

TITLE 5

Licenses, Permits and Business Regulations

Chapter 5.01 Reserved

Chapter 5.02 Alcohol Beverages

Article I. In General
Reserved

Article II. Licenses

Division 1. In General

- 5.02.160 Persons prohibited as licensees
- 5.02.170 Separate license for each business
- 5.02.180 Sale of all or part of business interest
- 5.02.190 Change of corporate officers or directors
- 5.02.200 Additional licenses; rules and relations; fees
- 5.02.210 Renewal

Division 2. 3.2 Beer

- 5.02.360 Application required; filing
- 5.02.365 Manager reporting
- 5.02.370 Fee
- 5.02.380 Establishing neighborhood and public hearing dates
- 5.02.390 Public notice
- 5.02.400 Investigation of applicant
- 5.02.410 Procedure at hearing
- 5.02.420 Considerations for approving or denying application
- 5.02.430 Approval or disapproval
- 5.02.440 Issuance of license in cases of building to be constructed
- 5.02.450 Change of location
- 5.02.460 Rehearing limitation
- 5.02.470 Judicial review

Division 3. Liquor

- 5.02.610 Definition
- 5.02.620 Application
- 5.02.630 Optional premises license
- 5.02.635 Manager registration
- 5.02.637 Manager reporting
- 5.02.640 Reserved
- 5.02.650 Initial appearance before Council
- 5.02.660 Public notice
- 5.02.670 Investigation of applicant
- 5.02.680 Procedure at hearing
- 5.02.690 Consideration of factors
- 5.02.700 Decision of Council
- 5.02.710 License fees
- 5.02.720 Business premises prerequisite
- 5.02.730 Distance from schools
- 5.02.740 Transfer
- 5.02.750 Change of location
- 5.02.760 Rehearing limitation
- 5.02.770 Judicial review

- 5.02.780 Exemptions
- 5.02.790 Tastings authorized
- 5.02.800 Imposing fines in lieu of suspension

Article III. Regulation of Conduct in Establishments Selling Alcohol Beverages

- 5.02.860 Definitions
- 5.02.870 Penalty for violation
- 5.02.880 Use of gambling equipment
- 5.02.890 Conduct on premises
- 5.02.900 When consumption on premises prohibited
- 5.02.910 Soliciting drinks
- 5.02.920 Loitering
- 5.02.930 Nudity on premises
- 5.02.940 Indecent displays
- 5.02.950 Showing of films, etc., depicting acts prohibited
- 5.02.955 Warning sign required

Article IV. Special Events Permit

- 5.02.960 Special events permit authorized
- 5.02.970 Fee

Article V. Greater Downtown Special Private Art Permit

- 5.02.980 Greater Downtown Special Private Art Permit authorized

Chapter 5.03 Amusement Devices and Arcades

- 5.03.010 Definitions
- 5.03.020 Licensing authority
- 5.03.030 License required; fee
- 5.03.040 License applications; contents
- 5.03.050 Approval of license
- 5.03.060 Public notice
- 5.03.070 Public hearing
- 5.03.080 Terms of the license
- 5.03.090 License renewal
- 5.03.100 Fees
- 5.03.110 Suspension or revocation of license
- 5.03.120 Display and transfer of license
- 5.03.130 Management
- 5.03.140 Hours of operation
- 5.03.150 Location
- 5.03.160 Lighting
- 5.03.170 Gambling prohibited
- 5.03.180 Violation; penalty
- 5.03.190 Application

Chapter 5.04 Reserved

Chapter 5.04 Reserved

Chapter 5.05 Peddlers and Solicitors

- 5.05.010 Title
- 5.05.020 Definitions
- 5.05.030 Permits and licenses
- 5.05.040 Fees
- 5.05.050 Application contents
- 5.05.060 License or permit; grounds for denial

- 5.05.070 Transfer of license and permits
- 5.05.080 Records
- 5.05.090 Appeal
- 5.05.100 Expiration of license or permit
- 5.05.110 Violation; penalties
- 5.05.120 Revocation of license or permit
- 5.05.130 Identification cards
- 5.05.140 Exhibit of permit
- 5.05.150 Reserved
- 5.05.160 Exemptions
- 5.05.170 Penalty

Chapter 5.06 Security Guards

- 5.06.010 Definitions
- 5.06.020 License required
- 5.06.030 Applicability
- 5.06.040 Licensing requirements; age; corporate applicants
- 5.06.050 Licensing requirements
- 5.06.060 Company license; application
- 5.06.070 Company license; issuance
- 5.06.080 Company license; list of employees to be submitted with application
- 5.06.090 Application fee
- 5.06.100 Patrolman not employed by licensed company
- 5.06.110 Investigations
- 5.06.120 License issuance requirements; insurance; and firearms certificate
- 5.06.130 License renewal
- 5.06.140 Licenses not transferable
- 5.06.150 Vehicle marking
- 5.06.160 License revocation
- 5.06.170 License suspension
- 5.06.180 Hearings
- 5.06.190 Unlawful acts
- 5.06.200 Penalty

Chapter 5.07 Sexually Oriented Businesses

Article I. In General

- 5.07.010 Purpose and intent
- 5.07.020 Definitions

Article II. Permits for Sexually Oriented Businesses

- 5.07.100 Permit required
- 5.07.110 Application for permit for sexually oriented business
- 5.07.120 Duty to supplement application
- 5.07.130 Investigation and application
- 5.07.140 Issuance of permit
- 5.07.150 Expiration of permit
- 5.07.160 Suspension of permit
- 5.07.170 Revocation of permit
- 5.07.180 Transfer of permit
- 5.07.190 Appeal rights

Article III. Manager's License

- 5.07.260 Manager's license required
- 5.07.270 Application for manager's license

- Article IV. Inspection**
 - 5.07.310 Inspection
- Article V. Regulations Pertaining to Exhibition of Sexually Explicit Films or Videos in Peep Booths**
 - 5.07.360 Generally
 - 5.07.370 Regulation of peep booths
- Article VI. Hours of Operation**
 - 5.07.410 Hours of operation
 - 5.07.420 Exemption
- Article VII. Minimum Age**
 - 5.07.510 Minimum age
- Article VIII. Lighting Regulations**
 - 5.07.560 Lighting regulations
- Article IX. Additional Regulations**
 - 5.07.610 Stage required in adult cabaret and adult theater
 - 5.07.620 Conduct in sexually oriented businesses
 - 5.07.630 Employee tips
 - 5.07.640 Unlawful acts
 - 5.07.650 Exemptions
 - 5.07.660 Fees
- Article X. Criminal Penalties and Additional Legal, Equitable and Injunctive Relief**
 - 5.07.710 Town's remedies
 - 5.07.720 Severability

- Chapter 5.08 Special Licensing Authority**
 - 5.08.010 Purpose
 - 5.08.020 Special Licensing Authority created
 - 5.08.030 Qualifications of Authority members
 - 5.08.040 Duties
 - 5.08.050 Membership of Authority; term; alternates
 - 5.08.060 Chairperson; appointment
 - 5.08.070 Vacancy; removal
 - 5.08.080 Bylaws
 - 5.08.090 Quorum
 - 5.08.100 Rules and procedures
 - 5.08.110 Subpoenas; violations and penalties
 - 5.08.120 Appeal from decisions

- Chapter 5.09 Pawnbrokers**
 - 5.09.010 Definitions
 - 5.09.020 License required
 - 5.09.030 Application
 - 5.09.040 License fee
 - 5.09.050 License term and renewal
 - 5.09.060 Bond
 - 5.09.070 Insurance
 - 5.09.080 Zoning approval
 - 5.09.090 Investigation of applicants
 - 5.09.100 Issuance or denial of license
 - 5.09.110 Revocation and suspension
 - 5.09.120 Manager

5.09.130	Change of owner, shareholder, partner, officer or director
5.09.140	Change of application
5.09.150	Register
5.09.160	Video required
5.09.170	Pawn tickets
5.09.180	Hold order and confiscation
5.09.190	Sale of tangible personal property
5.09.200	Hours
5.09.210	Proximity
5.09.220	Prohibited acts
5.09.230	Liability of pawnbroker
5.09.240	Penalties
5.09.250	Statutory provisions

CHAPTER 5.01

Reserved

CHAPTER 5.02

Alcohol Beverages

**Article I.
In General**

5.02.010—5.02.150 Reserved.

**Article II.
Licenses**

*Division 1
In General*

5.02.160 Persons prohibited as licensees.

(a) No license provided by this Chapter shall be issued to or held by:

- (1) Any person until the annual fee therefor has been paid;
- (2) Any person who is not of good moral character;
- (3) Any corporation any of whose officers, directors or stockholders holding ten percent (10%) of the outstanding and issued capital stock of the corporation are not of good moral character;
- (4) Any partnership, association or company, any of whose officers, or any of whose members holding ten percent (10%) or more interest therein, are not of good moral character;
- (5) Any person employing, assisted by or financed in whole or in part by any other person who is not of good character and reputation satisfactory to the respective licensing authorities;
- (6) Any sheriff, deputy sheriff, police officer, prosecuting officer, the state licensing authority or any of its inspectors or employees;
- (7) Any person, unless he or she is with respect to his or her character, record and reputation satisfactory to the respective licensing authority.
- (8) Any natural person under twenty-one (21) years of age.

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

(c) Investigation.

(1) In investigating the qualifications of the applicant or a licensee, the Local Licensing Authority may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the Local Licensing Authority takes into consideration information concerning the applicant's criminal history record, the Local Licensing Authority shall also consider any information provided by the applicant regarding such criminal history record, including, but not limited to, evidence of rehabilitation, character references and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of the application for a license.

(2) As used in Paragraph (1) above, *criminal justice agency* means any federal, state or municipal court or any governmental agency or subunit of such agency that performs the administration of criminal justice pursuant to a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice. (Ord. 5.28.6 §1, 2002; Ord. 5.28.4 §1, 1997; Ord. 5.28 §1(1-16), 1990)

5.02.170 Separate license for each business.

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

(b) In the event a specific business holding a license issued under this Chapter changes its business location, an application for a new license reflecting the change of location shall be made to the Town Clerk. An application fee in the amount of five hundred dollars (\$500.00) shall be paid to the Town at the time of making the application.

(c) The Town Clerk shall cause the new application for a license reflecting the change of location to be placed on the agenda of a Council meeting to be held not less than four (4) days nor more than thirty (30) days after the Clerk has received the application. The applicant, or his or her attorney, shall be in attendance at the Council meeting at which his or her application is presented. The date of presentation of the application to the Town Council shall be deemed the date of filing of the application. Upon receipt of the application, the Town Council shall follow procedures set forth in this Chapter for the investigation of the applicant, and the conduct of a public hearing and the notice requirement for such public hearing. (Ord. 5.28.4 §2, 1997; Ord. 5.28 §1(1-17), 1990)

5.02.180 Sale of all or part of business interest.

(a) Whenever any individual, corporation or partnership existing or licensed under this Chapter sells all or part of its corporate stock, partnership interest or business interest in a beer or liquor outlet and a new license application is required by the State, an application fee in the amount of five hundred dollars (\$500.00) shall be paid to the Town at the time of making the application.

(b) The Town Clerk shall follow the procedures in this Chapter for the investigation of the applicant, and shall determine whether the investigation reveals any information tending to establish

that the applicant may be prohibited from holding a license pursuant to Section 5.02.160 above. If the investigation reveals no information tending to establish that the applicant may be prohibited from holding a license, the Town Clerk shall issue a license to the applicant. Provided, however, that if the investigation reveals any information tending to establish that the applicant may be prohibited from holding a license, the Town Clerk shall cause the new application for the existing outlet to be placed on the agenda not less than four (4) days nor more than thirty (30) days after the Town Clerk has received the application. The applicant, or his or her attorney, shall be in attendance at the Town Council meeting at which his or her application is presented. The date of presentation of the application to the Town Council shall be deemed the date of filing of the application. Upon receipt of the application, the Town Council shall follow procedures set forth in this Chapter for the conduct of a public hearing. The Town Council shall only consider the criteria listed in Section 5.02.160 when conducting the hearing.

(c) The Town Clerk shall have the authority to issue a temporary permit to any applicant under this Section who has also satisfied the applicable provisions of Section 12-47-303, C.R.S., and the provision of such statute shall apply to both the issuance and administration of such a temporary permit. The Town Clerk shall charge a fee of one hundred dollars (\$100.00) for a temporary permit. (Ord. 5.28.4 §3, 1997; Ord. 5.28.2 §2, 1993; Ord. 5.28.1 §1, 1991; Ord. 5.28 §1(1-18), 1990)

5.02.190 Change of corporate officers or directors.

(a) Whenever any corporation causes a change in its corporate officers or directors, and a license addendum is required to be filed with the State, an application fee in the amount of one hundred dollars (\$100.00) shall be paid to the Town at the time of filing the addendum with the Town.

(b) Upon the filing of a license addendum, the procedures set forth in Section 5.02.180 above shall be followed. (Ord. 5.28.4 §4, 1997; Ord. 5.28 §1(1-19), 1990)

5.02.200 Additional licenses; rules and regulations; fees.

The Town Clerk shall establish rules and regulations concerning temporary beer or liquor licenses, special events licenses and renewal of 3.2 beer licenses. The Clerk is authorized to establish rules and regulations not inconsistent with other provisions of this Chapter for the filing, processing, investigation and review of applications for these licenses. The application and renewal fees for these licenses shall not be greater than the maximum fee allowed by law. (Ord. 5.28.4 §5, 1997; Ord. 5.28 §1(1-20), 1990)

5.02.210 Renewal.

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

(b) Upon receiving the completed renewal application, the Town Clerk shall assemble the file of the applicant and review the file to determine whether "good cause" is present for nonrenewal. Whether "good cause" is present is a fact specific inquiry depending on the circumstances of the case, and may be based on evidence that continuation of the license would be contrary to the public

interest, as well as the conduct of the licensee. If the Town Clerk's review indicates no facts or circumstances supporting "good cause" for nonrenewal, the Town Clerk shall issue a renewal license. Provided, however, that in the event that the renewal application is made by a financial institution which came into possession of the license by virtue of a deed in lieu of foreclosure, a hearing must be held before Council.

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

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

(e) In the event that a license is renewed by the licensing authority, such renewal will not affect a pending show cause order which relates to an incident that occurred prior to the date of the renewal. The licensing authority shall be authorized to take whatever action is necessary against a licensee either in the form of suspension or revocation of the liquor license regardless of when such license has been renewed. (Ord. 5.28.2 §1, 1993)

5.02.220—5.02.350 Reserved.

*Division 2
3.2 Beer*

5.02.360 Application required; filing.

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

- (1) Sales for consumption off the premises of the licensee;
- (2) Sales for consumption on the premises of the licensee;
- (3) Sales for consumption both on and off the premises of the licensee.

A person licensed pursuant to this Subsection may deliver at retail fermented malt beverages in factory-sealed containers in conjunction with the delivery of food products if such person has obtained a permit for the delivery of fermented malt beverages from the state licensing authority.

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

- (1) Three (3) letters of character reference;

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

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

(4) In the case of existing buildings, a plan of the interior of the building; in the case of buildings not yet built, architectural plans and specifications for the building. (Ord. 5.28.6 §2, 2002; Ord. 5.28 §1(1-36), 1990)

5.02.365 Manager reporting.

(a) A person licensed pursuant to this Division 2 shall manage the premises himself or herself or shall employ a separate and distinct manager on the premises and shall report the name of such manager to the Town. No person shall be a reported manager for more than one (1) licensed premises.

(b) Such person licensed shall report any change in managers to the Town within thirty (30) days after the change. Failure to report a change in managers shall be grounds for suspension of a license. (Ord. 5.28.9 §1, 2005; Ord. 5.28.6 §3, 2002)

5.02.370 Fee.

An application fee in the amount of five hundred dollars (\$500.00) and a license fee of three dollars and seventy-five cents (\$3.75) shall be paid to the Town at the time of making an application for a 3.2 beer license, and a renewal fee of twenty-five dollars (\$25.00) shall also be imposed by the Town for renewals. This fee shall be used by the Town to defray the expenses incurred by the Town in investigating the applicant and conducting the hearing. In addition, the Town shall impose a fee of seventy-five dollars (\$75.00) for the reporting of a manager if the manager is different from the licensed person, and shall also impose a fee of seventy-five dollars (\$75.00) for a change of managers in accordance with Section 5.02.365 of this Chapter. No part of this fee shall be refundable to the applicant for any reason. (Ord. 5.28.15 §1, 2009; Ord. 5.28.6 §4, 2002; Ord. 5.28.4 §6, 1997; Ord. 5.28.3 §1, 1996; Ord. 5.28 §1(1-37), 1990)

5.02.380 Establishing neighborhood and public hearing dates.

(a) The Town Clerk shall cause the application for a 3.2 beer license to be placed on the agenda of a Council meeting to be held not less than four (4) days nor more than thirty (30) days after the Clerk has received the application. The date of presentation of the application to the Town Council shall be deemed the date of filing of the application.

