

Cherry Hills Village Municipal Code

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ARTICLE I

Business Licenses

Sec. 6-1-10. Purpose.

The purpose of this Article is the regulation and registration of businesses operating within the City for the health, safety and welfare of the citizens of the City and for the proper collection of taxes to support the City. (Ord. 9 §1, 2003)

Sec. 6-1-20. License required.

Every person must obtain a license from the City before operating, conducting or carrying on any retail trade, profession or business within the City; except that nonprofit state corporations, excluding federal, state or municipal corporations, are hereby exempt from the license requirements set forth in this Article. (Ord. 9 §1, 2003)

Sec. 6-1-30. Separate license for each location.

Any person 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. 9 §1, 2003)

Sec. 6-1-40. License application.

An application for a business license shall be made to the City Clerk on forms provided by the City. 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. 9 §1, 2003)

Sec. 6-1-50. License fees.

(a) Every person required to be licensed by the provisions of this Article shall pay a fee of twenty-five dollars (\$25.00) for every license unless specified otherwise in this Code or any other ordinance.

(b) Before granting the license, the fee required for the license must be paid at the office of the City Clerk. (Ord. 9 §1, 2003; Ord. 7 §4, 2004)

Sec. 6-1-60. Issuance.

Upon receipt of the required fee and compliance with Section 6-1-40, the City will issue a license that indicates that the license tax has been paid for the specified year. (Ord. 9 §1, 2003)

Sec. 6-1-70. Carrying or posting license required.

The license for a particular business location shall be posted at all times in a conspicuous place in the place of business. If the business is not operated, conducted or carried on at a fixed location, 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 City police officer or by any person representing the City. (Ord. 9 §1, 2003)

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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. 9 §1, 2003)

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

All licenses shall expire on January 1 of each calendar year. (Ord. 9 §1, 2003)

Sec. 6-1-100. Suspension.

A license may be suspended:

- (1) When any money due the City has not been paid. This includes failure to pay civil penalties, fines, taxes, impact fees or any other money owed to the City.
- (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. 9 §1, 2003)

Sec. 6-1-110. Revocation of license.

A license may be revoked by the City:

- (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. 9 §1, 2003)

Sec. 6-1-120. Notice and hearing prior to suspension or revocation.

All hearings to revoke, suspend or cancel a license shall be before the City Council. 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. 9 §1, 2003)

Sec. 6-1-130. Cease and desist.

If any business is operating without a license, the City 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 City; or to post a bond in the amount owing the City and to request in writing a hearing with the City Clerk. If the business does nothing, it shall cease operations on the third day. The hearing will be before the City Council. The proceedings shall not

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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. 9 §1, 2003)

Sec. 6-1-140. Refund of fees.

Upon refusal by the City 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 City, all monies paid therefor shall be and remain the monies of the City, and no refund shall be made to any licensee or holder of a permit. (Ord. 9 §1, 2003)

Sec. 6-1-150. 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 subject to a penalty as set forth in Section 1-4-20 of this Code. (Ord. 9 §1, 2003)

ARTICLE II

Alcoholic Beverages

Sec. 6-2-10. Definitions.

(a) As used in this Article, the following words and terms shall be defined as follows:

Applicant means and includes:

- a. If an individual, that person making an application for a license under this Article.
- b. If a partnership, the partners owning ten percent (10%) or more of the partnership that is making application for a license under this Article,
- c. If a corporation, the president, vice-president, secretary, treasurer, directors, manager and each stockholder owning ten percent (10%) or more of the stock of the corporation that is making application for a license under this Article.
- d. If a limited liability company, the manager and any member owning more than ten percent (10%) interest in the company that is making application for a license under this Article.

Authority or *Licensing Authority* means the City Council. Such term shall also include the City Clerk where the City Clerk is delegated the authority to administratively approve an application in accordance with this Article.

Colorado Liquor Code means Articles 46 and 47 of Title 12, C.R.S., and all rules, regulations, directives, guidelines and codes promulgated by the State of Colorado under the authority of Articles 46 and 47 of Title 12, C.R.S.

Manager includes the person or those persons who manage, direct, supervise, oversee and administer the acts, transactions and acts of employees of the establishments governed by this Article.

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Operator means a person licensed by law to sell alcoholic beverages at retail and who is engaged at any time during the calendar year in such operation within the City.

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

(b) All other words and phrases used in this Article shall have the meanings attached by state statutes regulating the sale of alcoholic beverages or, if not otherwise defined by such law, as used in their common, ordinary and accepted sense and meaning. (Ord. 7, 2003 §1; Ord. 9 §1, 2003)

Sec. 6-2-20. License required.

No person shall manufacture, sell or possess for sale any alcoholic beverage within the City unless such person holds a valid and effective license issued in accordance with both this Article and applicable provisions of Articles 46, 47 and 48 of Title 12, C.R.S., and all applicable fees and taxes have been paid in full. (Ord. 7, 2003 §1)

Sec. 6-2-30. Applications for new licenses.

(a) The City Clerk shall receive all applications for licenses, and shall issue licenses granted by the Licensing Authority in accordance with this Article, upon receipt of such license fees and occupation taxes as are required by law and this Article.

(b) All applications for new licenses for the sale of alcoholic liquors at retail shall be filed with the City Clerk and shall be subject to the provisions of this Article and Articles 46 and 47 of Title 12, C.R.S. The City Clerk shall not accept an application that is not complete in every detail. If any application is deposited with the City Clerk and found upon examination to contain any omission or error, it shall be returned to the applicant for completion or correction without further action either by the City Clerk or the Licensing Authority. All licenses granted, except special events permits, shall be valid for a period of one (1) year from the date of their issuance unless revoked or suspended. No application shall be deemed complete by the City Clerk unless accompanied by the following:

