections 6-145 through 6-149 are met. (Prior code 5.20.040; Ord. 1-2007 § 1)

Sec. 6-145. Applicant age and education.

An applicant for a license must be at least twenty-one (21) years of age and meet one (1) of the following educational requirements:

(1) The applicant must have graduated from a school of massage, physical therapy or physical education, and have completed at least one thousand (1,000) clock hours of coursework in anatomy, physiology, ethics and professional relationship, plus an additional six hundred (600) clinical hours in a licensed massage parlor, certified school, clinic, hospital or similarly licensed institution where massage and baths are administered;

(2) The applicant must present verified evidence of having served an apprenticeship of at least two (2) years under the direct supervision of a licensed massage instructor in a licensed massage parlor; such apprenticeship shall include a minimum of five hundred (500) clock hours of training in anatomy, physiology, ethics and professional relationship, plus an additional three thousand (3,000) clock hours of practical experience in a licensed massage parlor; or

(3) The applicant must present a certificate evidencing the completion of a correspondence course in massage, physical therapy or physical education from an accredited correspondence school, plus an additional three thousand (3,000) hours of practical experience in a licensed massage parlor. (Prior code 5.20.050)

Sec. 6-146. Applicant information required.

(a) Each applicant shall complete an application provided by the Town Clerk providing the following information:

- (1) Name;
- (2) Age;
- (3) Permanent address;
- (4) Local address;
- (5) Physical description of the applicant;
- (6) Name and address of the applicant's employer;
- (7) Name and address of former places of employment;
- (8) That the applicant is a citizen of the United States, or a declarant therefor as described by law;
- (9) References showing that the applicant is of good moral character;
- (10) That the applicant is not indebted to or obligated to the Town except for current taxes; and
- (11) A certificate of occupancy furnished by the Building Inspector to the effect that the proposed use of any premises is not a violation of Town zoning regulations.

(b) The applicant shall also present to the Town Clerk a certificate signed by a medical doctor stating that the applicant has, within thirty (30) days prior to filing the application, been examined and found to be free of any contagious or communicable disease. (Prior code 5.20.060)

Sec. 6-147. Application for massage operators.

A partnership, corporation or individual that applies for a massage operator license must complete an application provided by the Town Clerk providing the following information:

- (1) Name;
- (2) Age;
- (3) Permanent address;
- (4) Local address;
- (5) Name and address of the state registered agent if the applicant is a corporation;
- (6) Location of the massage parlor;
- (7) If a corporation or partnership is involved, the names and addresses of the principals and officers of the corporation or partnership;
- (8) Name and address of any other massage parlors owned or operated by the applicant; and
- (9) Such information as is required by Subsections (8), (9), (10) and (11) of Section 6-146(a). (Prior code 5.20.070)

Sec. 6-148. Identification badge requirements.

Each licensee shall be required to wear upon his or her person in a conspicuous manner, while actually engaged in the art of massage practice, an identification badge containing the following information:

- (1) Photograph of the individual;
- (2) Name and address of the establishment;
- (3) Date of license expiration; and
- (4) Type of license. (Prior code 5.20.080)

Sec. 6-149. Compliance with state requirements.

Each applicant must comply with all requirements of the State Massage Parlor Code. (Prior code 5.20.090)

Sec. 6-150. License fee.

(a) Each applicant for a massage operator, massage instructor, massage artist and massage apprentice license shall pay a nonrefundable, nontransferable license fee before issuance of the license, as follows:

(1) To engage in the business of a massage parlor, three hundred fifty dollars (\$350.00) per person involved with the massage parlor.

(2) For each annual renewal of a massage parlor license, the fee shall be one hundred fifty dollars (\$150.00) per person involved with the massage parlor.

(b) Each applicant for a massage therapist license shall pay a nonrefundable, nontransferable license fee before issuance of the license, as follows:

(1) To engage in the business of a massage therapist, twenty-five dollars (\$25.00) per person involved with the massage therapy business.

(2) For each annual renewal of a massage therapist license, the fee shall be ten dollars (\$10.00) per person involved with the massage therapy business. (Ord. 1-2007 §1)

Sec. 6-151. Application issuance and filing.

All applications for licenses under this Article shall be filed with the Town Clerk and issued by the Town Clerk if the applicant meets all requirements as set forth in Section 6-144 through 6-149 and all requirements of the State Massage Parlor Code have been complied with. (Prior code 5.20.110)

Sec. 6-152. Hours of operation.

It is unlawful for a massage operator to permit massage practice, or other acts prohibited by this Article, on the premises between the hours of 6:00 p.m. and 9:00 a.m. (Prior code 5.20.120)

Sec. 6-153. Hours of performance of massage practice.

No licensee shall perform the art of massage practice between the hours of 6:00 p.m. and 9:00 a.m. (Prior code 5.20.130)

Sec. 6-154. Unlawful acts.