(b) The Town Council shall designate the neighborhood upon the presentation of the application.

(c) The Town Council shall also set a date for public hearing which date shall be held not less than thirty (30) days from the date of the Council meeting at which the date is set. (Ord. 5.28.3 §2, 1996; Ord. 5.28 §1(1-38), 1990)

5.02.390 Public notice.

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

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

(c) Where the building in which the 3.2 beer is to be sold is in existence at the time of the application for the license therefor, the sign shall be placed on the premises so as to be conspicuous and plainly visible to the general public from the exterior of the building. If the building is not in existence at the time of such application, the sign shall be posted upon the premises upon which the building is to be constructed in such manner that it shall be conspicuous and plainly visible to the general public. (Ord. 5.28 §1(1-39), 1990)

5.02.400 Investigation of applicant.

(a) The Police Department shall make an investigation of the applicant for a 3.2 beer license, and, in the case of a corporation, the board of directors of the applicant, and, in the case of a partnership, the partners of the applicant. Such investigation shall include the fingerprinting and photographing of the applicant and the obtaining from the Colorado Bureau of Investigation a report on the applicant. A written report of the finding of such investigation shall be delivered by the Chief of Police to the Town Clerk at least ten (10) days prior to the hearing on the application.

(b) Not less than five (5) days prior to the date of the hearing on an application under this Division, the written report of the findings based on the investigation by the Police Department shall be made available to the applicant and other interested parties. (Ord. 5.28 §1(1-40), 1990)

5.02.410 Procedure at hearing.

The rules of procedure to be followed in the conducting of the public hearing upon an application for a 3.2 beer license shall be established by the Mayor. (Ord. 5.28 §1(1-41), 1990)

5.02.420 Considerations for approving or denying application.

Before entering any decision approving or denying the application for a 3.2 beer license, the Town Council shall consider the following:

- (1) The desires of the adult inhabitants of the neighborhood as evidenced by petitions, remonstrances or otherwise;
- (2) The reasonable requirements of the neighborhood;
- (3) The character and reputation of the applicant, subject to the provisions contained in Section 5.02.160 of this Chapter; and
- (4) Other pertinent facts and evidence affecting the qualification of the applicant. (Ord. 5.28.6 §5, 2002; Ord. 5.28 §1(1-42), 1990)

5.02.430 Approval or disapproval.

The decision of the Town Council approving or disapproving the application for a 3.2 beer license shall be in writing stating the reasons therefor and shall be issued within thirty (30) days after the date of the public hearing on the application. A copy of such decision shall be sent by mail to the applicant to the address shown in the application. (Ord. 5.28 §1(1-43), 1990)

5.02.440 Issuance of license in cases of building to be constructed.

In the case of buildings not yet in existence, where the Town Council votes in favor of the issuance of a 3.2 beer license, the license shall not be issued until the building in which the business is to be conducted is ready for occupancy, and then only after inspection of the premises has been made to determine that the applicant has complied substantially with the architect's drawings and plans and specifications submitted with the application for such license. (Ord. 5.28 §1(1-44), 1990)

5.02.450 Change of location.

All of the procedures outlined in this Division shall be applicable to a change of location of an existing 3.2 beer license. (Ord. 5.28 §1(1-45), 1990)

5.02.460 Rehearing limitation.

No application for the issuance of a 3.2 beer license shall be considered by the Town Council if an application for a similar type license has been denied for the same location within the two (2) years immediately preceding the date of such new application. (Ord. 5.28 §1(1-46), 1990)

5.02.470 Judicial review.

Any person applying to the courts for a review of any licensing authority's decision shall apply for review within thirty (30) days after the date of decision and shall be required to pay the cost of preparing a transcript of proceedings before the licensing authority when such a transcript is furnished by the licensing authority pursuant to court order. (Ord. 5.28 §1(1-47), 1990)

5.02.480—5.02.600 Reserved.

*Division 3
Liquor*

5.02.610 Definition.

As used in this Division, the term *liquor license* shall include the following classes of licenses:

- (1) Retail liquor store license;
- (2) Liquor-licensed drugstore;
- (3) Beer and wine license;
- (4) Hotel and restaurant license;
- (5) Club license;
- (6) Tavern license;
- (7) Optional premises license;
- (8) Brew pub license;
- (9) Arts license;
- (10) Racetrack license; and
- (11) Retail gaming tavern license. (Ord. 5.28.4 §7, 1997; Ord. 5.28 §1(1-61), 1990)

5.02.620 Application.

All applications for new liquor licenses shall be filed with the Town Clerk. They shall be filed in duplicate on forms made available by the state liquor licensing authority. Each application shall be verified by the oath or affirmation of such persons as prescribed by the state licensing authority. Any application shall be accompanied by the following:

- (1) Three (3) letters of character reference;
- (2) The occupational tax required by the Town;
- (3) In the case of existing buildings, a plan of the interior of the building; in the case of buildings not yet built, architectural plans and specifications for the building;
- (4) Some evidence of ownership or right to possession of the premises, consisting of a copy of a deed or lease thereto;

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

(6) In the case of a corporation, a copy of its articles of incorporation, and if a foreign corporation, evidence of qualification to do business in this State, and a sworn statement setting forth the names and residence address and telephone number of each stockholder, director and officer of the corporation. (Ord. 5.28 §1(1-62), 1990)

5.02.630 Optional premises license.

(a) *Optional premises* means:

(1) Premises specified in an application for a hotel and restaurant license under Article 47, Title 12 (12-47-101, et seq.) of C.R.S., with related outdoor sports and recreational facilities for the convenience of its guests or the general public located on or adjacent to the hotel and restaurant within which such license is authorized to serve alcohol beverages in accordance with the provisions of this Division and at the discretion of the state and local licensing authorities; and

(2) The premises specified in an application for an optional premises license located on an applicant's outdoor sports and recreational facility.

For purposes of this Section *outdoor sports and recreational facility* means a facility which charges a fee for the use of such facility.

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

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

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

b. Show on the scale drawing the location at which alcohol beverages are to be dispensed, significant land or architectural factors;

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

(2) The decisions of the Town Council shall be made by resolution within thirty (30) days of the date of providing all information pertinent to the application. No public hearing shall be required, but the Town Council may order a public hearing should, in its discretion, a public hearing be necessary. (Ord. 5.28 §1(1-63), 1990)

5.02.635 Manager registration.

(a) A person licensed pursuant to this Division as a hotel and restaurant licensee or a tavern licensee shall manage the premises himself or herself or shall employ a separate and distinct manager on the premises and shall register the name of the manager with the Town. No person shall be a registered manager for more than one (1) licensed premises.

(b) Such person licensed shall register any change in managers to the Town within thirty (30) days of the change. Failure to register a change in managers shall be grounds for suspension of a license.

(c) The Town may refuse to accept any person as a registered manager unless the person is satisfactory to the Town as to character, record and reputation. In determining a registered manager's character, record and reputation, the Town may have access to criminal history record information furnished by a criminal justice agency, subject to any restrictions imposed by such agency. (Ord. 5.28.9 §2, 2005)

5.02.637 Manager reporting.

(a) A person licensed pursuant to this Division as a retail liquor store licensee, a liquor-licensed drugstore licensee, a beer and wine licensee, a club licensee, an optional premises licensee, a brew pub licensee, an arts licensee, a racetrack licensee or a retail gaming tavern licensee shall manage the premises himself or herself or shall employ a separate and distinct manager on the premises and shall report the name of such manager to the Town. No person shall be a reported manager for more than one (1) licensed premises.

(b) Such person licensed shall report any change in managers to the Town within thirty (30) days of the change. Failure to report a change in managers shall be grounds for suspension of a license. (Ord. 5.28.9 §3, 2005)

5.02.640 Reserved.

5.02.650 Initial appearance before Council.

(a) The Town Clerk shall cause the application for a liquor license to be placed on the agenda of a Council meeting to be held not less than four (4) days nor more than thirty (30) days after the Clerk has received the application. The date of presentation of the application to the Town Council shall be deemed the date of filing of the application.

(b) The Town Council shall designate the neighborhood upon the presentation of the application.

(c) The applicant shall comply with the policies and procedures established by the Town Clerk and adopted by the Town Council for applications, including, but not limited to, the form of petitions and the means and methods for surveying and canvassing the neighborhood.

(d) The Town Council shall also set a date for public hearing, which shall be not less than thirty (30) days from the date of the Council meeting at which the date is set. (Ord. 5.28.3 §3, 1996; Ord. 5.28 §1(1-65), 1990)

5.02.660 Public notice.

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

(1) The sign used for posting such notice shall be of cardboard material, not less than twenty-two (22) inches wide and twenty-six (26) inches high, composed of letters not less than one (1)

inch in height and stating the type of license applied for, the date of the application, the date of hearing, the name and address of the applicant, and such other information as may be required to fully apprise the public of the nature of the application. If the applicant is a corporation, association or other organization, the sign shall contain the names and addresses of the president, vice president, secretary and manager or other managing officers.

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

(3) Where the building in which the liquor is to be sold is in existence at the time of the application for the license therefor, the sign shall be placed on the premises so as to be conspicuous and plainly visible to the general public from the exterior of the building. If the building is not in existence at the time of such application, the sign shall be posted upon the premises upon which the building is to be constructed in such manner that it shall be conspicuous and plainly visible to the general public. (Ord. 5.28 §1(1-66), 1990)

5.02.670 Investigation of applicant.

(a) The Police Department shall make an investigation of the applicant for a liquor license, and, in the case of a corporation, the board of directors of the applicant, and, in the case of a partnership, the partners of the applicant. Such investigation shall include the fingerprinting and photographing of the applicant and the obtaining from the Colorado Bureau of Investigation of a report on the applicant. A written report of the finding of such investigation shall be delivered by the Chief of Police to the Town Clerk at least ten (10) days prior to the hearing on the application.

(b) Not less than five (5) days prior to the date of the hearing on an application under this Division, the written report of the findings based on the investigation by the Police Department shall be made available to the applicant and other interested parties. (Ord. 5.28 §1(1-67), 1990)

5.02.680 Procedure at hearing.

The rules of procedure to be followed in the conducting of the public hearing upon an application for a liquor license shall be established by the Mayor. (Ord. 5.28 §1(1-68), 1990)

5.02.690 Consideration of factors.

Before entering any decision approving or disapproving the application for a liquor license, the Town Council shall consider the following:

- (1) The facts and evidence of the investigation;
- (2) The reasonable requirements of the neighborhood for the type of license for which application has been made, including reference to the number, type and availability of liquor outlets located in or near the neighborhood under consideration;
- (3) The desires of the adult inhabitants of the neighborhood as evidenced by petitions, remonstrances or otherwise; and

(4) Other pertinent facts and evidence affecting the qualification of the applicant. (Ord. 5.28 §1(1-69), 1990)

5.02.700 Decision of Council.

The decision of the Town Council approving or denying the application for a liquor license shall be in writing stating the reasons therefor and shall be issued within thirty (30) days after the date of the public hearing thereon. A copy of such decision shall be sent by mail to the applicant at the address shown in the application. (Ord. 5.28 §1(1-70), 1990)

5.02.710 License fees.

The Town Council shall, from time to time, set by resolution license fees pursuant to this Chapter in an amount not to exceed that amount authorized by the applicable sections of the Colorado Beer and Liquor Codes, as the same may be amended from time to time. (Ord. 5.28.12 §2, 2007)

5.02.720 Business premises prerequisite.

In the case of buildings not yet in existence, where the Town Council votes in favor of the issuance of a liquor license, the license shall not be issued until the building in which the business is to be conducted is ready for occupancy, and then only after inspection of the premises has been made to determine the applicant has complied substantially with the architect's drawings and plans and specifications submitted for such license. (Ord. 5.28 §1(1-72), 1990)

5.02.730 Distance from schools.

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

(b) Subsection (a) above does not apply to:

- (1) The renewal or reissuance of any license once granted;
- (2) Any licensed premises located or to be located on land owned by a municipality;
- (3) A liquor license in effect and actively doing business before the principal campus was constructed; or
- (4) Any club located within the principal campus of any college, university or seminary, as defined in Section 23-102(3), (4) and (5), C.R.S., which limits its membership to the faculty or staff of such institution.

(5) Any applicant for a liquor license who desires to operate a business where liquor is sold by the drink for consumption on premises within the DB - Downtown Business District. (Ord. 5.28.5 §1, 1999; Ord. 5.28 §1(1-73), 1990)

5.02.740 Transfer.

No license for alcoholic liquor granted under the provisions of this Division shall be transferable, except that when a license has been issued to a husband and wife, or to general or limited partners, the death of a spouse or partner shall not require the surviving spouse or partner to obtain a new license. All rights and privileges granted under the original license shall continue in full force and effect as to such survivors for the balance of the license period. (Ord. 5.28 §1(1-74), 1990)

5.02.750 Change of location.

All of the procedures outlined in this Division shall be applicable to a change of location of an existing liquor license. (Ord. 5.28 §1(1-75), 1990)

5.02.760 Rehearing limitation.

No application for the issuance of an alcoholic liquor license shall be considered by the Town Council if an application for a similar type license has been denied for the same location within the two (2) years immediately preceding the date of such new application. (Ord. 5.28 §1(1-76), 1990)

5.02.770 Judicial review.

Any person applying to the courts for a review of the state or any local licensing authority's decision shall apply for review within thirty (30) days after the date of decision of refusal by a local licensing authority or, in the case of approval by a local licensing authority, within thirty (30) days after the date of decision by the state licensing authority, and shall be required to pay the cost of preparing a transcript of proceedings before the licensing authority when such a transcript is demanded by the person taking the appeal or when such a transcript is furnished by the licensing authority pursuant to court order. (Ord. 5.28 §1(1-77), 1990)

5.02.780 Exemptions.

(a) The provisions of this Division shall not apply to the sale or distribution of sacramental wines sold and used for religious purposes.

(b) Any provision of this Article to the contrary notwithstanding, when permitted by federal law and rules and regulations promulgated pursuant thereto, a head of a family may produce for family use and not for sale such amount of malt or vinous liquor as is exempt from the federal excise tax on such liquors when produced by a head of a family for family use and not for sale.

(1) The production of malt or vinous liquors under the circumstances set forth in this Subsection shall be in strict conformity with federal law and rules and regulations issued pursuant thereto.

(2) Malt or vinous liquors produced pursuant to the provisions of this Subsection shall not be required to obtain any license provided by this Division. (Ord. 5.28 §1(1-78), 1990)

5.02.790 Tastings authorized.

(a) Authorization. In accordance with Section 12-47-301(10)(a), C.R.S., the Town hereby authorizes "tastings," as that term is defined in Section 12-47-103(37.5), C.R.S., thereby allowing retail liquor store and liquor-licensed drug store licensees to conduct tastings subject to all of the limitations set forth in Section 12-47-301(10), C.R.S.

(b) Applications. Applications for tastings shall be submitted to the Town Clerk on forms provided by the Town, together with the applicable license fee. No tastings application shall be accepted by the Town Clerk which is not complete in every detail.

(c) Process. Upon receiving the completed tastings application, the Town Clerk shall prepare the file for review by the Town of Parker Special Licensing Authority at its next regularly scheduled meeting. In the event the Special Licensing Authority determines that the applicant has complied with the provisions of Section 12-47-301, C.R.S., and that the applicant is able to conduct tastings without creating a public safety risk to the neighborhood, the application shall be granted.