- (1) All items required by state statute or Colorado Department of Revenue regulations;
- (2) Payment in full of the City and State license fees and an additional fee for the actual and necessary expenses of processing the application, conducting a public hearing and investigating, and for publishing and posting the required notice of such hearing;
- (3) Evidence from the Department of Community Development that the location of the proposed establishment meets the requirements of the applicable City zoning ordinance;
- (4) In the event that the application is for a hotel and restaurant license, tavern license, club license or beer and wine license, evidence from the appropriate County Health Department that the applicant is or may be licensed to operate a restaurant;
- (5) Copies of any contract or agreement that confers a power of authority upon any party to manage, operate or supervise the affairs of the proposed establishment and the acts of its employees, whether such a contract or agreement is presently in effect or whether it is intended to become effective following issuance of a license;

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(6) An affidavit stating that the proposed licensed premises is not located within five hundred (500) feet of any public or parochial school or the principal campus of any college, university or seminary;

(7) If any petitions signed by parties in interest that demonstrate the needs of the neighborhood and the reasonable requirements of the neighborhood regarding issuance of the license are to be submitted to the Licensing Authority at the public hearing, such petitions shall be submitted to the City Clerk not less than fifteen (15) days prior to the date of the public hearing on the application; and

(8) Any other information, document or form that the Licensing Authority deems necessary to carry out its duties as set forth in Title 12, Articles 46, 47 and 48, C.R.S., and all applicable regulations.

(c) Other provisions in this Section notwithstanding, where an applicant pursuant to a previous application under this Article has submitted documentation and such documentation is complete, current and in the possession of the City Clerk, the City Clerk may waive resubmission of such documentation;

(d) It shall be the obligation of the applicant to post notices required by the Colorado Liquor Code except that, at the applicant's request and upon the applicant's payment of a reasonable administrative fee for posting as established by the City Clerk, the City Clerk may post such notices on behalf of the applicant. The City Clerk shall be responsible for preparing the required notices for new applications. (Ord. 7, 2003 §1)

Sec. 6-2-40. Setting of public hearing for new licenses.

(a) Upon the City Clerk's administrative determination that the application is complete, the City Clerk shall schedule a public hearing upon the application to be heard not less than thirty (30) days from the date the application is accepted. The date of acceptance of the application by the City Clerk shall be deemed to be the date of the City Clerk's determination that the application is complete for the purposes set forth in state statutes.

(b) The boundaries of the City are hereby declared to establish the neighborhood affected by a proposed liquor license for purposes of the processing of a new license application. An applicant may request in writing that the Licensing Authority administratively consider alternative boundaries of the neighborhood for purposes of a specific application; and, in the event of such request, consideration of the application shall be continued or postponed until the Licensing Authority administratively considers and establishes the appropriate neighborhood boundaries for purposes of the application. Prior to the Licensing Authority's administrative consideration, the applicant may submit a written statement to the Authority supporting the establishment of boundaries of the neighborhood as advocated by the applicant.

(c) The City Clerk shall prepare an official map showing the location of the proposed outlet and all outlets within the defined neighborhood to be presented at the public hearing. (Ord. 7, 2003 §1)

Sec. 6-2-50. Investigation.

(a) Within seven (7) days after the application has been accepted by the City Clerk, the following individuals shall present themselves to the Police Department to be photographed and fingerprinted:

(1) If the applicant is a natural person, that person;

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(2) If the applicant is a partnership, those partners who have a ten-percent or more financial interest in the partnership;

(3) If the applicant is a corporation, both the officers and directors, together with any person owning more than ten percent (10%) of the stock thereof;

(4) If the applicant is a limited liability company, the manager and those members having more than a ten-percent interest in the company; and

(5) Irrespective of the identity of the applicant, the manager of the proposed establishment having a tavern license or a hotel and restaurant license.

(b) The Police Department shall make background investigations of the above-named individuals, and for this purpose such individuals shall provide all information necessary for the investigation. Where a partner or corporate officer, director or stockholder, member or manager lives at such a distance from the City that travel would impose undue expense or inconvenience, the Chief of Police shall have the discretion to make other suitable arrangements in order to obtain the necessary photographs, fingerprints and information. Where a background investigation has been previously made of any individual enumerated in this Section either by the Police Department or another law enforcement agency, the Chief of Police shall have the discretion to employ such investigation and may waive the fingerprinting and photographing required by this Section.

(c) The Police Department shall obtain additional information as necessary to properly carry out the provisions of Title 12, Articles 46, 47 and 48, C.R.S., the rules and regulations promulgated by the Colorado Department of Revenue, the ordinances of the City and the rules and regulations of the Licensing Authority.

(d) Any reports of the results of any investigation conducted by any department shall be delivered by the respective departments or officials to the City Clerk at least ten (10) days prior to the date of the public hearing. Not less than five (5) days prior to the date of the hearing on the application, the report of the findings based on the investigation shall be mailed by the City Clerk to the applicant and to other interested parties upon request. (Ord. 7, 2003 §1)

Sec. 6-2-60. Public hearing.

(a) The applicant and a representative, if any, shall attend the public hearing on the application.

(b) The Licensing Authority may establish written procedures for the conduct of public hearings in conformity with state laws and ordinances and resolutions of the City. In the absence of such written procedures, the Licensing Authority shall act in accordance with common practices and procedures employed in the conduct of other quasi-judicial public hearings.

(c) The Licensing Authority shall have the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books and records necessary to the determination of any hearing that the Licensing Authority is authorized to conduct. It is unlawful for any person to fail to comply with any subpoena issued by the Licensing Authority in the proper conduct of its hearings.

(d) A subpoena shall be served in the same manner as a subpoena issued by the District Court of the State. Upon failure of any witness to comply with such subpoena, the City Attorney shall, at the direction of the Licensing Authority:

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(1) Petition a Judge of the Municipal Court, setting forth that due notice has been given of the time and place of attendance of the witness and the service of the subpoena, and that the Court, after hearing evidence in support of or contrary to the petition, enter its order compelling the witness to attend and testify or produce books, records or other evidence, under penalty of punishment for contempt in case of willful failure to comply with such order of court; or

(2) Petition the District Court in the County, setting forth that due notice has been given of the time and place of attendance of the witness and the service of the subpoena, and that the Court, after hearing evidence in support of or contrary to the petition, enter its order as in other civil actions, compelling the witness to attend and testify or produce books, records or other evidence, under penalty of punishment for contempt in case of willful failure to comply with such order of court. (Ord. 7, 2003 §1)

Sec. 6-2-70. Decision on new applications.