(a) It is unlawful to conduct a massage parlor, or engage in massage or teach the art of massage for financial compensation, without a license issued in accordance with this Article.

(b) It is unlawful for any massage operator, massage instructor, massage apprentice or other employee of a massage parlor to:

(1) Engage in prostitution, masturbation, deviate sexual intercourse or other acts designed or intended to arouse or gratify the sexual desires of any client;

(2) Solicit, directly or indirectly, any person to engage in prostitution, masturbation, deviate sexual intercourse or other act designed or intended to arouse or gratify the sexual desires of any client, whether such prostitution, masturbation or other acts are intended to occur on or off the premises of the massage parlor;

(3) Permit or encourage any violation of the ordinances of the Town or the State Criminal Code within or upon the licensed premises;

(4) Use or occupy the licensed premises as a dwelling or living quarters or for any domestic purpose;

(5) Employ or allow any person to perform the art of massage practice unless such person is duly licensed as required in this Article;

(6) Employ or allow any person to perform the act of massage practice who has not filed with the Town Clerk a certificate from a medical doctor stating he or she has, within thirty (30) days immediately prior to filing of the license application, been examined and found free of any contagious or communicable disease; or

(7) Alter or allow another person to alter or use the identification badge prescribed under Section 6-148. (Prior code 5.20.140)

Sec. 6-155. Apprenticeship practice limitation.

(a) No massage apprentice shall perform the art of massage practice upon any person except under the supervision of a licensed massage instructor.

(b) No massage operator shall permit a massage apprentice to remain in that status more than five (5) years. (Prior code 5.20.150)

Sec. 6-156. Recordkeeping by licensee.

Each massage operator shall keep an alphabetical record of persons to whom license identification badges have been issued pursuant to Section 6-148, who are or have been employed by him or her. (Prior code 5.20.160)

Sec. 6-157. License; display.

Each licensed massage operator shall display in a conspicuous place the license for such an establishment issued by the Town. (Prior code 5.20.170)

Sec. 6-158. License; transfer.

No massage operator shall transfer his or her license to any other person, corporation or partnership. (Prior code 5.20.180)

Sec. 6-159. License; term; renewal.

All licenses granted under the provisions of this Article shall, unless suspended or revoked as provided in this Article, be valid for a one (1) year period, commencing on the date the license was originally issued and terminating one (1) year later. Such license may be renewed upon payment of a licensing fee to the Town Clerk and the presentation of a current physical examination as provided in Section 6-146 at any time within thirty (30) days prior to the expiration of said license. (Prior code 5.20.190)

Sec. 6-160. License; revocation and suspension procedures.

Any license issued pursuant to this Article shall be subject to revocation or suspension, whenever the holder thereof shall violate any of the provisions of this Article or other ordinances of the Town. The procedures for revocation or suspension are as follows:

(1) Upon commencement of revocation and suspension proceedings, the Board of Trustees shall set a time and place for the hearing of the matter.

(2) The Town Clerk shall give the licensee notice of the time, place and nature thereof, the authority and jurisdiction under which it is to be held and the violation asserted. Such notice shall be served personally or by mailing by first class U.S. Postal Service mail, certified, return receipt requested, to the last address furnished to the Town by the licensee, at least ten (10) days prior to the hearing.

(3) The Board of Trustees may appoint a hearing officer, who shall be a municipal judge or other qualified person, or a member or special committee of the Board of Trustees to preside over such a hearing.

(4) The hearing officer or the chairman of the special committee shall have the power to administer oaths and issue subpoenas.

(5) All evidence shall be recorded stenographically or by electronic recording device. If the hearing is before a hearing officer, he or she shall prepare a summary of the evidence and shall make recommendations in writing to the Board of Trustees within five (5) days after the close of the hearing. A copy of his or her summary and recommendations shall be transmitted to the licensee. At its next regular meeting following the receipt of such summary and recommendations, the Board of Trustees shall consider the same. In its discretion, the Board of Trustees may reject the hearing officer's recommendations, may refer the matter back to him or her for further proceeding, may adopt the recommendations with or without modifications, or may order a new hearing, either before the entire Board of Trustees or a committee or member thereof.

(6) The Chief of Police may summarily suspend any license now or hereafter issued if the licensee has had more than two (2) violations of the provisions of this Article or any ordinance of the Town within the previous six (6) months. The licensee may appeal to the Town any suspension. Appeal to the Board of Trustees shall be under the procedures stated in this Section. (Prior code 5.20.200)

Sec. 6-161. Applicability of State Massage Parlor Code.

This Article is enacted pursuant to Section 12-48.5-118, C.R.S. The State Massage Parlor Code provides minimum standards. This Article should not be construed as establishing requirements less than the State Massage Parlor Code, but it is intended to establish more stringent standards. (Prior code 5.20.210)

Secs. 6-162—6-180. Reserved.

ARTICLE VII

Peddlers

Sec. 6-181. License required.