(d) Hearing. If the Special Licensing Authority determines that there is good cause for a hearing to consider whether the applicant has complied with the provisions of Section 12-47-301, C.R.S., or whether the applicant is able to conduct tastings without creating a public safety risk to the neighborhood, the Town Clerk, at the direction of the Special Licensing Authority, shall cause to be issued a notice of hearing on the tastings application. In the event the Town Clerk issues a notice of hearing on the tastings application, the notice shall be conspicuously posted on the premises at least ten (10) days prior to the hearing. Hearings held on any tastings application may result in approval or denial of said application, and the grounds for any decision on said application shall be whether the applicant has complied with the provisions of Section 12-47-301, C.R.S., and whether the applicant is able to conduct tastings without creating a public safety risk to the neighborhood. Such decision of the Special Licensing Authority shall be final. (Ord. 5.28.7 §1, 2004)

5.02.800 Imposing fines in lieu of suspension.

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

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

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

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

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

(c) Payment of any fine pursuant to the provisions of Subsection (a) above shall be in the form of cash or in the form of a certified check or cashier's check made payable to the Town.

(d) Upon payment of the fine pursuant to Subsection (c) above, the Authority shall enter its further order permanently staying the imposition of the suspension. The Town Council shall cause such moneys to be paid into the general fund of the Town.

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

(f) If the Authority does not make the findings required in Subsection (a) above and does not order the suspension permanently stayed, the suspension shall go into effect on the operative date finally set by the Authority. (Ord. 5.28.11 §1, 2006)

5.02.810—5.02.850 Reserved.

Article III.

Regulation of Conduct in Establishments Selling Alcohol Beverages

5.02.860 Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Adult means a person lawfully permitted to purchase alcohol beverages.

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

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

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

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

Club means:

a. A corporation that:

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

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

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

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

Distillery means any establishment where spirituous liquors are manufactured.

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

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

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

a. The licensee or applicant has violated, does not meet or has failed to comply with any of the terms, conditions or provisions of this Chapter or any rules and regulations promulgated pursuant to this Chapter;

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

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

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

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

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

Inhabitant means an individual who resides in a given neighborhood or community for more than six (6) months each year.

Lewd or indecent displays means performing acts of or acts which simulate:

- a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;
- b. The touching, caressing or fondling of the breast, buttocks, anus or genitals;
- c. The displaying of the pubic hair, anus, vulva or genitals; and
- d. The displaying of the post-pubertal human female breast below a point immediately above the top of the areola, or the displaying of the post-pubertal human female breast where the nipple only or the nipple and the areola only are covered.

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

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

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

Limited winery means any establishment manufacturing not more than one hundred thousand (100,000) gallons, or the metric equivalent thereof, of vinous liquors annually which uses not less

than seventy-five percent (75%) Colorado-grown products in the manufacture of such vinous liquors.

Liquor license shall include the following classes of licenses:

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

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

Local Licensing Authority means, for purposes of this Chapter, the Town's Special Licensing Authority.

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

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

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

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

Nudity means uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the

areola, or the covered human male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.

Optional premises means:

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

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

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

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

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

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

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

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

Resort hotel means a hotel with well-defined occupancy seasons.

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

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

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

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

Sell or sale means any of the following: to exchange, barter or traffic in; to solicit or receive an order for except through a licensee licensed under this Chapter or Article 46 or 48 of Title 12, C.R.S.; to keep or expose for sale; to serve with meals; to deliver for value or in any way other than gratuitously; to peddle or possess with intent to sell; to possess or transport in contravention of this Chapter; or to traffic in for any consideration promised or obtained, directly or indirectly.

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

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

State licensing authority means the executive director of the Department of Revenue or the deputy director of the Department of Revenue if the executive director so designates.

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

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

Winery means any establishment where vinous liquors are manufactured. (Ord. 5.28.6 §7, 2002; Ord. 5.28 §1(1-86), 1990)

5.02.870 Penalty for violation.

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

(b) Whenever a decision of the licensing authority suspending a license for fourteen (14) or fewer days becomes final, whether by failure of the licensee to appeal the decision or by exhaustion of all appeals and judicial review, the licensee may, before the operative date of the suspension or such earlier date as the licensing authority may designate in its decision, petition for permission to pay a fine in lieu of having the license suspended for all or part of the suspension period. The licensing authority may, in its sole discretion, stay the proposed suspension in part or in whole and grant the petition if it finds, after any investigation that it deems desirable, that:

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

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

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

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

(d) The licensing authority may grant such conditional or temporary stays as are necessary for it to complete its investigations, to make its findings as specified in Subsection (b) above, and to grant a permanent stay of the entire or part of the suspension. If no permanent stay is granted, the suspension shall go into effect on the operative date finally set by the licensing authority. (Ord. 5.28.4 §10, 1997; Ord. 5.28 §1(1-87), 1990)

5.02.880 Use of gambling equipment.

No licensee shall install, maintain or operate, or permit the installation, maintenance or operation of, within or upon the licensed premises, any gambling table, establishment, device, machine, apparatus or other thing contrary to this Article or to the laws of this State or which is kept or used for the purpose of gambling either directly or indirectly. This Article shall not be construed to prohibit the use of bona fide amusement devices which do not and cannot be adjusted to pay anything of value, and which may not be used for gambling, directly or indirectly, and for the scoring, achievement, use or operation of which no prize, reward or thing of value is offered or paid by any person. (Ord. 5.28 §1(1-88), 1990)

5.02.890 Conduct on premises.

(a) Each licensee shall conduct his or her establishment in a decent, orderly and respectable manner, and shall not permit within or upon the licensed premises the loitering of habitual drunkards or intoxicated persons, lewd or indecent displays, profanity, rowdiness, undue noise or other disturbance or activity offensive to the senses of the average citizen, or to the residents or the neighborhood in which the establishment is located.

(b) Any licensee shall immediately report to the Police Department of the Town any unlawful or disorderly act, conduct or disturbance committed on the premises.

(c) Each licensee shall post and keep at all times visible to the public in a conspicuous place on the premises, signs to be furnished by the Town Clerk's office, which signs shall be in the following forms:

(1) "Warning! Parker police must be notified of all disturbances in this establishment and on the grounds which are part of this establishment."

(2) "Warning! A mandatory fine of nine hundred ninety-nine dollars (\$999.00) and imprisonment of up to one (1) year may be levied on any person convicted of carrying or possessing any dangerous or deadly weapon, including firearms or knives with over three-and-one-half-inch blades, into or onto any public property, any organized public gathering, or any establishment licensed for the sale of alcoholic or fermented malt beverages.

(d) Prosecution or conviction under this Section shall not prohibit prosecution or conviction under any other applicable law or ordinance, and the penalties provided shall be accumulative and in addition to all other penalties incurred under such other applicable law or ordinance enacted by the Town.

(e) It shall not be a defense that the licensee was not personally present on the premises at the time any unlawful or disorderly act, conduct or disturbance took place; provided, however, that an agent, servant or employee of the licensee shall not be responsible hereunder when absent from the premises while not on duty.

(f) Any person who violates any provision of this Section, upon conviction thereof, shall be fined not more than nine hundred ninety-nine dollars (\$999.00) and/or shall be imprisoned for not more than one (1) year. (Ord. 5.30.1 §§4, 5, 1993; Ord. 5.28 §1(1-89), 1990)

5.02.900 When consumption on premises prohibited.

No licensee shall permit the consumption of malt, vinous or spirituous beverages of 3.2 percent beer on the licensed premises at any time when the sale of such beverages is prohibited by law. (Ord. 5.28 §1(1-90), 1990)

5.02.910 Soliciting drinks.

No licensee, manager or agent shall employ or permit upon any liquor licensed on-sale premises, any employee, waiter, waitress, entertainer, host or hostess to mingle with patrons and personally beg,

procure or solicit the purchase or sale of drinks or beverages for the use of the one begging, procuring or soliciting or for the use of any other employee. (Ord. 5.28 §1(1-91), 1990)

5.02.920 Loitering.

No licensee, manager or agent shall permit upon any premises licensed under this Chapter for on-premises consumption any person to loiter in or about the premises for the purpose of begging and soliciting any patron or customer of, or visitor in, such premises to purchase any drinks or beverages of any type or nature whatsoever, for the one soliciting or begging. (Ord. 5.28 §1(1-92), 1990)

5.02.930 Nudity on premises.

No licensee for retail sale by the drink of spirituous, vinous or malt beverages of 3.2 percent beer shall permit any person to appear in a state of nudity within or upon the premises. (Ord. 5.28 §1(1-93), 1990)

5.02.940 Indecent displays.

No licensee for retail sale by the drink of spirituous, vinous or malt beverages or 3.2 percent beer shall permit any lewd or indecent display by any person within or upon the premises. (Ord. 5.28 §1(1-94), 1990)

5.02.950 Showing of films, etc., depicting acts prohibited.

No licensee for retail sale by the drink of spirituous, vinous or malt beverages of 3.2 percent beer shall permit the showing of films, still pictures, electronic reproduction or other visual reproductions depicting any act or live performance prohibited by this Article. (Ord. 5.28 §1(1-95), 1990)

5.02.955 Warning sign required.

Every licensee of any establishment licensed for on-premises consumption shall display at all times in a prominent place at every exit to the licensed premises and at every outdoor patio a printed card with a minimum height of fourteen (14) inches and a width of eleven (11) inches, with each letter to be a minimum of one-half (½) inch in height, which shall read as follows:

WARNING

**REMOVAL OF ALCOHOL BEVERAGES FROM THIS ESTABLISHMENT IS PROHIBITED,
EXCEPT FOR A SEALED RECORKED VINOUS BEVERAGE AS ALLOWED BY LAW.**

(Ord. 5.28.10 §1, 2006)

**Article IV.
Special Events Permit**

5.02.960 Special events permit authorized.

The Town shall be authorized to issue a special events permit in accordance with Section 12-48-101, et seq., C.R.S. (Ord. 5.28.6 §8, 2002)

5.02.970 Fee.

In addition to the fees paid to the Department of Revenue, an application for a special events permit shall be accompanied by a fee paid to the Town to be set from time to time by the Town Council in an amount not to exceed that amount authorized by the applicable sections of the Colorado Revised Statutes regarding special event permits. (Ord. 5.28.13 §1, 2008)

**Article V.
Greater Downtown Special Private Art Permit**

5.02.980 Greater Downtown Special Private Art Permit authorized.

(a) Upon approval by the Special Licensing Authority, the Town Clerk may issue a Greater Downtown Special Private Art Permit for the possession and consumption of alcohol beverages in public places specified in Subsection (c) below within the Town, provided that the applicant can demonstrate to the satisfaction of the Liquor Licensing Authority that:

(1) The application is filed at least thirty (30) days prior to the date of the event and is accompanied by an application fee in an amount determined by the Town Council;

(2) The applicant qualifies as an organization authorized to obtain a special events permit pursuant to Article IV of this Chapter;

(3) Admission charged for an event qualifying for the receipt of a Greater Downtown Special Private Art Permit, if any, required to be paid or given as a condition of participation in the event is uniform without regard to whether or not the participant consumes alcohol beverages;

(4) Alcohol beverages will remain in the public places specifically defined in the permit, which must be within the Greater Downtown District;

(5) Alcohol beverages will not be provided to or served to members of the general public or any persons who are not invitees of the event;

(6) The time, location and duration of the function are not likely to significantly interfere with public services;

(7) The applicant agrees to indemnify and hold harmless the Town, its employees and agents for all liability claims arising out of the event;

(8) The applicant has an insurance policy currently in effect with liquor liability coverage of not less than the maximum limit established by the Colorado Governmental Immunity Act, Title 24, Article 10, C.R.S., as amended, and the Town is named as an additional named insured. Nothing herein shall be construed as a waiver by the Town of any defenses or provisions of the Governmental Immunity Act; and

(9) Service of alcohol beverages shall be limited to beer and wine.

(b) A Greater Downtown Special Private Art Permit may be denied, or conditions imposed, on the following grounds:

(1) Approval would be detrimental to the public safety, health, morals, order or welfare by reason of the nature of the event, the likelihood that the event would create a public nuisance or result in the consumption of alcohol beverages by minors;

(2) The failure of the applicant to conduct a past event in compliance with applicable laws and regulations; or

(3) Another event has previously been scheduled in a manner that may conflict as to time or location that would cause unreasonable interference with normal activities and customary and general use and enjoyment of the public area.

(c) A Greater Downtown Special Private Art Permit shall only be issued for public places and places otherwise open to the public located within the Greater Downtown District. (Ord. 5.28.14 §1, 2009)

CHAPTER 5.03

Amusement Devices and Arcades

5.03.010 Definitions.

As used in this Chapter:

Amusement arcade means a place of business where an individual, association, partnership or corporation maintains more than ten (10) amusement devices either as a sole business or in conjunction with some other business.

Amusement center means a place of business where an individual, association, partnership or corporation maintains less than eleven (11) amusement devices either as a sole business or in conjunction with some other business.

Amusement device means any device which, upon insertion of a coin, slug, token, plate or disc, or payment of a consideration, may be used by the public for use as a game, entertainment, amusement, a test of skill, either mental or physical, whether or not registering a score, including billiard tables; but shall not include radios, devices that provide music only, televisions carrying commercial broadcasts only, individual pin or ball alleys, or fixed-stand coin-operated kiddie rides.

Applicant means any individual, association, partnership or corporation requesting a license pursuant to this Chapter.

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 Chapter, or who, through his or her own actions, directs, oversees and administers the affairs of any such establishment. (Ord. 7.01.1 §1, 1990; Ord. 7.01 §1, 1982)

5.03.020 Licensing authority.

The Town Council, or such body as it may appoint, shall have the authority to grant or refuse licenses for amusement arcades based upon the criteria set forth herein and state law, to conduct investigations, and to suspend or revoke such licenses for cause in the manner provided by this Chapter. (Ord. 7.01 §2, 1982)

5.03.030 License required; fee.

No amusement arcade shall conduct business without first having obtained an amusement arcade license. Applicants for an amusement arcade license shall pay a license fee of seven hundred fifty dollars (\$750.00). (Ord. 7.01 §3, 1982)

5.03.040 License application; contents.

(a) The application for an amusement arcade license shall be made to the Town Clerk and shall be accompanied by the fees required in this Chapter, along with the following completed documentation:

(1) Background investigation form (where the applicant is a corporation, association, partnership or private club, the information required 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 holders of ten percent (10%) or more of the stock of any class, and such application shall include at least the name and address of the arcade, the names and addresses of the applicant, age, date and place of birth, all prior convictions of the applicant or any of the persons listed as members, officers, directors or shareholders of a corporation, association, partnership or private club);

(2) Copy of lease or proof of ownership;

(3) Verification of zoning;

(4) Affidavit of five-hundred-foot requirement;

(5) Plans of building and parking lot; and

(6) Any additional information requested by the Town.

(b) The license application and background investigation form shall be completed in detail and shall be submitted upon forms approved by the Town accompanied by the requisite fees. (Ord. 7.01 §4, 1982)

5.03.050 Approval of license.

(a) Application for the license shall be reviewed by the Town Council. The Town Clerk shall have an investigation conducted sufficient to verify all the information required by Section 5.03.040 above. Upon completion of this investigation, the Town Council shall set a date for public hearing on the application, which date shall not be more than thirty (30) days from the date of completion of the investigation.

(b) The absence of any one (1) or combination of the following may form the basis of a denial of a license:

(1) An applicant and all holders of ten percent (10%) or more of the stock of any class, directors, officers or principals of the applicant possess good moral character;

(2) A need in the community for such a facility;

(3) A desire on the part of citizens for such a facility, including petitions, letters or remonstrances evidencing such desires; and

(4) A determination that the license would not be detrimental to public safety, health and welfare due to the location of the arcade, the noise emanating therefrom, traffic congestion and hazard, or the proximity of the location to schools, churches or other places where the public may congregate.

(c) The Town Council may refuse to issue any license for an amusement arcade if it finds any one (1) of the following to be true:

(1) The applicant, manager or any of them have made false statements upon the application; or

(2) The applicant, manager or any holders of ten percent (10%) or more of the stock of any class, director, officer or principal of the applicant has had a license for such business revoked or suspended within three (3) years prior to the application or has been determined to be a nuisance within three (3) years prior to the application, or has been a holder of ten percent (10%) or more of the stock of any class, director, officer or principal of an entity having had a license for such business revoked or suspended within three (3) years prior to the application, or which has been determined to be a nuisance within three (3) years prior to the application.

(d) In the event that the Town Council disapproves a license application, the Town Council shall make written findings of fact stating the reasons for the disapproval and notify the applicant within ten (10) days of its determination. (Ord. 7.01 §5, 1982)

5.03.060 Public notice.

(a) The Town Council shall give notice of a public hearing to be held for the purpose of granting or denying an application for an arcade license or the revocation of such a license.