Following the public hearing on a new application, the Licensing Authority shall render its decision no later than thirty (30) days after the date of the public hearing; provided, however, that the Licensing Authority may continue the hearing from time to time as may be required to gather necessary facts and evidence and to permit witnesses to testify; and the time limit for the decision on a new application shall run from the date of the conclusion of the hearing, as continued. (Ord. 7, 2003 §1)

Sec. 6-2-80. License renewals.

(a) All renewal applications for alcoholic beverage licenses shall be submitted to the City Clerk on the prescribed forms no later than forty-five (45) days prior to the date on which the license expires, except that the Licensing Authority, for good cause, may waive the time requirement set forth in this Section. The forms shall be accompanied by all the required fees and such additional materials as the Licensing Authority deems necessary to carry out the provisions of the Colorado Liquor Code, this Article and all applicable regulations. The City Clerk shall not accept an application unless the application is complete in every detail. If any application is deposited with the City Clerk and found upon examination to contain any omission or error, it shall be returned to the applicant for completion or correction without further action either by the City Clerk or the Licensing Authority.

(b) The City Clerk is authorized to administratively review and approve an application for the renewal of any previously approved liquor license where, after a reasonable investigation by the City Clerk and consultation by the City Clerk with other appropriate administrative and law enforcement personnel, all of the following circumstances are found by the City Clerk to exist:

(1) The applicant has timely and properly submitted a complete license renewal application and tendered all required fees and taxes in accordance with this Article and the provisions of Title 12, C.R.S.

(2) The applicant's license is in good standing with the City and the State, and no violation of law has occurred over the previous year.

(3) To the knowledge of the City Clerk, there is no pending or proposed criminal or legal investigation or charges against the applicant or the licensed premises.

(4) There is no other information or knowledge available to the City Clerk that would cause the City Clerk, in his reasonable belief, to believe that no other violation of applicable law has occurred and the license should not be renewed.

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(c) The City Clerk shall retain the discretion to refer and forward any renewal application to the Licensing Authority for review and renewal decision when, in the Clerk's sole discretion, the renewal application presents questions or issues more appropriately considered by the Licensing Authority. (Ord. 7, 2003 §1)

Sec. 6-2-90. Special events permit.

The Licensing Authority may issue special events permits for sale of alcoholic beverages as set forth in Title 12, Article 48, C.R.S., and the regulations promulgated by the State. An application for a special events permit shall be accompanied by payment of all applicable state fees, as well as a fee to cover the costs to the City of investigation and issuance of a permit. When an event is held on premises owned or controlled by the City, proof of insurance acceptable to the City Attorney must be filed with the application. Notice of the City's receipt of an application for special events permit and the ability to protest the issuance of the permit shall be posted on the property subject to the proposed special event permit not less than ten (10) days prior to the date of approval of the permit by the Licensing Authority. It shall be the obligation of the applicant to post notices required by the Colorado Liquor Code except that, at the applicant's request and payment of a reasonable administrative fee for posting as established by the City Clerk, the City Clerk may post such notice. The City Clerk shall be responsible for preparing the required notice for special events permits. A hearing by the Licensing Authority on the special event permit application shall not be necessary unless a protest to the application is filed in accordance with Section 12-47-107, C.R.S. (Ord. 7 §1, 2003)

Sec. 6-2-100. Optional premises license.

The Licensing Authority may issue optional premises licenses as set forth in Title 12, Article 47, C.R.S., and the regulations promulgated by the State. The standards for issuing an optional premises license shall be those standards set forth in Title 12, Article 47, C.R.S. (Ord. 7 §1, 2003)

Sec. 6-2-110. Transfer of license.

An application for a transfer of ownership of a licensed premises shall be on forms prepared and furnished by the state licensing authority. No application shall be accepted unless complete and unless all applicable fees have been paid. A hearing by the Licensing Authority on the application shall not be necessary, unless the City opposes the transfer or unless the Licensing Authority determines a hearing would benefit the public. (Ord. 7 §1, 2003)

Sec. 6-2-120. Change in manager.

(a) Any change in the manager of a licensed establishment shall require approval of the Licensing Authority. The licensee seeking a change in manager shall file the prescribed forms with the City Clerk within thirty (30) days of such change, and the new manager shall present himself to the Police Department for photographing, fingerprinting and background investigation.

(b) The City Clerk may administratively approve a change of manager for any licensed establishment upon a finding by the City Clerk, after consultation with the City Manager and the Chief of Police, that there is no information or knowledge available to the City Clerk that could support denial of the application for change in manager. The City Clerk shall refer any application for change of manager to the Licensing Authority for the Authority's review and decision where the City Clerk finds that information may support denial of the application. (Ord. 7 §1, 2003)

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Sec. 6-2-130. Notice of show cause or nonrenewal hearing.

The Licensing Authority may suspend or revoke a license in accordance with the Colorado Liquor Code. When the Licensing Authority issues an order to show cause why a license should not be suspended or revoked, the Licensing Authority shall give the licensee reasonable advance notice of the time and place of the hearing, the authority and jurisdiction under which the hearing is to be held, and the violation alleged to support the complaint. Such notice shall be mailed by the City Clerk to the licensee by first class mail, postage prepaid. (Ord. 7 §1, 2003)

Sec. 6-2-140. Procedural rules and regulations.

The Licensing Authority may promulgate reasonable procedural rules and regulations for carrying out the provisions of this Article, provided that the rules and regulations are not in conflict with the Colorado Liquor Code or any other provision in this Article. (Ord. 7 §1, 2003)

Sec. 6-2-150. License fee and application fee.

(a) There shall be levied and assessed for each year an annual City liquor license fee upon the business of selling alcoholic beverages in the City based on the type of license held by the licensee. The license fee shall be levied in an amount as set forth in 12-47-505, C.R.S.