No person shall carry on the business of hawker, peddler or huckster within the Town without a license therefor, first obtained according to the provisions of Sections 6-181 through 6-184. (Prior code 5.08.010)

Sec. 6-182. License fee.

For a license to carry on the business of peddler, there shall be paid to the Town Clerk by each and every peddler applying therefor the sum of ten dollars (\$10.00) for each day or the sum of fifty dollars (\$50.00) for an annual license for a period of one (1) calendar year. (Prior code 5.08.020)

Sec. 6-183. Farm produce exempt.

All sales by hawkers, peddlers or hucksters of farm produce raised or grown by the persons selling the same, which are exempt under the provisions of the law of the State, shall be exempt from the provisions of Sections 6-181 through 6-184. (Prior code 5.08.030)

Sec. 6-184. License nontransferable.

All licenses issued hereunder shall be issued in the name of the individual making application therefor, and shall not be transferable except by a majority vote of the Board of Trustees, upon written application and for good cause shown. (Prior code 5.08.040)

Sec. 6-185. Entering on private property prohibited when.

No peddler, hawker, itinerant merchant, transient vendor, solicitor or door-to-door salesman of goods, wares and/or merchandise shall go in or upon any private residences or private offices in the Town, for the purpose of soliciting orders for the sale of goods, wares and/or merchandise or for the purpose of disposing of or peddling the same, without first having been invited or requested so to do by the owner or owners, occupant or occupants thereof, provided that the owner or owners, occupant or occupants thereof have posted or displayed, at or near the entrances thereof, a sign indicating that such persons are not welcome, invited or allowed, such as "No Peddlers or Agents," "No Peddlers," "No Solicitors" or any other sign of similar import or meaning. (Prior code 5.08.060)

Sec. 6-186. Persons exempt from entering on private property.

Nothing contained in Sections 6-185 through 6-189 shall apply to persons exempt under the laws of the State pertaining to hucksters. (Prior code 5.08.070)

Sec. 6-187. Invitation to visit not invitation to revisit.

No invitation or request to visit or go in or upon any private residences or private offices in the Town, given or extended by the owner or owners, occupant or occupants to any such persons, is deemed an implied invitation or request to again visit or go in or upon any private residences, or private offices, above referred to. (Prior code 5.08.080)

Sec. 6-188. Violation a nuisance.

Any practice in violation of Sections 6-185 through 6-189 is a nuisance, and is unlawful. (Prior code 5.08.090)

Sec. 6-189. Entering on private property; nuisance abatement.

The Chief of Police is required and directed to suppress the same, and to abate any such nuisance as described in Section 6-188. (Prior code 5.08.100)

ARTICLE VIII

Medical Marijuana Business Prohibitions

Sec. 6-190. Definitions.

The following words, terms and phrases, when used in this Article, shall have the following meanings unless the context clearly indicates otherwise:

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, who 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 pursuant to 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. 4-2011, §1)

Sec. 6-191. Legislative intent.

It is the intent of this Article to prohibit certain uses related to medical marijuana and, in furtherance of its intent, the Board of Trustees makes the following findings:

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

(2) 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 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) Based on careful consideration of the provisions of the Colorado Medical Marijuana Code and 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 citizens thereof.

(5) As a matter of the Town's local land use, zoning authority and police powers as a statutory town pursuant to Colorado law and consistent with the authorization provided by the Colorado Medical Marijuana Code, that 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) Patients and primary caregivers should otherwise be afforded the protections of Article XVIII, Section 14 of the Colorado Constitution and Section 25-1.5-106, C.R.S. (Ord. 4-2011, §1)

Sec. 6-192. Findings and 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 police powers authority granted to statutory towns, Section 31-15-401, C.R.S.
- (3) The Local Government Land Use Control Enabling Act, Section 29-20-101, et seq., C.R.S.
- (4) Municipal zoning powers, Section 31-23-101, et seq., C.R.S.
- (5) Municipal ordinance powers, Section 31-15-103, C.R.S.
- (6) Municipal authority to regulate businesses, Section 31-15-501, C.R.S. (Ord. 4-2011, §1)

Sec. 6-193. Uses prohibited.

(a) 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 manufacturer's 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.

(b) Medical marijuana prohibitions. The use of property as a medical marijuana center, optional premises cultivation operation or a facility for which a medical marijuana-infused products manufacturer's license could otherwise be obtained within the Town are all uses prohibited in any zoning district. (Ord. 4-2011, §1)

Sec. 6-194. 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 the rules promulgated thereunder, as the statute and rules may be amended from time to time. (Ord. 4-2011, §1)

Sec. 6-195. Penalty.

(a) A violation of the provisions of this Article shall be punishable by a fine of not more than one thousand dollars (\$1,000.00), jail for not more than one (1) year or by both such fine and jail.

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

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

(d) 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. 4-2011, §1)

Secs. 6-196—6-200. Reserved.