(b) Not less than fifteen (15) days prior to the public hearing hereinafter required, the Town Council shall cause to be posted and published a public notice of the hearing to be held on the application. (Ord. 7.01 §6, 1982)

5.03.070 Public hearing.

(a) The following persons shall be in attendance at the public hearing on the application:

- (1) If the applicant is an individual, that individual; or
- (2) If the applicant is a partnership, any general partner; or
- (3) If the applicant is a corporation, the president and other officers, or a representative of the corporation; and
- (4) Irrespective of the identity of the applicant, the manager of the proposed establishment.

(b) The Town Council may require the attendance of such other person or persons as it deems necessary or desirable, and may at its discretion waive attendance by any one (1) or more of the designated persons. (Ord. 7.01 §7, 1982)

5.03.080 Terms of the license.

All licenses granted pursuant to this Chapter shall be for a term of one (1) year. Such term shall commence on January 1st of each year and terminate upon December 31st of the same year. Applications for a license occurring at any other time during the year shall be treated the same as if they were made for one (1) calendar year and shall terminate on the same date as all other licenses issued for the same year, and no proration shall be permitted. (Ord. 7.01 §8, 1982)

5.03.090 License renewal.

Renewal of any of the licenses granted pursuant to this Chapter 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 to the applicant's knowledge, 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. 7.01 §9, 1982)

5.03.100 Fees.

(a) Applicants or holders of an amusement arcade license shall pay each year the fees required in Section 5.03.030 of this Chapter as well as a fee of fifty dollars (\$50.00) per machine maintained on the premises.

(b) Operators of amusement centers shall pay each year a fee of fifty dollars (\$50.00) per amusement device maintained upon the premises.

(c) Applicants for an amusement arcade license shall pay an investigation fee of one hundred fifty dollars (\$150.00) to cover the cost of investigation required by this Chapter. (Ord. 7.01 §10, 1982)

5.03.110 Suspension or revocation of license.

(a) The Town Council may suspend or revoke any license granted pursuant to this Chapter 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;

(2) That repeated disturbances of public peace have been occurring within the licensed establishment or upon any parking areas, sidewalks, access ways or grounds within five hundred (500) feet of the licensed establishment 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, accessways or grounds immediately adjacent to the licensed premises, narcotics or dangerous drugs or malt, vinous or spirituous beverages;

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

(5) That the hours of business of the licensed establishment are outside of those set forth in Section 5.03.140 below;

(6) That malt, vinous or spirituous beverages are being consumed by patrons of the licensed establishment upon the licensed premises.

(b) Nothing in this Chapter shall prohibit the Town from taking any other enforcement action provided for by the laws of the State or the United States. (Ord. 7.01 §11, 1982)

5.03.120 Display and transfer of license.

(a) The holder of any license or receipt issued pursuant to the terms of this Chapter 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 Chapter 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 Chapter, a license may be transferred to the new owner of the business; provided, however, that an application therefor stating the same information as required by Section 5.03.040 of this Chapter is first presented to the Town Clerk for approval or disapproval by the Town Council, and is accompanied by the license fee and investigation fee. Approval or disapproval of such transfer shall be upon the same terms as approval or disapproval of a license under the terms of this Chapter. (Ord. 7.01 §12, 1982)

5.03.130 Management.

(a) Where any licensee changes or causes to be changed the manager or managers of his or her establishment, and such person has not previously been approved as a manager by the Town, he or

she shall be presented by the holder of the license or shall present himself or herself to the office of the Town Clerk for a background investigation within seven (7) business days following such change.

(b) If a manager abruptly terminates his or her management of any amusement arcade or center without notice to the owner thereof, the owner shall have a fifteen-day grace period to continue business without an approved manager. The grace period may be extended in the sole discretion of the Town Clerk in fifteen-day increments until clearance and approval are obtained for a new manager. (Ord. 7.01 §13, 1982)

5.03.140 Hours of operation.

No amusement arcade pursuant to the provisions of this Chapter shall be open for business Sunday through Thursday between the hours of 10:00 p.m. and 10:00 a.m., and on Fridays and Saturdays between 11:00 p.m. and 10:00 a.m. (Ord. 7.01 §14, 1982)

5.03.150 Location.

Amusement arcades shall only be permitted to locate in areas zoned commercial, as provided in the Zoning Ordinance. (Ord. 7.01 §15, 1982)

5.03.160 Lighting.

Amusement arcades shall be brightly illuminated at all times so that all patrons are easily recognizable and all activities within the arcade are easily identifiable. (Ord. 7.01 §16, 1982)

5.03.170 Gambling prohibited.

Nothing in this Chapter shall be construed to permit any unlawful gambling or wagering within the Town. (Ord. 7.01 §17, 1982)

5.03.180 Violation; penalty.

Any individual, association, partnership or corporation who is convicted of a violation of any provision of this Chapter shall be fined in a sum of not more than nine hundred ninety-nine dollars (\$999.00) or shall be imprisoned not to exceed one (1) year, or shall be both so fined or imprisoned. (Ord. 5.30.1 §7, 1993; Ord. 7.01 §18, 1982)

5.03.190 Application.

The provisions of this Chapter apply to all pending requests or applications for an arcade license which have not been finally determined as of the effective date of the ordinance codified in this Chapter, as well as all future license applications or renewals. Any amusement center or amusement arcade in existence prior to the effective date of the ordinance codified in this Chapter shall comply with the provisions of this Chapter by January 1, 1983. (Ord. 7.01 §19, 1982)

CHAPTER 5.04

Reserved

CHAPTER 5.05

Peddlers and Solicitors

5.05.010 Title.

The ordinance codified in this Chapter shall be known and cited as the Parker peddlers and solicitors ordinance. (Ord. 7.06 §1, 1990)

5.05.020 Definitions.

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

Clerk means the Town Clerk of the Town.

Door-to-door sales means soliciting at residences or commercial or office outlets orders for the sale of or selling of goods, wares, merchandise, services, magazines, contracts, policies of insurance, stocks, bonds, rights or anything of value.

Residence means the private residences of the Town, including, but not limited to condominium units and apartments of the yards, grounds or hallways thereof.

Sales tax means the tax authorized and levied by and within the Town, pursuant to ordinance.

Town means the Town of Parker, Colorado. (Ord. 7.06.3 §1, 2009; Ord. 7.06 §2, 1990)

5.05.030 Permits and licenses.

(a) Permit required. Each and every person who goes in or upon the residences of the Town, when not previously requested or invited to do so by the owner or occupant of the residences, for the purpose of engaging in door-to-door sales, shall, before going in or upon such residences, register and obtain a permit from the Town Clerk and pay the permit fee as provided in this Chapter.

(b) Licenses required. Each person who engages any other person for salary, compensation or other remuneration to engage in door-to-door sales, shall before commencing such sales register and obtain a license from the Town Clerk and pay the license fee as provided by this Chapter and obtain a license from the Town Clerk and pay the license fee as provided in Section 4.03.390 of this Code. (Ord. 7.06.2 §1, 2003; Ord. 7.06 §3, 1990)

5.05.040 Fees.

(a) The license fee for each person who engages any other person for salary, commission or other remuneration to engage in door-to-door sales shall be fifty dollars (\$50.00), and such license shall be issued for one (1) year.

(b) The permit fee for each person engaging in door-to-door sales shall be fifty dollars (\$50.00), and such permit shall be issued for one (1) year or the term remaining on the license such permit is issued under, if any. (Ord. 7.03.3 §2, 2009; Ord. 7.06 §4, 1990)

5.05.050 Application contents.

(a) License application contents. Each applicant for a license shall file a signed application with the Town Clerk containing the following information, on a form supplied by the Town Clerk stating:

- (1) The full name of the applicant;
- (2) The business name and address of the applicant;
- (3) The business telephone numbers of the applicant;
- (4) The residence addresses, temporary and permanent, of the applicant;
- (5) The residence telephone numbers of the applicant;
- (6) A description of the applicant, including height, weight, color of eyes and color of hair;
- (7) The number and state of issuance of the applicant's motor vehicle operator's license or chauffeur's license, if any;
- (8) The number on and state of issuance of the license plates of any motor vehicle owned, rented or being driven by the applicant and of any motor vehicle which the applicant intends to use in the course of door-to-door sales, a description of any such vehicle, and the name and address of the owner of such motor vehicle;
- (9) A list of all cities in which a peddler's license is presently held;
- (10) Whether the applicant is presently on parole or probation for any criminal violations;
- (11) A brief explanation of the nature of the merchandise to be sold or other activity that requires a license under this Chapter;
- (12) The names, business addresses, business telephone numbers, residence addresses and residence telephone numbers of all individuals employing and/or supervising the applicant;
- (13) If the applicant is a foreign corporation or an employee of such corporation, the name, address and telephone number of an agent for process residing in the State; and
- (14) Number of permits requested and names and addresses of all those who may use such permit, not to exceed twenty-five (25) permits.
- (15) The signature of the authorized representative of the homeowners' association(s) for those subdivisions that have posted "no solicitation" signs at the subdivision entrance, acknowledging receipt of a copy of the content of the application. The Town Clerk will provide the applicant with a list of homeowners' associations, including contact information, upon request.

(b) Permit application contents. A permit application shall contain the same questions as a license application except that the item listed in Paragraph (a)(9) above may be omitted. (Ord. 7.06.3 §3, 2009; Ord. 7.06 §5, 1990)

5.05.060 License or permit; grounds for denial.

(a) The Town Clerk may deny the issuance of a license or permit for the following reasons:

(1) Any misrepresentation, fraud, deception, breach of warranty or breach of contract in the Town or elsewhere;

(2) Failure to comply with this Chapter or violation of any ordinance applicable to the applicant's permitted activities;

(3) Failure to obtain a sales tax license as required by the Town or failure of the applicant, his or her supervisor, or his or her employer to remit any sales tax due the Town;

(4) Convictions for crimes against the person or property of another, or institutionalization for mental illness which caused acts of violence against the person or property of another; provided, however, that such convictions or institutionalization occurred within the five (5) years preceding the date of application.

(b) For purposes of this Section:

Crimes or acts of violence against the person of another shall include homicide, attempted homicide, rape, attempted rape, sexual assault, assault, battery and other similar offenses involving moral turpitude by whatever name; and

Crimes or acts against the property of another shall include theft, burglary, breaking and entering, larceny and other similar offenses involving moral turpitude by whatever name. (Ord. 7.06.3 §4, 2009; Ord. 7.06 §6, 1990)

5.05.070 Transfer of license and permits.

No person shall transfer or attempt to transfer his or her license to any other person, and no person shall use a license issued to any other person. (Ord. 7.06.3 §5, 2009; Ord. 7.06 §7, 1990)

5.05.080 Records.

The Town Clerk shall maintain records showing each license or permit issued and the alleged violations of this Chapter. (Ord. 7.06 §8, 1990)

5.05.090 Appeal.

At his or her election, an applicant may appeal any decision relating to his or her license or permit by the Town Clerk to the Town Council. The Town Council's decision shall be by a majority of a quorum of the Town Council. (Ord. 7.06.3 §6, 2009; Ord. 7.06 §9, 1990)

5.05.100 Expiration of license or permit.

Each license or permit shall expire on the date specified on the license or permit, and the Town Clerk shall issue no license or permit for a period longer than one (1) year. On the expiration of a license or permit, any person may apply for the issuance of a new license or permit. (Ord. 7.06 §10, 1990)

5.05.110 Violation; penalties.

It is a violation of this Chapter for any person who employs any other person to engage in door-to-door sales for a salary, commission or other remuneration in the Town, without causing such employee to comply with this Chapter, which violation shall be punishable by a civil penalty of not more than four hundred ninety-nine dollars (\$499.00). (Ord. 7.06.3 §7, 2009; Ord. 5.30.1 §9, 1993; Ord. 7.06 §11, 1990)

5.05.120 Revocation of license or permit.

If the Town Clerk finds that any of the grounds stated in Section 5.05.060 of this Chapter exist or that an applicant has made a false statement in his or her application, the Town Clerk shall revoke the license or permit. (Ord. 7.06.3 §8, 2009; Ord. 7.06 §12, 1990)

5.05.130 Identification cards.

The Town Clerk shall issue to each person, at the time of the delivery of his or her permit, an identification card bearing the words *Registered Person*, the period of time for which the permit is issued and the number of the permit, in plainly discernible letters and figures. Each person shall conspicuously display such identification card whenever he or she is engaged in door-to-door sales except when so engaged by telephone. The Town Clerk may cause the same document to be used as the identification card and the permit. (Ord. 7.06.3 §9, 2009; Ord. 7.06 §13, 1990)

5.05.140 Exhibit of permit.

Whenever requested by any police officer, by any customer, prospective customer or resident, a person shall exhibit his or her identification card. (Ord. 7.06.3 §10, 2009; Ord. 7.06 §14, 1990)

5.05.150 Reserved.

5.05.160 Exemptions.

(a) The following classes of persons shall not be required to obtain a license or permit otherwise required by this Chapter.

- (1) Deliverymen or routemen who are engaged in the business of servicing and soliciting in connection with sales and delivery routes of newspapers, milk, bread, firewood and farm produce;
- (2) Persons soliciting lawn or garden work and shoveling of snow;
- (3) Persons advocating civic, religious, charitable or political causes; and

(4) All companies that have a franchise agreement with the Town.

(b) Notwithstanding the exemptions contained in this Section, such exempt persons who engage in door-to-door sales or solicitation of contributions shall be required to obtain an identification card as described in Section 5.05.130 above prior to engaging in door-to-door sales or solicitation of contributions, and shall pay ten dollars (\$10.00) for the cost of preparing such identification card. (Ord. 7.06.3 §12, 2009; Ord. 7.06.1 §1, 2003; Ord. 7.06 §16, 1990)

5.05.170 Penalty.

(a) It is a violation for any person to engage in door-to-door sales without a license, a permit or an identification card as required by this Chapter; any person who so engages in door-to-door sales shall, on conviction, be punished by a civil penalty not to exceed four hundred ninety-nine dollars (\$499.00).

(b) It shall be a violation for any person to violate any section of this Chapter; and any person who violates any section of this Chapter shall, on conviction, be punished by a civil penalty not to exceed four hundred ninety-nine dollars (\$499.00).

(c) Each violation of any section of this Chapter shall be deemed a separate offense. (Ord. 7.06.3 §13, 2009; Ord. 5.30.1 §10, 1993; Ord. 7.06 §18, 1990)

CHAPTER 5.06

Security Guards

5.06.010 Definitions.

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

Business guard or industrial guard means an individual who while uniformed or armed accepts employment from a single employer for the purpose of watching, guarding or otherwise protecting the persons or property of his or her employer only, or to preserve the peace in the conduct of that employer's business, except any individual so employed by any common carrier engaged in interstate commerce, but shall exclude maintenance men and installers, janitors, repairmen or persons engaged in similar occupations.

Company means and includes any person, firm, association or corporation engaged in the business or occupation of merchant patrol, as defined by this Section.

Merchant patrol means the business or occupation of providing uniformed or armed protection of persons or property of others, or the furnishing of any uniformed or armed guard, patrol or protection service to others for valuable consideration (except a business or industrial guard).

Patrolman or merchant patrolman means and includes any person employed by or acting at the direction of a company, except clerical and stenographic employees, to perform merchant patrol services.