(b) There shall be levied and assessed an application fee for all applications submitted to the City for a license or other form of approval pursuant to the Colorado Liquor Code. The amount of such application fee shall be the maximum authorized by the State. In the event that no maximum fee is specifically established by the State, the application fee shall be administratively established by the City Clerk based on the actual and necessary expenses associated with the City's processing of the application. In no event shall the application fee be less than the amount indicated below for the following license applications:

<i>LICENSE APPLICATION</i>	<i>LICENSE APPLICATION FEE</i>
New license	\$500.00
License renewal	50.00
Modification of premises	100.00
Transfer of ownership	500.00
Transfer of location	500.00
Change of corporate structure	100.00
Special events permit (malt, vinous, spirituous liquors)	25.00
Special events permit (malt beverage)	10.00
Temporary permit	100.00
Manager's registration	75.00
Late renewal	500.00

(Ord. 7 §1, 2003; Ord. 9 §1, 2003; Ord. 7 §5, 2004)

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Sec. 6-2-160. Fines in lieu of suspension.

The Licensing Authority is empowered to impose fines in lieu of the suspension of a license to sell alcoholic beverages as provided for in the Colorado Liquor Code. (Ord. 7 §1, 2003)

Sec. 6-2-170. Violations; penalty.

Penalties for violations of this Article shall be as provided for in Section 1-4-20 of this Code and shall be in addition to any special penalty provided for in this Article. Each twenty-four-hour period during which such violation occurs shall constitute a separate offense and violation of this Article. Notwithstanding any other penalty that may be levied, any licensee, his manager or agent, who violates the terms of this Article shall be subject to suspension or revocation of his liquor license pursuant to the Colorado Liquor Code. (Ord. 7 §1, 2003)

Sec. 6-2-180. Hearings, aggravating and mitigating factors.

In all cases where a hearing is held regarding the referred to issue, suspension, revocation or nonrenewal of any license issued pursuant to this Article, the Licensing Authority shall consider the following factors in mitigation or aggravation:

- (1) Seriousness of the violations (affront to the public).
 - (2) Corrective actions taken (if any).
 - (3) Prior violations and offenses at the licensed premises and effectiveness of prior corrective actions.
 - (4) Prior violations and offenses by the licensee.
 - (5) Violation as a repeated course of conduct or as a single event.
 - (6) Likelihood of recurrence.
 - (7) Willfulness of the violations.
 - (8) Hardship on the licensee for the sanction imposed.
 - (9) Length of time a license has been held by the licensee.
 - (10) Previous sanctions imposed against the licensee.
 - (11) Other factors making the situation with respect to the licensee or premises unique.
- (Ord. 7 §1, 2003)

Sec. 6-2-190. Annual occupation tax.

(a) The City Council finds, determines and declares that, considering the nature of the business of selling alcoholic beverages and the relationship of such business to the municipal welfare, as well as the relationship thereof to the expenditures required of the City, a proper, just and equitable distribution of the tax burdens within the City and all other matters properly to be considered in relation thereto, the

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classification of such business as a separate occupation is reasonable, proper, uniform, nondiscriminating and necessary for a just and proper distribution of the tax burdens within the City.

(b) For purposes of imposing an annual occupation tax, the following classes of licenses shall be defined:

(1) Class "A" Operators: All operators licensed to sell alcoholic beverages for consumption on the premises, either as hotels or restaurants or taverns, shall be Class "A" operators.

(2) Class "B" Operators: All operators licensed to sell alcoholic beverages for consumption on the premises and at an optional premises location at hotels or restaurants, taverns or clubs (Classes A and C) shall be Class "B" operators, which shall be supplemental to their primary class of license.

(3) Class "C" Operators: All operators licensed to sell alcoholic beverages as clubs are Class "C" operators.

(4) Class "D" Operators: All operators licensed to sell alcoholic beverages after the hour of 8:00 p.m. and until midnight on Sundays and Christmas, either as hotels or restaurants, taverns or clubs (Classes A and C) shall be Class "D" operators, which shall be supplemental to their primary class of license.

(c) The annual occupation tax shall be levied and assessed by this Article as set forth below:

<i>OPERATOR CLASS</i>	<i>ANNUAL TAX FOR LIQUOR LICENSE</i>
Class A Operators	\$2,000.00
Class B Operators	200.00
Class C Operators	2,000.00
Class D Operators	800.00

Such occupation taxes shall be in addition to the annual license fees and application fees paid to the City and the State, and shall be paid prior to the issuance of the City license. No refund of any tax paid in accordance with this Article shall be made to any person who discontinues or sells his business during the duration of the license; provided, however, that the new owner of any establishment, when approved as the new licensee, shall be credited on a monthly basis for any occupation tax paid by the previous owner for the term of the previous owner's license.

(d) In addition to any other remedy provided by this Article, the City shall have the right to recover all sums due and owing under this Article by any civil remedy available under existing laws. (Ord. 7 §1, 2003; Ord. 9 §1, 2003; Ord. 7 §6, 2004)

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ARTICLE III

Security Guard Businesses

Sec. 6-3-10. Definitions.

When used in this Article, the following words and phrases, unless the context indicates a different meaning, shall be interpreted as follows:

Armed guard means any security guard who is also authorized pursuant to Section 6-3-140 to carry a firearm in the performance of his employment as a security guard.

Company means any individual, firm, association, corporation, partnership, school, private club or other entity.

Peace officer means a sheriff, undersheriff, deputy sheriff, police officer, state patrol officer, coroner, marshal, any officer, guard or supervisory employee of an institution within the Colorado Department of Institutions, a district attorney or the Attorney General, a probation or parole officer, an officer or member of the National Guard while acting under the call of the Governor in cases of emergency or civil disorder, an agent of the Colorado Bureau of Investigation, or a wildlife conservation officer.

Security guard means any person employed or retained to provide protection to persons or property of others.

Security guard business means: (i) any company that provides protection of persons or property of others with security guards, or (ii) any company that employs security guards for the protection of its own property or individuals thereon; provided that *security guard business* does not include an individual who employs security guards directly for the protection of his own person, family, property or individuals thereon. (Ord. 9 §1, 2004)

Sec. 6-3-20. License required.

It is unlawful for any company to carry on, engage in or conduct a security guard business in the City without first having obtained a license as provided in this Article. (Ord. 9 §1, 2004)

Sec. 6-3-30. Applicability.

The provisions of this Article shall not apply to or regulate activities of:

- (1) Any peace officer while acting or employed in his official capacity;
- (2) Any private detective, not engaged in providing security guard service;
- (3) Any person engaged in the direction, escort or protection of a funeral procession; or
- (4) Any person engaged in the business of providing to others a pickup and delivery service for the purpose of distributing money or other negotiable securities. (Ord. 9 §1, 2004)

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Sec. 6-3-40. Licensing requirements – age – corporate applicants.

No applicant shall be licensed under the provisions of this Article unless:

- (1) If the applicant is an individual, the applicant is a citizen of the United States at least twenty-one (21) years of age or more; or
- (2) If the applicant is a corporation, partnership or other entity, the applicant is organized or authorized to do business in the State. (Ord. 9 §1, 2004)

Sec. 6-3-50. Licensing requirements – criminal convictions.

No individual or entity shall be eligible to obtain or hold any license provided by this Article if the applicant, or any member, partner, officer, director or the holder of more than a ten-percent interest in the corporate applicant, has been convicted of:

- (1) Any crime of murder, first or second degree sexual assault, kidnapping, burglary, assault with a deadly weapon or armed robbery; or
- (2) Any other felony or any crime involving infliction of violence upon the person of another, within the ten (10) years immediately preceding the date of application. (Ord. 9 §1, 2004)

Sec. 6-3-60. License – application.

Any company desiring to carry on a security guard business in the City shall make application in writing to the Police Department for a license. The application shall set forth:

- (1) A description of the nature and scope of the security guard business to be conducted;
- (2) The names and places of residence of the persons making such application; or the names and places of residence of the officers and directors, partners or members of a corporation, partnership or other entity making such application, together with the names and addresses of any persons holding more than a ten-percent interest of such entity;
- (3) The address of the principal office or place of business of such person or entity;
- (4) The name of the individual in charge of such business;
- (5) The name of the individual in charge of or responsible for the operations of such security guard business within the City;
- (6) The names and addresses of not less than three (3) persons, as references, of whom inquiry can be made as to the character, standing and reputation of the person or entity making such application;
- (7) For any company other than an individual, a duly certified copy of the certificate of good standing, or the qualification to conduct business in the State;
- (8) A statement of the number of persons to be employed as security guards;

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(9) A statement of the number of vehicles to be used in the conduct of the business and a description thereof;

(10) The acceptance by the licensee of the condition, to be expressed in the license, that the license may be revoked by the Chief of Police at any time during the term for which the same was issued, upon just cause shown, and after an opportunity, upon reasonable notice, for the licensee to show cause why such license should not be revoked;

(11) Payment of a nonrefundable license application fee of one hundred dollars (\$100.00) for the initial application and fifty dollars (\$50.00) for each renewal application. The applicant shall also pay with each application a fee based on the number of security guards employed to work within the City. The fee shall be fifty dollars (\$50.00) for one (1) to nine (9) security guards, one hundred dollars (\$100.00) for ten (10) to nineteen (19) security guards, and one hundred fifty dollars (\$150.00) for twenty (20) or more security guards; and

(12) Such further and additional information as the Chief of Police may require for the investigation of the application and the enforcement of this Article. (Ord. 9 §1, 2004)

Sec. 6-3-70. License – issuance.

(a) After the receipt and investigation of such application, and upon being satisfied that the company making the same is of good repute and intends to carry on an honest and legitimate business, and that all requirements of this Article have been met, the Chief of Police shall issue a license authorizing the applicant to carry on a security guard business within the City for the period of one (1) year from and after the date of issuance of such license.

(b) If, after receipt and investigation of any application received pursuant to the terms of this Article, the Chief of Police shall determine that the applicant's character or business responsibility is unsatisfactory, or if the applicant fails to meet any of the requirements of this Article, the Chief of Police shall deny the application and shall notify the applicant of such disapproval.

(c) It shall be the sole and exclusive responsibility of the licensee to investigate and assure the compliance of each of the licensee's employees with the requirements of this Article. (Ord. 9 §1, 2004)

Sec. 6-3-80. Security guard business employees.

(a) No individual shall be employed by any licensee hereunder as a security guard in the City unless such individual meets the criteria required of the licensee as set forth in Section 6-3-50 above as confirmed by a Colorado Bureau of Investigation background check. Prior to the commencement of the employment of any employee, the licensee shall provide evidence to the City that such background check has been completed for such employee. An off-duty peace officer may be employed as a security guard and no additional Colorado Bureau of Investigation background check shall be required.

(b) The licensee shall assure that each security guard employed by the licensee is in good physical condition, and does not suffer from any psychological or mental impairments which would preclude the employee from performing his duties or which would pose a danger to citizens and residents of the City.

(c) The licensee shall assure that each security guard employed or retained by the licensee will, at all times he is performing duties of his employment within the City, wear an identification card affixed to his uniform or clothing stating the licensee's name, the security guard's name, address, hire number if applicable, date of issue, and licensee's license expiration date. This identification card, which shall have

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a current picture, physical description, thumb print and signature of the individual employee as part thereof, shall be worn in plain view while working as a security guard within the City. If the security guard is also functioning as an armed guard, the identification card shall be red.

(d) It shall be the duty and responsibility of the licensee to provide a bond for the benefit of the City. The bond shall be issued by a corporate surety company in a form approved by the City Attorney, payable to the City and naming the City as obligee, in the amount of ten thousand dollars (\$10,000.00) for each employee who shall act as a security guard. (Ord. 9 §1, 2004)

Sec. 6-3-90. Individuals not employed or retained by licensed security guard business.

Any individual desiring to engage in the occupation of security guard in the City without being employed or retained by a security guard business licensed under the provisions of this Article shall make application for and obtain a license as provided in Sections 6-3-40 through 6-3-70 of this Article, and shall be subject to all of the duties and requirements of this Article applicable to security guard businesses. (Ord. 9 §1, 2004)

Sec. 6-3-100. Authority – liability of sureties.