Peace officer means a sheriff, undersheriff, deputy sheriff, police officer, state patrol officer, coroner, marshal, any officer, guard or supervisory employee of any 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, a wildlife conservation officer, and security guard employed by the State. (Ord. 5.42.1 §1, 2004; Ord. 5.42 §1, 1994)

5.06.020 License required.

It is unlawful for any person:

- (1) To carry on, engage in or conduct a merchant patrol business in the Town without first having obtained a license as provided in this Chapter;
- (2) To act as a merchant patrolman or supervisor or merchant patrolmen in the Town for a company that has not obtained a license as provided in this Chapter; or
- (3) To act as a business or industrial guard in the Town for a company that has not obtained a license as provided in this Chapter. (Ord. 5.42.1 §1, 2004; Ord. 5.42 §1, 1994)

5.06.030 Applicability.

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

- (1) Any peace officer while acting or employed in his or her official capacity.
- (2) Any private detective not engaged in providing merchant patrol or business or industrial guard service.
- (3) Any person engaged in the direction, escort or protection of a funeral procession.
- (4) Any merchant patrolman or business or industrial guard engaged in the business or providing to others a pick-up and delivery service for the purpose of distributing money or other negotiable securities. (Ord. 5.42.1 §1, 2004; Ord. 5.42 §1, 1994)

5.06.040 Licensing requirements; age; corporate applicants.

No person shall be licensed under the provisions of this Chapter unless:

- (1) The applicant is a citizen of the United States of the age of eighteen (18) years or more, except that if the applicant is required to carry a weapon, then of the age of twenty-one (21) years or more.
- (2) If the applicant is a corporation, the corporation shall be organized or authorized to do business in the State. (Ord. 5.42.1 §1, 2004; Ord. 5.42 §1, 1994)

5.06.050 Licensing requirements.

No person shall be eligible to obtain or hold any license provided by this Chapter if the applicant, or any member, partner, officer, director or the holder of more than ten percent (10%) of the stock of the corporate applicant, has been convicted of:

(1) Any crime of murder, rape, aggravated assault, kidnapping, burglary, assault with a deadly weapon or armed robbery within the ten (10) years immediately preceding the date of the application.

(2) Any felony sex offense, felony drug offense, any crime involving infliction of violence upon the person of another, within five (5) years immediately preceding the date of application. (Ord. 5.42.1 §1, 2004; Ord. 5.42 §1, 1994)

5.06.060 Company license, application.

Any person, firm, association or corporation desiring to carry on the merchant patrol business in the Town shall make application in writing to the Chief of Police for a license, which application shall set forth:

(1) A description of the nature and type of 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 of a corporation making such application, together with the names and addresses of any persons holding more than ten percent (10%) of the stock of such corporation.

(3) As to each person whose name is required to be furnished by Paragraphs (5) and (6) below, a statement containing all information required by Section 5.06.110 of this Chapter.

(4) The address of the principal office or place of business of such person, firm, association or corporation.

(5) The name of the individual in charge of such business.

(6) The name of the individual in charge of or responsible for the operations of such business in the Town.

(7) 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, firm, association or corporation making such application.

(8) For the corporate applicant, a duly certified copy of the articles or certificate of incorporation, and, if a foreign corporation, the qualifications of such corporation to conduct business in the State.

(9) A statement of the number of persons to be employed as merchant patrolmen.

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

(11) Written acknowledgment by the licensee of the conditions to be expressed in the license, and that the license may be revoked.

(12) Such further and additional information as the Chief of Police may require for the investigation of the application and the enforcement of this Chapter. (Ord. 5.42.1 §1, 2004; Ord. 5.42 §1, 1994)

5.06.070 Company license; issuance.

After the receipt and investigation of such application, and upon being satisfied that the person, firm, association or corporation making the same is in good repute, and intends to carry on an honest and legitimate business, and that all requirements of this Chapter have been met, the Chief of Police shall direct the Town Clerk to issue to such applicant a license authorizing the applicant to carry on a merchant patrol business within the Town for the period of two (2) years from and after the date of such license. (Ord. 5.42.1 §1, 2004; Ord. 5.42 §1, 1994)

5.06.080 Company license; list of employees to be submitted with application.

The applicant shall submit with the application a list of the names and addresses of the persons who will be employed by the applicant as merchant patrolmen in the Town, a copy of the permit defined in Section 18-12-202(6), C.R.S., as amended, for any person who will be employed by the applicant as a merchant patrolman who has been issued such permit and a copy of the current and valid training certificate, as defined by Section 18-12-202(8), C.R.S., as amended, for the firearm that will be carried, used or exhibited by any person who will be employed by the applicant as a merchant patrolman. Copies of the permits and certificates described herein shall be maintained by the applicant at the applicant's place of business and be available for inspection and copying by the Town. The applicant shall provide the Town with an updated list of names and addresses of the persons who are employed as merchant patrolmen, including copies of any new permits and certificates, after the issuance of the company license. The list, permits and certificates described herein shall be updated and provided to the Town on a quarterly basis, commencing on the date that the company license is issued or upon request of the Town. (Ord. 5.42.2 §1, 2008; Ord. 5.42.1 §1, 2004; Ord. 5.42 §1, 1994)

5.06.090 Application fee.

The application shall be accompanied by an application fee in the amount of one hundred dollars (\$100.00) for a company of five (5) or less employees; two hundred fifty dollars (\$250.00) for a company of six (6) to ten (10) employees; and five hundred dollars (\$500.00) for a company of more than ten (10) employees, which fee is based upon the direct and indirect cost associated with the processing of the application. The application fee shall be nonrefundable and shall be applied to payment of the license fees provided by this Chapter if a license is granted. (Ord. 5.42.1 §1, 2004; Ord. 5.42 §1, 1994)

5.06.100 Patrolman not employed by licensed company.

Any person desiring to engage in the occupation of merchant patrolman in the Town without being employed by a company licensed under the provisions of this Chapter shall make application for and obtain a company license as provided by Sections 5.06.060 through 5.06.090 above. (Ord. 5.42.1 §1, 2004; Ord. 5.42 §1, 1994)

5.06.110 Investigations.

(a) Upon receipt, each application shall be referred to the Chief of Police, who shall immediately institute such investigation of the applicant's business and moral character as he or she deems necessary for the protection of the public, and shall endorse the application within thirty (30) business days after the date of receipt.

(b) If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his or her disapproval and his or her reasons for the same, and return the application to the Town Clerk, who shall notify the applicant that his or her application is disapproved and that no license shall be issued.

(c) If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police shall endorse on the application his or her approval and return the application to the Town Clerk. (Ord. 5.42.1 §1, 2004; Ord. 5.42 §1, 1994)

5.06.120 License issuance requirements; insurance; and firearms certificate.

(a) An applicant for a company license or a business license shall procure and maintain minimum insurance coverage as set forth herein. The coverage shall be procured and maintained from a company satisfactory to the Town and in a form satisfactory to the Town. All coverage shall be continuously maintained to cover all liability, claims, demands and other obligations assumed by the applicant during the period of the license. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage. The amount of general liability insurance coverage shall be minimum combined single limits of one million dollars (\$1,000,000.00) each occurrence and two million dollars (\$2,000,000.00) aggregate. The applicant shall submit a certificate of insurance to the Town with the application. The certificate of insurance shall provide that the coverage will not be terminated without providing thirty (30) days' written notice to the Town.

(b) The Town Clerk shall not issue any license without the authority and direction of the Chief of Police as provided in this Chapter.

(c) No employee of a company licensed under this Chapter shall carry, use or exhibit any firearm, unless that employee has a current and valid training certificate, as defined by Section 18-12-202(8), C.R.S., as amended, for the firearm that is carried, used or exhibited. (Ord. 5.42.2 §2, 2008; Ord. 5.42.1 §1, 2004; Ord. 5.42 §1, 1994)

5.06.130 License renewal.

A license, having once been granted under the provisions of this Chapter, may be renewed by filing an application for renewal and payment of the license fee, unless such previous license shall have been revoked or the Chief of Police shall otherwise direct. An application for renewal shall be made at least thirty (30) days before the expiration of the term for which the previous license was granted. (Ord. 5.42.1 §1, 2004; Ord. 5.42 §1, 1994)

5.06.140 Licenses not transferable.

No license granted under the provisions of this Chapter shall be transferable. This Section shall not be so construed as to prevent or prohibit a change by the licensee in the manager, superintendent or other person in charge of the business, provided that a certificate setting forth the change is first filed by the licensee with the Chief of Police. (Ord. 5.42.1 §1, 2004; Ord. 5.42 §1, 1994)

5.06.150 Vehicle marking.

The vehicles used in the conduct of the merchant patrol business within the Town by the licensee shall not exhibit coloring, marking or equipment so similar to marked police vehicles of the Town that citizens are confused. In addition, the merchant patrol vehicles shall not be equipped with any lights or sirens in violation of the traffic code of the Town, or the laws of the State, nor shall any insignia be painted on the sides of the vehicle which are similar to, or which could be confused with, the insignia on police vehicles. (Ord. 5.42.1 §1, 2004; Ord. 5.42 §1, 1994)

5.06.160 License revocation.

After a hearing by the Town Council, any license or permit issued under the provisions of this Chapter may be revoked for any of the following causes:

- (1) Material misrepresentation or concealment in the application for a license.
- (2) Violation of any state or municipal law or ordinance relating to use or possession of firearms or weapons.
- (3) Impersonation of a peace officer.
- (4) Conviction of any felony offense under the laws of this State or the United States; or the conviction of any criminal offense or Town ordinance violation, except traffic violations, committed while acting as a merchant patrolman.
- (5) Any violation of the provisions of this Chapter. (Ord. 5.42.1 §1, 2004; Ord. 5.42 §1, 1994)

5.06.170 License suspension.

Whenever grounds for revocation of a license exist, as provided in Section 5.06.160 above, such license may be suspended for a specified term of not more than two (2) years, in which event:

- (1) The license shall not be revoked.

(2) The applicant shall not act or engage in business in the licensed capacity in the Town during the period of suspension.

(3) The suspended license shall not be renewed while the suspension continues in effect. (Ord. 5.42.1 §1, 2004; Ord. 5.42 §1, 1994)

5.06.180 Hearings.

The Town Council shall hold hearings required by this Chapter pursuant to the procedures set forth in the Town Charter and ordinances of the Town. (Ord. 5.42.1 §1, 2004; Ord. 5.42 §1, 1994)

5.06.190 Unlawful acts.

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

(1) For any licensee to fail to turn over any person arrested by such licensee pursuant to the laws of the State, immediately to the Police Department or other public law enforcement agency. Nothing contained in this Chapter 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 who fires a firearm within the Town to fail to immediately (but not more than six [6] hours) report such incident to the Police Department.

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

(4) For any licensee to fail to report immediately to the Police Department all violations of Town ordinances or to fail to report to the Police Department or other public law enforcement agency all violations of state or federal laws which constitute crimes.

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

(6) For any licensee under this Chapter to represent himself or herself to be an officer of the Police Department.

(7) 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 or her 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. As used in this Subsection, the term *illegal weapon* means a ballistic knife, blackjack, bomb, firearm silencer, gas gun, machine gun, short shotgun, stun gun, short rifle, metallic knuckles, gravity knife or switchblade knife, as these terms are defined at Section 18-12-101, C.R.S. (Ord. 5.42.1 §1, 2004; Ord. 5.42 §1, 1994)

5.06.200 Penalty.

It is unlawful for any person to violate the provisions of this Chapter. Any person who is convicted of such a violation shall be punished by a fine of not more than four hundred ninety-nine dollars (\$499.00) for each day of a violation. (Ord. 5.42.1 §1, 2004; Ord. 5.42 §1, 1994)

CHAPTER 5.07

Sexually Oriented Businesses

Article I. In General

5.07.010 Purpose and intent.

The purpose and intent of this Chapter is to establish reasonable and uniform regulations designed to curtail the potential harmful secondary effects of sexually oriented businesses upon the surrounding communities in which they are located. These reasonable and uniform regulations are designed to protect Town citizens from increased crime, to preserve the quality of life, property values and character of neighborhoods and businesses, to deter the spread of urban blight and to protect against the spread of sexually transmitted diseases. The provisions of this Chapter shall not impose limitations or restrictions on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent of this Chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment of the United States Constitution or the Colorado Constitution, or to deny access by the distributors and exhibitors of sexually oriented materials to their intended market. It is also not the intent or purpose of this Chapter to condone or legitimize the distribution of obscene material. (Ord. 7.09 §1, 2000)

5.07.020 Definitions.

Unless the context otherwise dictates, the words and phrases used in this Chapter shall have the meanings prescribed in Section 13.02.010 of this Code and as set forth as follows:

Employee means a person who works or performs in or for a sexually oriented business regardless of whether or not said person is paid a salary, commission, wage or other compensation by the operator of said business.

Establishment of a sexually oriented business means and includes any of the following:

- a. The opening or commencement of any such business as a new business;
- b. The conversion of an existing business into a sexually oriented business;
- c. The addition of a sexually oriented business to any other existing sexually oriented business; or
- d. The relocation of a sexually oriented business.

Licensing Officer means the Town Clerk of the Town of Parker.

Manager means an operator, other than a licensee, who is employed by a sexually oriented business to act as a manager or supervisor of employees or is otherwise responsible for the operation of the business.

Operator means and includes the owner, permit holder, custodian, manager, operator or person in charge of any permitted or licensed premises.

Permittee and/or *licensee* means a person in whose name a permit or license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit or license.

Person means an individual, proprietorship, partnership, corporation, limited liability company, association or other legal entity.

Premises or *permitted or licensed premises* means any premise that requires a license or permit and that is classified as a sexually oriented business.

Principal owner means any person owning, directly or beneficially: (a) ten percent (10%) or more of a corporation's equity securities; (b) ten percent (10%) or more of the membership interests in a limited liability company; or (c) in the case of any other legal entity, ten percent (10%) or more of the ownership interests in the entity.

Specified criminal acts means any offense which is included in the definition of *unlawful sexual behavior* under Section 18-3-401, et seq., C.R.S., or any offense committed in another state that, if committed in the State of Colorado, would constitute an offense involving unlawful sexual behavior, or any offense that has a factual basis of one (1) of the offenses specified in the definition of *unlawful sexual behavior*. *Specified criminal acts* also include any offense involving soliciting for prostitution, prostitution, patronizing a prostitute, pandering, pimping, public indecency or the distribution or possession of obscene materials.

Town Council is the Town Council of the Town of Parker.

Transfer of ownership or control of a sexually oriented business means and includes any of the following:

- a. The sale, lease or sublease of the business;
- b. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means; or
- c. The establishment of a trust, management arrangement, gift or other similar legal devise which transfers ownership or control of the business, except for transfer by bequest or other operation of law upon the death of a person possessing the ownership or control.

Zoning Code means the Parker Land Development Ordinance, as amended. (Ord. 7.09.2 §1, 2006; Ord. 7.09.1 §1, 2005; Ord. 7.09 §1, 2000)

5.07.030—5.07.090 Reserved.

Article II.
Permits for Sexually Oriented Businesses

5.07.100 Permit required.

(a) No sexually oriented business shall be permitted to operate without a valid sexually oriented business permit issued by the Town.

(b) It shall be unlawful for any person to operate or cause to be operated a sexually oriented business if said person knows or reasonably should know that:

- (1) The business does not have a sexually oriented business permit;
- (2) The business has a permit which is under suspension;
- (3) The business has a permit which has been revoked; or
- (4) The business has a permit which has expired.

(c) Before any person may work at a licensed premises, he or she shall file a notice with the Licensing Officer of his or her intended employment on forms supplied by the Licensing Officer, and shall receive approval of such employment from the Licensing Officer within ten (10) days of receipt of the completed forms. The prospective employee shall supply such information as the Licensing Officer requires, including a set of fingerprints on regular United States Department of Justice forms. Upon approval, the employee may begin working at the licensed premises. If approval is denied for the reasons specified in Paragraphs 5.07.140(c)(2) through (5), (7) or (9) of this Chapter, the prospective employee may, within ten (10) days from the date of the denial, apply to the Licensing Officer for a hearing. Unless the prospective employee requests a longer period, the Licensing Officer shall hold a hearing within seven (7) days and issue a decision within two (2) days after the hearing. A copy of the decision shall be sent by first-class mail or served on the prospective employee at the address indicated on the forms. The decision of the Licensing Officer after hearing may be appealed to the Town Administrator or authorized designee, by applying to the Town Administrator or authorized designee for a hearing within ten (10) days from the date of denial. Unless the prospective employee requests a longer period, a hearing shall be held within seven (7) days and the Town Administrator or authorized designee shall issue a decision within two (2) days after the hearing. A copy of the decision shall be sent by first-class mail or served on the prospective employee at the address indicated on the forms. An investigation fee of fifty dollars (\$50.00) shall accompany the notice of intended employment or a receipt of the Licensing Officer evidencing the payment of such fee at the time the notice is filed. (Ord. 7.09.2 §2, 2006; Ord. 7.09.1 §2, 2005; Ord. 7.09 §1, 2000)

5.07.110 Application for permit for sexually oriented business.

(a) The Licensing Officer is responsible for granting, denying, revoking, renewing, suspending and canceling sexually oriented business permits for proposed or existing sexually oriented businesses.