A license granted under the provisions of this Article shall be sufficient authority for the individual or entity named as licensee to carry on and engage in the security guard business in the City, and to employ such security guards, armed guards and other employees as such licensee may deem necessary, subject to the licensing requirements of this Article; however, the licensee, and the sureties upon the bond of the licensee, shall be liable upon such bond as well for the act of any security guards, armed guards or other employee as for the act of the principal obligor in the bond. (Ord. 9 §1, 2004)

Sec. 6-3-110. License renewal.

In order to renew a license prior to the expiration of the license, a new, complete application must be received by the City at least thirty (30) days prior to such expiration, to be processed in accordance with Section 6-3-70 of this Article. (Ord. 9 §1, 2004)

Sec. 6-3-120. Licenses not transferable.

No license granted under the provisions of this Article shall be transferable. This Section shall not be construed so as to prevent or prohibit a change by the licensee in the manager, superintendent or other person in charge of the security guard business, provided that a certificate setting forth the change, and containing the information required in Section 6-3-60 above, must first be filed by the licensee with the Chief of Police. (Ord. 9 §1, 2004)

Sec. 6-3-130. Vehicle marking.

(a) Any vehicles used in the conduct of the security guard business within the City by the licensee shall not exhibit colorings, markings or equipment so similar to marked patrol vehicles of the City or Arapahoe County as to be confused with the City police or Arapahoe County Sheriff vehicles. In addition, the security guard business vehicles shall not be equipped with any lights or sirens in violation of the traffic code of the City or the laws of the State, nor shall any insignia be painted on the sides thereof which are similar to, or which could be confused with, that painted on the sides of the City police vehicles or the Arapahoe County Sheriff vehicles.

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(b) At the time of application for the license identified in Section 6-3-60 of this Article, the applicant shall provide to the Police Department a picture of a vehicle utilized by security guards of the licensee. After issuance of the license provided for herein, no licensee shall change or modify the logo or painting of any such vehicle without the prior authorization of the Chief of Police. (Ord. 9 §1, 2004)

Sec. 6-3-140. Armed guards.

(a) Before any security guard employed or retained by a licensee shall carry a firearm within the City and function as an armed guard, the security guard shall either: (i) obtain a concealed weapon permit pursuant to Section 18-12-201 et seq., C.R.S., and maintain such permit in good standing thereafter, or (ii) demonstrate the need for such firearm and proficiency in the use, maintenance and care of such firearm in such manner as the Chief of Police shall determine in his sole discretion. In no event shall any individual be deemed proficient in the use, maintenance and care of a firearm unless the individual receives at least eight (8) hours annual training in the use, care and maintenance of firearms. Any armed guard shall wear a red identification card as provided in Section 6-3-80(c). It is a continuing duty of the licensee to comply with the provisions of this Section.

(b) All armed guards employed by the licensee who carry a weapon or firearm within the City other than a concealed weapon licensed under Section 18-12-201 et seq., C.R.S., shall provide a certification of the make, model, caliber and type of firearm, and the serial number of the firearm carried, to the Chief of Police.

(c) Nothing contained herein shall be construed to authorize the carrying of a concealed weapon or firearm by any employee of the licensee without compliance with all applicable laws and requirements relating to the carrying of such a concealed weapon or firearm.

(d) Failure of the licensee to comply with, and to ensure that its employees and independent contractors comply with, the provisions of this Section shall constitute a violation of this Article and shall be grounds for revocation of the licensee's license, notwithstanding any other provision of this Article. (Ord. 9 §1, 2004)

Sec. 6-3-150. License revocation.

In addition to the other acts specifically identified and prohibited by this Article, the occurrence of any of the following acts or events shall constitute grounds for revocation of a license:

- (1) Material misrepresentation or concealment of information required in the application for a license;
- (2) Violation of any federal, state or municipal law relating to use or possession of firearms or weapons;
- (3) Impersonation of a peace officer by any employee of the licensee;
- (4) Conviction of the licensee or any principal owner or officer of the licensee, or any employee of the licensee, of any felony offense under the laws of Colorado or the United States; or the conviction of any criminal offense or city ordinance violation, except traffic violations, while acting as a security guard;
- (5) Any violation of the provisions of this Article. (Ord. 9 §1, 2004)

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Sec. 6-3-160. Revocation hearings.

Revocation of a license may occur following a hearing conducted by the Chief of Police, upon not less than five (5) days' written notice to the licensee. The decision and determination of the Chief of Police shall be subject to review or appeal to the City Manager, provided that written notice of appeal is filed with the City Manager within ten (10) days following the decision of the Chief of Police. Such decision of the City Manager shall be final and subject to review as provided by C.R.C.P. Rule 106(a)(4). (Ord. 9 §1, 2004)

Sec. 6-3-170. Change in personnel, place of business or vehicles.

(a) Whenever the employment of a security guard is terminated for any reason, the licensee shall immediately notify the Chief of Police of such fact and surrender to the Chief of Police any and all identification cards issued to such person.

(b) Any licensee changing place of business shall immediately notify the Chief of Police of such fact, together with the address of the new place of business. A change of the place of business shall not be deemed a transfer of license, or require the payment of any additional fees.

(c) Whenever a vehicle is acquired by a licensee for use in the conduct of his business, the type and description of such vehicle, together with the type and description of any vehicle replaced by it, shall be immediately reported to the Chief of Police.

(d) In addition to any other requirement set forth in this Section, it shall be the duty of the licensee to provide to the Police Department in connection with each license application a current list of those employees of licensee who are providing security guard services within the City. (Ord. 9 §1, 2004)

Sec. 6-3-180. Unlawful acts.

In addition to the other acts prohibited by this Article, it shall be unlawful:

(1) For any licensee to fail to turn over immediately to the Police Department or other appropriate public law enforcement agency any person arrested by such licensee pursuant to the laws of the State. Nothing contained in this Article shall be construed as authorizing any licensee to make an arrest not authorized under the laws of the State to be made by a private citizen;

(2) For any licensee whose employee fires a firearm within the City to fail to promptly report such incident to the Police Department;

(3) For any licensee or employee thereof to hinder or interfere with any investigation under the jurisdiction of the Police Department;

(4) For any licensee or employee thereof to fail to report immediately to the Police Department any known violations of City ordinances or to fail to report to the Police Department or other appropriate public law enforcement agency any known violations of state or federal laws;

(5) For any employee of the licensee, while engaged in his course of employment, to wear a uniform or insignia similar to that worn by a peace officer;

(6) For any employee of the licensee under this Article to represent himself to be an officer of the Police Department;

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(7) For any employee of the licensee to carry any firearm not registered to the extent required by Section 6-3-140 of this Article;

(8) For any licensee to fail to surrender the licensee's identification card/license after termination of the license;

(9) For any person, other than a peace officer or member of the armed forces of the United States or Colorado National Guard acting in the lawful discharge of his duties or a person who has a valid permit and license pursuant to the Federal Code for such weapon, to knowingly possess an illegal weapon. (Ord. 9 §1, 2004)

ARTICLE IV

Security Alarm Systems

Sec. 6-4-10. Legislative intent; purpose.

The purpose of this Article is to set forth regulations governing security alarm systems with the City, to establish an application procedure for permits, to establish fees and assessments, to provide for revocation and nonresponse status, and to establish penalties for violation of the provisions of this Article. (Prior code 3-6-1)

Sec. 6-4-20. Definitions.

For the purpose of this Article, certain words and phrases used in this Article are defined as follows:

Alarm screening system means a method of providing information from the alarm site to a predesignated monitoring location by means of audio, video, personal contact or other device approved by the Chief of Police, which information shall be used to make a reasonable determination of the need for a police response prior to notifying the Police Department of an activated alarm.

Applicant means a person who files an application for a new or renewal permit as provided in this Article.

Audible alarm system means a device designed for the detection of an unauthorized entry into a building, structure or facility or for alerting others of the commission of unlawful acts within a building, structure or facility, or both, which generates audible sound when activated.

Automatic telephone dialing alarm means any telephone attachment that automatically or electronically selects a public telephone line of the City or any agency providing police communication for the City, then reproduces a prerecorded message to report any burglary or other emergency.

False alarm means any alarm signal originating from a security alarm system to which the Police Department responds and which results from:

- a. False activation, where the activator knows or should reasonably know that such alarm is false, including reporting a burglary where there is no evidence to substantiate an

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attempted or forced entry to the premises or reporting a robbery where no actual or attempted robbery has occurred;

- b. Alarm activated by human negligence;
- c. Malfunction in a security alarm system, including overly sensitive settings.

The term *false alarm* does not include alarms which arise from conditions which are clearly beyond the control of the alarm user, e.g., electrical storms, tornadoes, floods or other acts of God.

Notice means written notice, given by personal service or sent by certified mail, return receipt requested, to the person to be notified at his last known address.

Permittee means any person granted a permit as provided in this Article.

Security alarm system means any mechanical or electrical device which is designed or used for the detection of an unauthorized entry into a building, structure or facility or for alerting others of the commission of an unlawful act within a building, structure or facility, or both; and which emits a sound or transmits a signal or message when activated. Security alarm systems include both local alarms and alarms which are monitored off of the alarm premises. (Prior code 3-6-2; Ord. 9 §1, 2003)

Sec. 6-4-30. Security alarm permit.

No person shall install or use a security alarm system without first being granted a security alarm permit as provided in this Article. (Prior code 3-6-3)

Sec. 6-4-40. Exemption.

The provisions of this Article do not apply to audible alarm systems installed in motor vehicles. (Prior code 3-6-4)

Sec. 6-4-50. Intentional false alarms unlawful.

It is unlawful for any person to intentionally cause the transmission of an alarm to the Police Department when that person reasonably should know such alarm to be false. (Prior code 3-6-5)

Sec. 6-4-60. Audible alarm requirements.

Every person maintaining an audible alarm system shall post a notice containing the name and telephone number of the person to be notified to render repairs or service and secure the premises during any hour of the day or night that the audible alarm system is activated. The notice shall be posted near the audible alarm system in such a position as to be legible from the ground level adjacent to the premises where the audible alarm system is located. All residential audible alarm systems shall be required to automatically shut off and reset after sounding for a maximum period of fifteen (15) minutes. Any person owning, possessing or using an audible alarm system which fails to shut off and reset after fifteen (15) minutes shall be subject to being charged with violation of Section 7-2-180 of this Code. (Prior code 3-6-6)

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Sec. 6-4-70. Prohibitions.

(a) Automatic telephone dialing alarm. No person shall install or use any telephone device or telephone attachment that automatically selects a public telephone trunk line of the City or the Sheriff's Department and then reproduces any prerecorded message to report any burglary or other emergency.

(b) Audible alarm system, hearing injury. No person shall install or use any security alarm system that is designed to cause hearing injury to any person. The noise level of an audible security alarm system in the City shall not exceed 110 dB. This sound level has been established using OSHA standards for permissible noise exposures during a thirty-minute time period. (Prior code 3-6-7)

Sec. 6-4-80. Permit applications and issuance.

(a) Issuing authority. The issuing authority shall be the City Manager.

(b) Approving authority. The approving authority shall be the City.

(c) Application forms. Applications for all permits required under this Article shall be filed with the Police Department. The Chief of Police shall prescribe the form of the application and request such information as is necessary to administer this Article. The application for an alarm system permit shall require the name, address and telephone number of the person who will render service or repairs to the alarm system during any hour of the day or night.

(d) Permit issuance. The permit shall be issued only to the person owning or using the alarm system.

(e) Notice of application information change. Whenever any change occurs in the written information required in a permit application, the applicant or permittee shall give written notice thereof to the Police Department within twenty (20) days.

(f) Permit nontransferable. A permit issued to a person for a security alarm system at a location under the provisions of this Article is not transferable upon another person becoming the owner or primary user of the security alarm system. Such person shall apply for and obtain a new permit as set forth in Section 6-4-30 above. (Prior code 3-6-8)

Sec. 6-4-90. Security alarm system permit, renewal fee.