(b) The Planning Director or designee is responsible for ascertaining whether a proposed sexually oriented business for which a permit application has been submitted complies with all locational requirements of this Chapter and the Zoning Code.

(c) The Chief of Police or his or her designee is responsible for providing information on whether an applicant has been convicted of a specified criminal act during the time periods set forth in Paragraph 5.07.140(c)(10) of this Chapter.

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

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

(1) If the applicant is an individual, the individual shall state his or her legal name and any aliases and submit satisfactory proof that he or she is eighteen (18) years of age or older.

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

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

(4) Whether the applicant or any of the other individuals listed pursuant to Paragraph (1) or (2) above have been convicted of a specified criminal act within the times set forth in Paragraph 5.07.140(c)(9) of this Chapter and, if so, the specified criminal act involved, the date of conviction and the place of conviction.

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

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

(7) Whether the applicant or any other individual listed pursuant to Paragraph (1) or (2) above holds any other permits and/or licenses under this Chapter or other similar sexually oriented

business ordinances from another city, town or county and, if so, the names and locations of such other permitted businesses.

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

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

(10) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be oriented to the North or to some designated street or object and shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches. The Licensing Officer may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared. If the sexually oriented business has or will have a peep booth or booths subject to the provisions of Article V of this Chapter, the sketch shall show the locations of each manager's station and designate any portion of the premises in which patrons will not be permitted.

(11) A current certificate and straight-line drawing prepared within thirty (30) days prior to an initial application by a Colorado-registered land surveyor depicting: (i) the property lines and the structures of the property to be certified; (ii) the property lines of any religious assembly, school, library, daycare, educational facility, dwelling unit (single or multiple), public park or residential district, public recreational facility or pawnbroker within four hundred (400) feet of the property to be certified; and (iii) the property lines and structures of any other sexually oriented business within four hundred (400) feet of the property to be certified. For purposes of this Section, a use shall be considered existing or established if it is in existence at the time an application is submitted.

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

(g) In the event that the Licensing Officer determines or learns that application for a proposed sexually oriented business contains an error or omission and allows the applicant thirty (30) days to properly complete the application, he or she shall promptly return the application to the applicant for completion or correction. Any application that is rejected because of an error or omission shall be refiled only when the error or omission has been remedied. For the purpose of this Chapter, the date the Licensing Officer accepts an application which is complete shall be the date the application is filed with the Licensing Authority. The time period for granting or denying a permit shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application.

(h) The fact that a person possesses other types of state or Town permits and/or licenses does not exempt him or her from the requirement of obtaining a sexually oriented business permit. (Ord. 7.09.1 §3, 2005; Ord. 7.09 §1, 2000)

5.07.120 Duty to supplement application.

Applicants for a permit under Section 5.07.110 above shall have a continuing duty to promptly supplement application information required by that Section in the event that said information changes in any way from what is stated on the application. The failure to comply with said continuing duty within thirty (30) days from the date of such change shall be grounds for suspension of a permit. (Ord. 7.09 §1, 2000)

5.07.130 Investigation and application.

Upon receipt of a properly completed application for a sexually oriented business permit properly filed with the Licensing Officer and upon payment of the nonrefundable application fee, the Licensing Officer shall immediately stamp the application as received and send photocopies of the application to the Planning Department and the Police Department. Each department shall issue a report to the Licensing Officer in accordance with its responsibilities under Section 5.07.110 above, within ten (10) days of receipt of the completed application by the Licensing Officer. The investigation conducted by the Licensing Officer shall be sufficient to verify the accuracy of all of the information required by Section 5.07.110 above. If the Planning Department fails to issue the report as required, the Licensing Officer shall presume that the proposed location of the sexually oriented business complies with this Chapter. If the Police Department fails to issue the report as required, the Licensing Officer shall presume that the information required by Section 5.07.110 above is accurate. (Ord. 7.09.2 §3, 2006; Ord. 7.09.1 §4, 2005; Ord. 7.09 §1, 2000)

5.07.140 Issuance of permit.

(a) The Licensing Officer shall grant or deny an application for a permit within fourteen (14) days from the date the completed application is filed with the Licensing Officer. Upon the expiration of the fourteenth day following the filing of a completed application, the applicant shall be permitted to begin operating the business for which the permit is sought, unless and until the Licensing Officer notifies the applicant of a denial of the application and states the reason(s) for such denial.

(b) Grant of application for permit.

(1) The Licensing Officer shall grant the permit application for a sexually oriented business in the zoning districts where such use is permitted under Chapter 13.04 of this Code, unless one (1) or more of the criteria set forth in Subsection (c) below is present.

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

(c) Denial of application for permit. The Licensing Officer shall deny the application for any of the following reasons:

(1) The applicant proposes a location that does not comply with Subsection 13.04.130(d) of this Code;

- (2) An applicant is under eighteen (18) years of age;
- (3) An applicant is overdue on his or her payment to the Town of taxes, fees, fines or penalties assessed against him or her or imposed upon him or her in relation to a sexually oriented business;
- (4) An applicant has made a false statement upon the application or has given false information in connection with the application;
- (5) The application fees have not been paid;
- (6) An applicant or the proposed business is in violation of, or is not in compliance with, any of the provisions of this Chapter;
- (7) The applicant or any holder of any class of stock, or a director, officer, partner or a principal of the applicant had a sexually oriented business license suspended or revoked anywhere in the State within the previous twelve (12) months;
- (8) The applicant has not obtained the required sales tax license; or
- (9) An applicant has been convicted of a specified criminal act or acts for which: (i) less than two (2) years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a misdemeanor offense; (ii) less than five (5) years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a felony offense; or (iii) less than five (5) years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the convictions are of two (2) or more misdemeanors. The fact that a conviction is being appealed shall have no effect on disqualification of the applicant. An applicant who has been convicted of a specified criminal act or acts may qualify for a sexually oriented business permit only when the time period required above has elapsed.

(d) If the Licensing Officer denies the application, he or she shall notify the applicant of the denial and state the reason(s) for the denial and a copy of such decision shall be sent by first-class mail to the address shown in the application. (Ord. 7.09.2 §4, 2006; Ord. 7.09.1 §5, 2005; Ord. 7.09 §1, 2000)

5.07.150 Expiration of permit.

(a) Each permit shall expire one (1) year from the date of issuance and may be renewed only by making application as provided in Section 5.07.110 of this Chapter (for renewals, filing of original survey shall be sufficient). Application for renewal of a permit shall be made at least thirty (30) days before the expiration date of the permit. If a renewal application is made fewer than thirty (30) days before the expiration date of a permit, the expiration of the permit will not be affected.

(b) If, subsequent to denial of renewal, the Licensing Officer finds that the basis for denial of the renewal of the permit has been corrected, the applicant shall be granted a permit if at least ninety (90) days have elapsed since the date denial became final. (Ord. 7.09 §1, 2000)

5.07.160 Suspension of permit.

(a) The Licensing Officer shall suspend a permit for a period not to exceed thirty (30) days if he or she determines that a permittee, or an employee of a permittee, has:

- (1) Violated, or is not in compliance with any section of this Chapter;
- (2) Refused to allow an inspection of the sexually oriented business premises as authorized by this Chapter;
- (3) Operated the sexually oriented business in violation of a building, fire, health or zoning statute, code, ordinance or regulation, whether federal, state or local, said determination being based on investigation by the division, department or agency charged with enforcing said rules or laws. In the event of such a statute, code, ordinance or regulation violation, the Licensing Officer shall promptly notify the permittee of the violation and shall allow the permittee a seven-day period in which to correct the violation. If the permittee fails to correct the violation before the expiration of the seven-day period, the Licensing Officer shall forthwith suspend the permit and shall notify the permittee of the suspension;
- (4) Engaged in a permit transfer contrary to Section 5.07.180 below. In the event that the Licensing Officer suspends a permit on the ground that a permittee engaged in a permit transfer contrary to Section 5.07.180 below, the Licensing Officer shall forthwith notify the permittee of the suspension. The suspension shall remain in effect until the applicable Section of this Chapter has been satisfied; or
- (5) Operated the sexually oriented business in violation of the hours of operation provisions of Section 5.07.410 of this Chapter.

(b) The suspension shall remain in effect until the violation of the statute, code, ordinance or regulation in question has been corrected. (Ord. 7.09.2 §5, 2006; Ord. 7.09 §1, 2000)

5.07.170 Revocation of permit.

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

- (1) A cause of suspension in Section 5.06.170 of this Title occurs and there has been more than one (1) suspension of the permit within the preceding twelve (12) months;
- (2) A permittee gave false or misleading information in the material submitted during the application process that tended to enhance the applicant's opportunity for obtaining a permit;
- (3) A permittee or an employee has knowingly allowed possession, use or sale of controlled substances (as defined in Part 3 of Article 22 of Title 12, C.R.S.) on the premises;
- (4) A permittee or an employee has knowingly allowed prostitution on the premises;
- (5) A permittee or an employee knowingly operated the sexually oriented business during a period of time when the permittee's permit was suspended;

(6) A permittee has been convicted of a specified criminal act for which the time period set forth in Paragraph 5.07.140(c)(10) above has not elapsed;

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

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

(9) A permittee or an employee has knowingly allowed any specified sexual activity to occur in or on the permitted premises;

(10) The permittee has operated more than one (1) sexually oriented business within the same building, structure or portion thereof;

(11) That repeated disturbances of the public peace have occurred within the licensed establishment or upon any parking areas, sidewalks, accessways or grounds within the neighborhood of the licensed establishment involving patrons, employees or the licensee;

(12) That the licensee or any employees thereof have offered for sale or knowingly allowed to be consumed or possessed upon the licensed premises, or upon any parking areas, sidewalks, accessways or grounds immediately adjacent to the licensed premises, narcotics, dangerous drugs or fermented malt, malt, vinous or spirituous beverages; or

(13) That the licensee or manager is not upon the licensed premises at all times that adult entertainment is being provided.

(b) When the Licensing Officer revokes a permit, the permittee shall not be issued a sexually oriented business permit for one (1) year from the date revocation became effective. (Ord. 7.09.2 §6, 2006; Ord. 7.09.1 §6, 2005; Ord. 7.09 §1, 2000)

5.07.180 Transfer of permit.

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

(b) A permittee shall not transfer his or her permit to another person unless and until such other person satisfies the following requirements:

(1) Obtains an amendment to the permit from the Licensing Officer which provides that he or she is now the permittee, which amendment may be obtained only if he or she has completed and properly filed an application with the Licensing Officer, setting forth the information called for under Section 5.07.110 of this Chapter in the application; and

(2) Pays a transfer fee of twenty percent (20%) of the annual permit fee.

(c) No permit may be transferred when the Licensing Officer has notified the permittee that suspension or revocation proceedings have been or will be brought against the permittee.

(d) A permittee shall not transfer his or her permit to another location.

(e) Any attempt to transfer a permit either directly or indirectly in violation of this Section is hereby declared void. (Ord. 7.09 §1, 2000)

5.07.190 Appeal rights.

(a) Any denial, suspension or revocation of a new or renewal permit or manager's license under this Chapter may be appealed to the Town Administrator or authorized designee by written notice within ten (10) days of such denial, suspension or revocation. Unless the applicant requests a longer period, the Town Administrator or authorized designee must hold a hearing on the appeal within fourteen (14) days and must issue a decision affirming or reversing the denial, suspension or revocation within two (2) days after the hearing. A copy of the decision shall be sent by first-class mail or served on the applicant at the address on the application.

(b) Any decision by the Town Administrator shall be a final appealable order, and the applicant or licensee may seek prompt judicial review of such administrative action in any district court of competent jurisdiction, pursuant to the Colorado Rules of Civil Procedure 106(a)(4). (Ord. 7.09.2 §7, 2006; Ord. 7.09.1 §7, 2005; Ord. 7.09 §1, 2000)

5.07.200—5.07.250 Reserved.

**Article III.
Manager's License**

5.07.260 Manager's license required.

It shall be unlawful, and a person commits a misdemeanor, if he or she works as a manager of a sexually oriented business without first obtaining a manager's license. (Ord. 7.09 §1, 2000)

5.07.270 Application for manager's license.

(a) A manager shall submit an application for a manager's license on a form to be provided by the Licensing Officer. The application shall contain the applicant's name, address, date of birth, phone number and the information required in Paragraphs 5.07.110(e)(1) through (9) of this Chapter.

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

- (1) The applicant is under twenty-one (21) years of age;
- (2) The applicant has failed to provide the information required by this Section;
- (3) The license fee has not been paid; or

(4) The applicant has been convicted of a specified criminal act within the times set forth in Paragraph 5.07.140(c)(9) of this Chapter. (Ord. 7.09.2 §8, 2006; Ord. 7.09.1 §8, 2005; Ord. 7.09 §1, 2000)

5.07.280—5.07.300 Reserved.

Article IV. Inspection

5.07.310 Inspection.

(a) An applicant or permittee shall permit representatives of the Building Inspection Department, the Tri-County Health Department and the Fire Department to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.

(b) A person who operates a sexually oriented business or his or her agent commits a misdemeanor if he or she refuses to permit such lawful inspection of the premises at any time that it is occupied or open for business. (Ord. 7.09.2 §9, 2006; Ord. 7.09 §1, 2000)

5.07.320—5.07.350 Reserved.

Article V. Regulations Pertaining to Exhibition of Sexually Explicit Films or Videos in Peep Booths

5.07.360 Generally.

A person who operates or causes to be operated a sexually oriented business, which exhibits on the premises in a peep booth or similar viewing area, a film, video cassette or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the requirements of this Article. (Ord. 7.09 §1, 2000)

5.07.370 Regulation of peep booths.

(a) A sexually oriented business with a peep booth or similar viewing area shall have one (1) or more manager's stations, subject to the following regulations:

(1) At least one (1) employee must be on duty and situated at each manager's station at all times that any patron is present inside the premises; and

(2) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding rest rooms. Rest rooms may not contain video display equipment. If the premises has two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one

(1) of the manager's stations. The view required in this Subsection must be by direct line of sight from the manager's station. The view area shall remain unobstructed by any doors, walls, merchandise, display racks or other materials at all times, and no patron shall be permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to Section 5.07.110 of this Chapter.

(b) Peep booths and similar viewing areas shall be subject to the following regulations:

(1) No peep booth may be occupied by more than one (1) person at any time; and

(2) No door, screen or other covering shall be placed or allowed to remain on any peep booth, and no holes or openings shall be placed or allowed to remain in the wall between any two (2) adjacent peep booths.

(c) A person having a duty under this Article commits a misdemeanor if he or she knowingly fails to fulfill that duty. (Ord. 7.09 §1, 2000)

5.07.380—5.07.400 Reserved.

Article VI. Hours of Operation

5.07.410 Hours of operation.

It shall be unlawful for a sexually oriented business to be open for business or for the licensee or any employee of a licensee to allow patrons upon the licensed premises:

(1) On any Tuesday through Saturday from 2:00 a.m. until 7:00 a.m.;

(2) On any Monday other than a Monday which falls on January 1, from 12:00 a.m. until 7:00 a.m.;

(3) On any Sunday from 2:00 a.m. until 8:00 a.m.;

(4) On any Monday which falls on January 1, from 2:00 a.m. until 7:00 a.m. (Ord. 7.09 §1, 2000)

5.07.420 Exemption.

This Article shall not apply to those areas of an adult motel that are private rooms. (Ord. 7.09 §1, 2000)

5.07.430—5.07.500 Reserved.

**Article VII.
Minimum Age**

5.07.510 Minimum age.

(a) It shall be unlawful for any person under the age of eighteen (18) years to be upon the premises of a sexually oriented business.

(b) It shall be unlawful for the licensee or any employee of the licensee to allow any person under the age of eighteen (18) years to be upon the premises of a sexually oriented business. (Ord. 7.09.1 §9, 2005; Ord. 7.09 §1, 2000)

5.07.520—5.07.550 Reserved.

**Article VIII.
Lighting Regulations**

5.07.560 Lighting regulations.

(a) Excluding a private room of an adult motel, the interior portion of the premises of a sexually oriented business to which patrons are permitted access shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place (including peep booths) at an illumination of not less than five (5) foot-candles as measured at the floor level.

(b) It shall be the duty of the licensee and employees present on the premises to ensure that the illumination described above is maintained at all times during the hours of operation prescribed in Section 5.07.410. of this Chapter (Ord. 7.09 §1, 2000)

5.07.570—5.07.600 Reserved.

**Article IX.
Additional Regulations**

5.07.610 Stage required in adult cabaret and adult theater.

Any adult cabaret or adult theater shall have one (1) or more separate areas designated as a stage in the diagram submitted as part of the application for the licensee. Entertainers shall perform only upon the stage. The stage shall be fixed and immovable. No seating for the audience shall be permitted within six (6) feet of the edge of the stage. No members of the audience shall be permitted upon the stage or within six (6) feet of the edge of the stage. (Ord. 7.09 §1, 2000)

5.07.620 Conduct in sexually oriented businesses.

(a) No licensee, manager or employee mingling with the patrons of a sexually oriented business, or serving food or drinks, shall be in a state of nudity. It is a specific defense to prosecution for a violation of this Section that an employee of a sexually oriented business exposed any specified

anatomical area during the employee's bona fide use of a rest room, or during the employee's bona fide use of a dressing room which is accessible only to employees.

(b) No licensee or employee shall encourage or knowingly permit any person upon the premises to touch, caress or fondle the breasts, anus, genitals or other specified anatomical areas of any person. (Ord. 7.09 §1, 2000)

5.07.630 Employee tips.

(a) It shall be unlawful for any employee of a sexually oriented business to receive tips from patrons except as set forth in Subsection (b) below.

(b) A licensee that desires to provide for tips from its patrons shall establish one (1) or more boxes or other containers to receive tips. All tips for such employees shall be placed by the patron of the sexually oriented business into the tip box.

(c) A sexually oriented business that provides tip boxes for its patrons as provided in this Section shall post one (1) or more signs to be conspicuously visible to the patrons on the premises in letters at least one (1) inch high to read as follows: "All tips are to be placed in the tip box and not handed directly to employees. Any physical contact between a patron and employees is strictly prohibited." (Ord. 7.09 §1, 2000)

5.07.640 Unlawful acts.

It shall be unlawful for the licensee or for any manager or employee to violate any of the requirements of this Chapter or to knowingly permit any patron to violate the requirements of this Chapter. (Ord. 7.09 §1, 2000)

5.07.650 Exemptions.

The provisions of this Chapter regulating nude model studios do not apply to:

- (1) A college, junior college or university supported entirely or partly by taxation;
- (2) A private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or
- (3) A business located in a structure which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and where, in order to participate in a class a student must enroll at least three (3) days in advance of the class; and where no more than one (1) nude model is on the premises in a state of undress at any one (1) time. (Ord. 7.09 §1, 2000)

5.07.660 Fees.

- (a) The annual fee for a sexually oriented business permit is two hundred fifty dollars (\$250.00).
- (b) The annual manager's license fee is fifty dollars (\$50.00).

(c) An applicant for a sexually oriented business permit shall pay a nonrefundable application fee of eight hundred dollars (\$800.00) at the time of filing an application.

(d) An applicant for an employee permit shall pay a nonrefundable application fee of fifty dollars (\$50.00) at the time of filing an application. (Ord. 7.09 §1, 2000)

5.07.670—5.07.700 Reserved.

**Article X.
Criminal Penalties and Additional Legal, Equitable and Injunctive Relief**

5.07.710 Town's remedies.

(a) If any person fails or refuses to obey or comply with or violates any of the criminal provisions, such person, upon conviction of such offense, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed nine hundred ninety-nine dollars (\$999.00). Each violation or noncompliance shall be considered a separate and distinct offense. Further, each day of continued violation shall be considered as a separate offense.

(b) Nothing herein contained shall prevent or restrict the Town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any violation or noncompliance. Such other lawful actions shall include, but shall not be limited to, an equitable action for injunctive relief or an action at law for damages.

(c) All remedies and penalties provided for in this Section shall be cumulative and independently available to the Town, and the Town shall be authorized to pursue any and all remedies set forth in this Section to the full extent allowed by law. (Ord. 7.09.2 §10, 2006; Ord. 7.09 §1, 2000)

5.07.720 Severability.

If any clause, sentence, paragraph or part of this Chapter or the application thereof to any person or circumstance be declared unconstitutional or invalid by a court of competent jurisdiction for any reason, such decision shall not affect the validity of the remaining portions of this Chapter, or its application to any other person or circumstance; to this end, the provisions of this Chapter are declared to be severable. (Ord. 7.09 §1, 2000)

5.07.730—5.07.800 Reserved.

CHAPTER 5.08

Special Licensing Authority

5.08.010 Purpose.

It is the primary purpose of this Chapter, which is established pursuant to Article VI of the Town Charter, to create a Special Licensing Authority to assume the responsibility of reviewing and issuing or denying certain licenses within the Town. The responsibilities of this Authority include reviewing

applications, holding hearings on applications, issuing decisions on applications for various licenses and advising the Town Council on licensing issues. (Ord. 7.11 §1, 2001)

5.08.020 Special Licensing Authority created.

There is hereby established a Special Licensing Authority, hereinafter referred to as the "Authority," which is hereby given the authority to conduct public hearings and act as the licensing authority for the Town for those licenses and permits as authorized by the Town Council. The Special License Authority shall also be authorized to act as an advisory board to the Town Council on licensing issues. (Ord. 7.11 §1, 2001)

5.08.030 Qualifications of Authority members.

No person shall serve as a member of the Authority:

(1) Who shall have within Douglas County any interest in the operation of a liquor establishment or in one serving fermented malt beverages, an amusement device or arcade, a cabaret or a sexually oriented business, or who has a member of his or her immediate family who has such an interest in Douglas County;

(2) Who holds any other political office anywhere in the State at any level;

(3) Who is under the age of twenty-one (21);

(4) Who has an abhorrence to alcohol; or

(5) Who has committed or admits having committed any acts involving moral turpitude. (Ord. 7.11 §1, 2001)

5.08.040 Duties.

The Authority shall have and is vested with the authority to grant or refuse licenses for the sale at retail of malt, vinous or spirituous liquors and fermented malt beverages, as provided by law, conduct investigations as are required by law and suspend or revoke such licenses for cause in the manner provided by law. Such Authority shall have all the powers of the Local Licensing Authority, as set forth in Articles 46 and 47 of Title 12, C.R.S., and Title 5 of this Code. The Authority shall also have and is vested with the authority to grant or refuse licenses for amusement devices and arcades, pawnbrokers and other licenses as specifically authorized by the Town Council, conduct investigations as are required by law and suspend or revoke such licenses for cause in the manner provided by law. (Ord. 7.11.3 §1, 2007; Ord. 7.11 §1, 2001)

5.08.050 Membership of Authority; term; alternates.

(a) The Authority shall consist of five (5) members who shall be residents of the Town during their term of office. The members shall be appointed by the Town Council and shall serve for a term of two (2) years. The terms shall be staggered so that on even-numbered years three (3) members shall be appointed, and on odd-numbered years two (2) members shall be appointed, with each term commencing on January 1 and terminating on December 31 of the second year thereafter, except that the members of the first Authority appointed shall serve for terms as follows:

- (1) Two (2) members shall serve until December 31, 2003; and
- (2) Three (3) members shall serve until December 31, 2002.

(b) Alternate members of the Authority may be appointed by the Town Council. In the event that any regularly appointed member of the Authority is unable to attend a scheduled or official meeting due to illness, absence from the Town or other reasonable cause, his or her place may be temporarily taken during such time by an alternate member who shall have full voting prerogatives. Alternate members shall be appointed annually. (Ord. 7.11.1 §1, 2003)

5.08.060 Chairperson; appointment.

Upon creation of the Authority, and then following each regular Town election or in the event of a vacancy, the Town Council shall appoint one (1) member of the Authority to be Chairperson and one (1) member to be Vice Chairperson of the Authority. (Ord. 7.11 §1, 2001)

5.08.070 Vacancy; removal.

(a) Vacancy. If a vacancy occurs on the Authority, the Town Council shall make an appointment within thirty (30) days thereafter to fill the unexpired term.

(b) Removal. Any member of the Authority may be removed by the Town Council for reasons including, but not limited to:

(1) Nonattendance at three (3) consecutive meetings of the Authority, or consistent, but not consecutive nonattendance as determined by the Town Council.

(2) The purposeful failure of a member of the Authority to act in accordance with applicable law regarding the quasi-judicial duties of a member of the Authority.

(3) The failure to satisfy the qualifications for membership on the Authority pursuant to Section 5.08.030 or 5.08.050 above. (Ord. 7.11 §1, 2001)

5.08.080 Bylaws.

The Authority shall make and adopt by resolution its own bylaws, subject to approval of the Town Council, and in conformity with applicable statutes and ordinances. (Ord. 7.11 §1, 2001)

5.08.090 Quorum.

A quorum shall consist of three (3) members, and a decision of a majority of the members of the entire Authority shall control. Any absent member may join in a pending decision of the Authority after he or she has reviewed and considered the evidence adduced in any hearing conducted during his or her absence. (Ord. 7.11 §1, 2001)

5.08.100 Rules and procedures.

(a) The Special Licensing Authority shall have the authority to adopt rules of procedure and conduct to govern itself, subject to prior approval of the Town Council.

(b) The Authority shall meet at least once a month at a regularly scheduled time and location. The Authority may also hold special meetings from time to time as it deems necessary. Special meetings shall be at the call of the Chairperson or on request of a majority of the Authority members. A complete record shall be kept of all proceedings of the Authority, consistent with the requirements of state law, including the requirements of the Colorado Liquor and Beer Codes, as amended, which shall be available for public examination during regular business hours.

(c) In the event there is no business pending before the Authority, the regular meetings may be adjourned upon posted notice to the public. (Ord. 7.11.3 §2, 2007; Ord. 7.11 §1, 2001)

5.08.110 Subpoenas; violations and penalties.

The Authority shall have the power to administer oaths and issue subpoenas to require the presence of persons and the production of documents, data compilations or other evidence at any hearing before the Authority. It shall be a violation of this Chapter for any person to willfully fail to comply with any subpoena or order to produce documents, data compilations or other evidence issued by the Authority, punishable as provided in Section 1.02.060 of this Code. (Ord. 7.11 §1, 2001)

5.08.120 Appeal from decisions.

An appeal from any decision of the Authority shall be directed to the District Court of Douglas County pursuant to C.R.C.P. 106(a)(4), as amended, or by other applicable procedure. No appeal from any decision of the Authority shall be made to the Town Council, and, by passage of this Chapter, the Town Council affirms its intention to have all matters related to the issuance, suspension, revocation, denial and other licensing-related issues be handled by and within the duties of the Special Licensing Authority, and not by the Town Council. (Ord. 7.11 §1, 2001)

CHAPTER 5.09

Pawnbrokers

5.09.010 Definitions.

As used in this Chapter, the following terms shall have the following meanings unless the context clearly indicates otherwise:

Contract for purchase means a contract entered into between a pawnbroker and a customer pursuant to which money is advanced to a customer on the condition that a customer, for a fixed price and within a fixed period of time, not to exceed ninety (90) days, has the option to cancel said contract.

Fixed price means that amount agreed upon to cancel a contract for purchase during the option period. Said fixed price shall not exceed one-tenth ($\frac{1}{10}$) of the original purchase price for each month plus the original purchase price on amounts of fifty dollars (\$50.00) or over, or one-fifth ($\frac{1}{5}$) of the original purchase price for each month plus the original purchase price on amounts under fifty dollars (\$50.00).

Fixed time means that period of time, not to exceed ninety (90) days, as set forth in a contract for purchase, for an option to cancel said contract.

Manager means an individual employee of a pawnbroker who directs the business of the pawnbroker and who is in direct control of the pawnbroking business.

Option means the fixed time and the fixed price agreed upon by the customer and the pawnbroker in which a contract for purchase may be, but does not have to be, rescinded by the customer.

Pawnbroker means a person, partnership, limited liability company or corporation regularly engaged in the business of making contracts for purchase or purchase transactions in the course of his or her business. The term does not include "secondhand dealer" as defined by Section 18-13-114, C.R.S.

Pawnbroking means the business of a pawnbroker as defined by this Chapter.

Pledge or pledged property means any tangible personal property deposited with a pawnbroker pursuant to a contract for purchase in the course of his or her business as defined in this Chapter.

Pledgor means a customer who delivers a pledge into the possession of a pawnbroker.

Purchase transaction means the purchase by a pawnbroker in the course of his or her business of tangible personal property for resale, other than newly manufactured tangible personal property, which has not previously been sold at retail, when such purchase does not constitute a contract for purchase.

Tangible personal property means all personal property other than choses in action, securities or printed evidences of indebtedness, which property is deposited with or otherwise actually delivered into the possession of a pawnbroker in the course of his or her business in connection with a contract for purchase or a purchase transaction. (Ord. 7.12 §1, 2005)

5.09.020 License required.

No pawnbroker shall operate a pawnbroking business in the Town without a current valid license issued pursuant to this Chapter. (Ord. 7.12 §1, 2005)

5.09.030 Application.

(a) Each applicant for a pawnbroker license shall pay a nonrefundable application fee of one thousand dollars (\$1,000.00) at the time of filing the application.

(b) The application for a license shall contain the information required in this Chapter and any other pertinent information requested by the Town Clerk. Each individual applicant, partner of a partnership, officer, director and holder of ten percent (10%) or more of the corporate stock of a corporate applicant and all managers shall be named in each application form, and each of them shall be photographed and fingerprinted by the Police Department. Each of them shall furnish as an attachment to and part of such application evidence that the proposed establishment meets the requirements of the Parker Land Development Ordinance, as amended, proof of the applicant's right

to possession of the premises wherein the business of pawnbroking will be conducted, a financial questionnaire, consent to release of financial information and a current personal financial statement or a balance sheet and income account statement for the twelve-month period preceding the date of the application. Each corporate applicant shall furnish evidence that it is in good standing under the statutes of the State, or in the case of a foreign corporation, evidence that it is authorized to do business in the State. (Ord. 7.12 §1, 2005)

5.09.040 License fee.

The Town finds, determines and declares that considering the nature of the pawnbroker business and the relationship of such business to the municipal welfare, as well as the relationship thereto to the expenditures required of the Town and all other matters properly to be considered in relation thereto, the classification of such business as a separate type of business or occupation requiring a separate license fee is reasonable, proper, uniform, nondiscriminatory and necessary for a just and proper distribution of costs for Town services. Accordingly, the Town hereby levies and assesses for each year an annual Town pawnbroker license fee. The annual license fee for carrying on the business of pawnbroking shall be two thousand five hundred dollars (\$2,500.00), payable prior to the issuance of the license, and prorated for the calendar year in which the license is first issued. (Ord. 7.12 §1, 2005)

5.09.050 License term and renewal.

(a) Any license issued pursuant to this Chapter shall expire on the thirty-first day of December of every year.

(b) A renewal request shall be filed with the Town Clerk no later than October 1 of each year and shall be made under oath, stating that no events have occurred which would result in a different response than that contained in the original application or any renewal thereof. If circumstances have changed, the applicant must state with particularity the change, and respond appropriately to all questions in the application form. The request for renewal must include evidence of the insurance coverage required by this Chapter. (Ord. 7.12 §1, 2005)

5.09.060 Bond.

As part of the licensing process, the applicant shall furnish a good and sufficient bond with a surety to be approved by the Town Clerk in the sum of ten thousand dollars (\$10,000.00). Such bond shall be conditioned upon the faithful observance of the requirements of this Chapter and conditioned upon the safekeeping or return of all articles in pledge by such pawnbroker. (Ord. 7.12 §1, 2005)

5.09.070 Insurance.

As part of the licensing process, the applicant shall provide fire and property damage insurance for all property the pawnbroker holds by contract, in the minimum amount of one-half (½) of such property's contracted value in case of damage or destruction. The applicant must provide to the Town Clerk proof of such insurance coverage before a pawnbroker license is issued and each time a request for renewal is filed. (Ord. 7.12 §1, 2005)

5.09.080 Zoning approval.

Prior to the issuance of any pawnbroker license, the applicant shall provide to the Town Clerk proof that the zoning of the property permits a pawnbroker establishment. The Planning Director or designee is responsible for ascertaining whether the proposed pawnshop complies with the locational requirements of this Chapter and the Parker Land Development Ordinance, as amended. (Ord. 7.12 §1, 2005)

5.09.090 Investigation of applicants.

(a) Upon receipt of a properly completed application, as determined by the Town Clerk, together with all information required in connection therewith, fingerprints and photographs, and payment of the application fee, the Police Department shall conduct an investigation of the background, experience, character and financial responsibility of each individual applicant, the partners of a partnership, officers, directors and holders of ten percent (10%) or more of the corporate stock of a corporate applicant, and all managers of a proposed pawnbroker establishment.