Security alarm system permits shall be in an amount of twenty-five dollars (\$25.00) and shall be renewed each calendar year. The application for renewal of permit form shall be completed and the annual permit fee paid by March 1 of each year. Permit fees shall not be prorated. Applications for renewal of permits shall be processed in the same manner as applications for the initial permit; however, a permit may not be renewed while the subject security alarm system is in a nonresponse status as set forth in Sections 6-4-120 and 6-4-130 below or when false alarm response charges are past due as set forth in Section 6-4-100 below. (Prior code 3-6-9; Ord. 7 §10, 2004)

Sec. 6-4-100. Police Department false alarm response charges.

(a) Security alarm system operating with permit. The charge for the first two (2) responses made by the Police Department to the location of a false alarm during a calendar year is included in the annual security alarm permit fee. A charge of one hundred dollars (\$100.00) shall be charged for the third response to a false alarm, and a charge of two hundred dollars (\$200.00) shall be charged for the fourth

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and each successive response to a false alarm. The charge shall be paid to the City by the permittee of a security alarm system upon each successive response made by the Police Department to the location of a false alarm during the same calendar year.

(b) Security alarm system operated without permit. Upon the Police Department's first response to a location of a false alarm activated by a security alarm system operated without a permit as provided in this Article, the owner or user shall be notified by the Police Department of the security alarm system permit requirements as provided in this Article. If a permit has been obtained within fourteen (14) days of the first false alarm, all alarms shall be treated as if they occurred with the security alarm system having been operated with a permit. If the owner or user fails to obtain a permit within the same time period, the Chief of Police may place the security alarm system on a nonresponse status as provided in Sections 6-4-120 and 6-4-130 below.

(c) Billing. The City shall issue a monthly bill for the service charge accrued during the billing period and any prior periods. Such bills shall be due and payable within thirty (30) days after the billing date. (Prior code 3-6-10; Ord. 19 §1, 2002; Ord. 7 §11, 2004)

Sec. 6-4-110. Adjustment period.

All security alarm systems shall be afforded a thirty-day adjustment period, commencing with the date of the installation, in order that the system may be brought to maximum efficiency. During that period of time, no charges will be assessed for responses made by the Police Department to false alarms at the property protected by the security alarm system. This thirty-day adjustment period shall not apply unless the Chief of Police is notified in writing of the installation of the security alarm system. Such notification shall specify the date that the security alarm system became operational. (Prior code 3-6-11)

Sec. 6-4-120. Permit revocation and nonresponse status.

(a) Revocation of permit. The following shall constitute grounds for the revocation of an alarm system permit:

- (1) The violation of any of the provisions of this Article, including the failure to obtain a permit;
- (2) When any security alarm system activates more than four (4) false alarms during any calendar year, thereby constituting a public nuisance; and
- (3) Failure to pay the service charges after sixty (60) days of the billing date pursuant to Section 6-4-100 above.

(b) Nonresponse status. Any security alarm system which has had the permit revoked or any security alarm system operated without a permit may be placed on a nonresponse status by the Chief of Police to any future alarm activations during the revocation period and/or during the absence of a current permit. (Prior code 3-6-12; Ord. 19 §2, 2002)

Sec. 6-4-130. Revocation and nonresponse status; administration and procedure.

(a) The Police Department, in the case of such revocation or nonresponse status, shall serve the permittee with a written order of revocation or nonresponse status which shall state the reasons for such revocation or nonresponse status. This order shall be effective immediately if personally served to the

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permittee or upon certification to the City by the United States Postal Service that delivery has been made to said address.

(b) Immediately upon such an order of revocation or nonresponse status becoming effective, the permittee shall discontinue the use of any security alarm system requiring a permit under this Article and cease all operations conducted under the authority of any permit issued as provided in this Article.

(c) All security alarm systems placed on nonresponse status for reasons specified in this Article shall be on a list maintained by the Police Department. The Police Department may elect not to respond to any alarm actuation at locations on the nonresponse status list unless a personal request has been received or it has been determined that an actual burglary, robbery or other emergency is occurring.

(d) Reapplication after revocation. Any person having been issued a security alarm system permit which has been revoked by the City pursuant to Section 6-4-120 above shall be entitled to reapply for a permit to use the security alarm system upon meeting the following conditions:

(1) Any past due fees and charges owing to the City relating to security alarm systems have been paid;

(2) A permit reinstatement fee of one hundred dollars (\$100.00) shall be paid to the City without proration for the current calendar year; and

(3) All grounds for the revocation of the earlier permit have been corrected to the satisfaction of the Chief of Police, including but not limited to the installation and use of an alarm screening system on each security alarm system where the permit was revoked due to excessive false alarms.

(e) Appeal procedures. Any applicant for a security alarm system permit or permittee of a security alarm system as provided in this Article may seek administrative review of decisions by the Chief of Police regarding the issuance of permits, false alarm response charges, revocation of the permit or the nonresponse status of a security alarm system. Such person shall make the request for review in writing to the office of the City Manager within thirty (30) days after the date of the aggrieved action. (Prior code 3-6-13; Ord. 7 §12, 2004)

Sec. 6-4-140. Confidentiality.

The information furnished and secured pursuant to this Article and the security alarm permit shall be confidential and shall not be subject to public inspection. (Prior code 3-6-14)

Sec. 6-4-150. Violation; penalty.

Any person convicted of a violation of any of the provisions of this Article shall be subject to the penalties provided for in Section 1-4-20 of this Code. (Prior code 3-6-15)

Sec. 6-4-160. Enforcement.

The conviction or punishment of any person for violation of the provisions of this Chapter or for failing to secure a permit as required by this Chapter shall not relieve such person from paying the permit fee or service charge due and unpaid at the time of such conviction, nor shall the payment of any permit fee or service charge prevent criminal prosecution for the violation of any of the provisions of this Article. All remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the

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provisions of this Article. The amount of any permit fee or service charge shall be deemed a debt to the City. An action may be commenced in the name of the City in any court of competent jurisdiction for the amount of any delinquent permit fee. All permit fees shall be deemed delinquent thirty (30) days after they are due and payable. (Prior code 3-6-16)