(b) The Police Department's background investigation shall determine whether the financial responsibility, experience, character and general fitness of the individual applicant and of the partners, officers, directors and/or holders of ten percent (10%) or more of the stock of a corporate applicant and all managers are such as to command the confidence of the public and to warrant the belief that the business will be lawfully, honestly and fairly operated pursuant to this Chapter. (Ord. 7.12 §1, 2005)

5.09.100 Issuance or denial of license.

(a) The Town Clerk shall make a decision to issue the pawnbroker license or to deny the request for a license or renewal thereof no later than sixty (60) days after the Town Clerk has received all forms, documents and items required of the applicant by this Chapter, the results of the Police Department's investigation and compliance with the locational requirements of this Chapter and the Parker Land Development Ordinance, amended, as determined by the Planning Director or designee.

(b) If the investigation reveals that the applicant's request for a pawnbroker license may be approved and the Town Clerk has received verification that the applicant has met the bond and insurance requirements, the locational requirements and all other requirements of this Chapter, the Town Clerk shall issue and deliver to the applicant a pawnbroker license for use only at the premises specified in the application and only by the person making the particular application.

(c) A request for a new or renewal pawnbroker license may be denied by the Town Clerk on grounds including, but not limited to, the following:

(1) A finding that an individual applicant, partner, officer or director of a corporation, and/or holder of ten percent (10%) or more of the stock of a corporate applicant or manager of a pawnbroker establishment:

- a. Fails at any time to meet the qualifications of this Chapter;
- b. Violates any provision of this Chapter or other Town ordinance;

c. Obtained the license by fraud or misrepresentation; or

d. Has been convicted of a felony or any offense involving moral turpitude, including, but not limited to, theft, fraud, robbery, burglary, larceny or deceit;

and such conviction, as determined by the Police Department, would create a danger to the public health, safety or welfare if the licensee were to continue to engage in such conduct.

(2) A finding that an applicant is not financially responsible, is not in good standing or is not authorized to do business in Colorado. As used herein, *financially responsible* means having sufficient income and assets to defray expenses and provide for liabilities of the business as they become due.

(3) A finding that the locational requirements of this Chapter and the Parker Land Development Ordinance, as amended, are not satisfied.

(4) A finding that the bond and insurance requirements are not satisfied.

(d) The Town Clerk shall issue a written notice of any denial of a request for a pawnbroker license, including the reasons for such denial, and the Town Clerk's decision may be appealed to the Special Licensing Authority pursuant to the procedure outlined in Subsection 5.09.110(b) below. (Ord. 7.12 §1, 2005)

5.09.110 Revocation and suspension.

(a) The Town Clerk may revoke or suspend a pawnbroker license if:

(1) The licensee fails at any time to meet the qualifications required by this Chapter;

(2) The licensee violates any provision of this Chapter or other Town ordinance;

(3) It becomes evident that the licensee obtained the license by fraud or misrepresentation; or

(4) The licensee has been convicted of a felony or any offense involving moral turpitude, including, but not limited to, theft, fraud, robbery, burglary, larceny or deceit; and such conviction, as determined by the Police Department, would create a danger to the public health, safety or welfare if the licensee were to continue to engage in such conduct.

(b) No suspension or revocation shall be final until the licensee has been given the opportunity for a hearing to address the suspension or revocation. Such hearing shall be held within twenty (20) days of filing of a written request with the Town Clerk. The hearing shall be conducted as follows:

(1) The Town Clerk shall notify the applicant or licensee of the hearing date by first-class mail, addressed to the applicant or licensee at the last address provided to the Town.

(2) The Special Licensing Authority, after a public hearing, may affirm, reverse or modify the Town Clerk's decision and, upon a showing by the applicant or licensee of mitigating factors, may suspend the license for a period of time or impose on the applicant or licensee reasonable conditions on the license or any renewal thereof to secure compliance with this Chapter.

(3) The licensee or applicant shall have the burden to show by a preponderance of the evidence why the revocation, suspension or denial of a license, or renewal thereof, was improper. It shall also be the burden of the licensee to establish mitigation in contesting any order of revocation or suspension.

(4) The Special Licensing Authority shall consider whether the Town Clerk abused his or her discretion or acted arbitrarily or in excess of his or her authority hereunder.

(5) Within ten (10) days of the conclusion of the hearing, the Special Licensing Authority shall enter written findings and conclusions, which shall be mailed by first-class mail addressed to the applicant or licensee at the last address provided to the Town. The Special Licensing Authority's decision shall be effective three (3) days after the date of the written findings and conclusions. Any decision of the Special Licensing Authority shall be a final appealable order and the applicant or licensee may seek judicial review of such administrative action in any district court of competent jurisdiction, pursuant to the Colorado Rules of Civil Procedure Rule 106(a)(4).

(c) No refunds of any license fee shall be provided.

(d) No person who has had a license suspended or revoked under this Section is entitled to obtain the same or any similar license under this Section during the period of suspension or revocation, either in the person's own name or as principal in another business that applies for a license. (Ord. 7.12 §1, 2005)

5.09.120 Manager.

(a) A pawnbroker may employ a manager to operate the business, provided that the pawnbroker retains complete control of all aspects of the business, including, but not limited to, the right to possession of the premises and the responsibility for all debts, and the pawnbroker must bear all risk of loss or opportunity for profit from the business.

(b) Each new manager shall be photographed, fingerprinted and investigated. (Ord. 7.12 §1, 2005)

5.09.130 Change of owner, shareholder, partner, officer or director.

(a) In the event of a change of owner, officer, director or holder of more than ten percent (10%) of the shares of stock of a corporate license holder, partner of a partnership or manager, disclosure in writing by amendment of the original license application shall be made pursuant to Section 5.09.140 below.

(b) Notwithstanding any other provision of this Chapter, neither a new license or an amendment to an existing license shall be required upon any change, directly or beneficially, in the ownership of any licensed pawnshop, which is owned directly or beneficially by a person who as an issuer has a class of securities registered pursuant to Section 12 of the Securities Exchange Act of 1934 (the "Act"), or is an issuer of securities who is required to file reports with the Securities and Exchange Commission pursuant to Section 15(d) of the Act, provided that such person files with the Commissioner such information, documents and reports as are required by the provisions of the Act to be filed by such issuer with the Securities and Exchange Commission. Such issuer shall file with

the Town Clerk information on managers, officers and directors of such issuer of any licensed or intermediate subsidiary as is otherwise required of managers, officers and directors of corporate pawnbrokers. (Ord. 7.12 §1, 2005)

5.09.140 Change of application.

Any change of ownership or manager shall require an amendment to the license application. The applicant or license holder shall pay a fee of two hundred dollars (\$200.00) for each amendment of the application. Failure of an applicant to request an amendment of the application shall constitute grounds for revocation, suspension or nonrenewal of the license. (Ord. 7.12 §1, 2005)

5.09.150 Register.

(a) Each licensee shall keep a numerical register which includes the following information for each contract for purchase or purchase transaction:

- (1) The date of the contract for purchase or purchase transaction;
- (2) The date and time of receipt of the article;
- (3) An accurate description of the article, including, but not limited to, serial and registration numbers, trademarks, brand names, model numbers and other identifying marks on the property;
- (4) The name, address, date of birth, photograph and physical description of each customer, together with his or her driver's license or identification card number;
- (5) A declaration of ownership signed by the customer; and
- (6) For a contract for purchase, the amount, date and terms of the contract for purchase.

(b) The customer shall sign his or her name in such register, shall provide a clear and identifiable imprint of the customer's right index finger in such register and on the declaration of ownership and shall receive a copy of the contract of purchase or a receipt for the purchase transaction from the pawnbroker.

(c) A pawnbroker shall retain each register for at least three (3) years after the date of the last transaction entered in the register. The register shall be made available to any local law enforcement agency for inspection upon request at any reasonable time. (Ord. 7.12 §1, 2005)

5.09.160 Video required.

Every pawnbroker shall videotape all transactions, including those which do not result in a contract for purchase or purchase transaction. The videotape shall be in a format approved by the Police Department and of such quality that it clearly displays an identifiable frontal image of the customer. Any such videotape shall be kept by the pawnbroker for a minimum of one hundred eighty (180) days and shall be subject to police review. If the videotape contains photographic evidence, it shall be held for one (1) year. (Ord. 7.12 §1, 2005)

4. The pledge represented by this pawn ticket is (description of pledge):

5. Further affiant sayeth not.

Affiant

Subscribed and sworn to before me this ____ day of _____, 20__.

Notary Public

My Commission expires: _____.

(d) Adverse claims. If more than one (1) person claims the right to cancel a contract for purchase, the pawnbroker shall incur no liability for refusing to deliver the pledge until the respective rights of the claimants are adjudicated. If no action is brought against the pawnbroker by either party prior to the expiration of the period for which the pawnbroker is required to hold the pledge, the pawnbroker may proceed to sell the pledge in accordance with the provisions of this Chapter.

(e) Altered pawn ticket. The alteration of a pawn ticket shall not excuse the pawnbroker who issued it from liability to deliver the pledge according to the terms of the ticket as originally issued, but shall relieve the pawnbroker from any other liability to the pledgor of the ticket.

(f) Seizure.

(1) If a ticket is presented to a pawnbroker which purports to be one issued by him or her but which is found to be counterfeit, or which has been reported to him or her as lost, stolen or destroyed, the pawnbroker may seize and retain the same without incurring any liability whatsoever to the holder thereof, and shall immediately notify the Police Department. The Police Department shall then place a hold order on the pawn ticket so seized, and the pledged property identified in said pawn ticket shall be held by the pawnbroker until such time as the lawful disposition of the pledged property is either agreed upon, determined by a court action or directed by ordinance or statute, or until the hold order is either ordered released by the Police Department or has expired.

(2) If a pawnbroker has reason to believe a customer is exhibiting counterfeit or fraudulent identification, the pawnbroker or his or her employee, acting in good faith and upon probable cause based upon reasonable grounds therefor, may seize such identification without incurring civil or criminal liability as a result of such seizure, if the pawnbroker immediately notifies and gives such identification to the Police Department. (Ord. 7.12 §1, 2005)

5.09.180 Hold order and confiscation.

(a) Any police officer may order a pawnbroker to hold any article deposited with or in the custody of any pawnbroker for investigation purposes. A hold order shall be effective upon verbal notification to the pawnbroker by the Police Department. No sale or other disposition may be made of any property under a hold order. A hold order shall supersede any other provision of this Chapter.

(b) If any police officer determines that any article held by a pawnbroker is stolen or otherwise illegally obtained, the police officer may immediately confiscate such property. The officer shall provide the pawnbroker with a receipt, case report number and cover sheet setting forth the basis for the confiscation.

(c) When stolen property, seized by the Police Department, is no longer needed as evidence and there is no court order which concerns its disposition, the Police Department shall notify the pawnbroker, the person claiming to be the lawful owner of the property and any other person who has notified the Police Department in writing of his or her claim to an interest in the property, of the right to an administrative hearing to determine who is entitled to possession of the stolen property. Such notice shall be sent by the Police Department to such persons by certified mail, return receipt requested. A demand for an administrative hearing before the Special Licensing Authority shall be filed with the Town Clerk within fourteen (14) days after the date the notice was mailed by the Police Department. In the event no demand for a hearing regarding possession of the property in question is received by the Town Clerk within the time set out above, the Police Department shall return the property to the person claiming to be the lawful owner. In the event a demand for hearing is received by the Town Clerk within the time set out above, the person demanding the hearing shall carry the burden of establishing by a preponderance of the evidence that such person has the right to possession of the property. The decision of the Special Licensing Authority shall be final. (Ord. 7.12 §1, 2005)

5.09.190 Sale of tangible personal property.

If the customer fails or neglects to redeem his or her property upon the maturity of the contract for the purchase by repayment of the balance of the principal and payment of all accrued interest charges, the pawnbroker shall immediately, upon the maturity of the contract for purchase, mail with sufficient postage a notice of the impending sale of the property delivered under the contract. Such notice shall be mailed to the customer at the address shown on the contract for purchase. Ten (10) days shall be allowed from the date of the mailing of the notification for the customer to appear and reclaim the property. The pawnbroker shall not sell or otherwise dispose of the property prior to the expiration of the ten-day period. (Ord. 7.12 §1, 2005)

5.09.200 Hours.

It shall be unlawful for any pawnbroker to be open for business during the following hours and on the following days:

- (1) After 6:00 p.m. (or after 7:00 p.m. on Saturday) and before 8:00 a.m. the following morning;
- (2) On Sunday;
- (3) On January 1, commonly called New Year's Day; on the fourth Monday of May, commonly called Memorial Day; on July 4; on the first Monday of September, commonly called Labor Day; on the fourth Thursday of November, commonly called Thanksgiving Day; and on December 25, commonly called Christmas Day; or
- (4) On the Monday following the Sunday on which any of the holidays enumerated in Paragraph (3) above falls. (Ord. 7.12 §1, 2005)

5.09.210 Proximity.

No pawnbroker business or facility shall be located on any site unless authorized as a permitted use in the underlying zone district and less than four hundred (400) feet from the location of any other pawnbroker business or facility, whether within or outside the Town boundaries. (Ord. 7.12 §1, 2005)

5.09.220 Prohibited acts.

No pawnbroker, employee or agent of any pawnbroker shall:

(1) Enter into a contract for purchase or purchase transaction with any person under the age of eighteen (18) years or under the influence of alcohol or drugs;

(2) Enter into a contract for purchase or purchase transaction with any person known to the pawnbroker, employee or agent to have been convicted of larceny, robbery or burglary, unless the Police Department has been notified;

(3) Permit any customer to become obligated on the same day in any way under more than one (1) contract for purchase with the pawnbroker which would result in the pawnbroker obtaining a greater amount of money than would be permitted if the pawnbroker and customer had entered into only one (1) contract for purchase covering the same articles;

(4) Violate the terms of a contract for purchase;

(5) Enter into any contract for purchase in violation of this Chapter;

(6) Enter into a contract for purchase for any article other than an article of tangible personal property; or

(7) Enter into any contract for purchase or purchase transaction wherein the identification number, serial number, model number, brand name, owner's identification number or other identifying marks of the property have been totally or partially obscured. (Ord. 7.12 §1, 2005)

5.09.230 Liability of pawnbroker.

(a) A pawnbroker who accepts in pledge any tangible personal property as security for a contract for purchase from one who is not the owner thereof obtains no title in the property either by reason of a pledgor's failure to cancel the contract for purchase or by transference of the pawn ticket to the pawnbroker by the pledgor thereof. Ignorance of the fact that the pledged property was lost or stolen shall not affect the question of title; and if the pawnbroker sells such article to a third person, he or she shall remain liable to the original owner in any appropriate legal action. The lawful owner may, upon providing proof of his or her ownership of the lost or stolen property, claim the same from the pawnbroker or recover the same by means of any appropriate legal action.

(b) A pawnbroker shall be liable for the loss of tangible personal property or part thereof or for damages thereto, whether caused by fire, theft, burglary or otherwise, resulting from his or her failure to exercise reasonable care in regard to it. (Ord. 7.12 §1, 2005)

5.09.240 Penalties.

Any person, firm or corporation violating any of the provisions of this Chapter shall be liable for a fine or penalty of not more than four hundred ninety-nine dollars (\$499.00). Each day a violation of the provisions of this Chapter exists shall be considered a separate punishable offense. The civil penalties contained in this Chapter are in addition to the criminal penalties contained in Section 12-56-104, C.R.S., as amended. (Ord. 7.12 §1, 2005)

5.09.250 Statutory provisions.

Regulation of pawnbrokers is a subject of joint and local concern. The provisions of this Chapter are not intended to prohibit what the State allows nor what the State prohibits. Any conflict between the provisions of state statutes and the provisions of this Chapter shall be resolved accordingly. It is the intent of this Chapter to license and regulate pawnbrokers doing business in the Town, and all such pawnbrokers will be subject to both this Chapter and applicable state statutes. (Ord. 7.12 §1, 2005)