

TITLE 6

BUSINESS REGULATIONS AND LICENSES

Chapters:

- 6.01 Business Licenses and Regulations
- 6.02 Contractor Licenses and Regulations
- 6.03 Transient Dealers
- 6.10 Sexually Oriented Businesses

CHAPTER 6.01

Business Licenses and Regulations.

Sections:

- 6.01.010 Short Title.
- 6.01.020 Purpose.
- 6.01.030 Definitions.
- 6.01.040 License Required.
- 6.01.050 License Application.
- 6.01.060 License Fees.
- 6.01.070 Issuance.
- 6.01.080 Carrying or Posting the License Required.
- 6.01.090 License Nontransferable.
- 6.01.100 Suspension.
- 6.01.110 Revocation of License.
- 6.01.120 Notice and Hearing Prior to Suspension or Revocation.
- 6.01.130 Cease and Desist.
- 6.01.140 Violations and Penalties.

6.01.010 Short Title. The Ordinance codified in this Title 6 shall be known and may be cited and referred to as the “Parachute Business License Regulations” and herein may be referred to as “these Regulations” or “this Code” or “Title 6”.

(Ord. 536 §1, 2006)

6.01.020 Purpose. The purpose of this Title is to establish the Business License Code for the Town of Parachute and shall be deemed an exercise of the power of the Town to license and to require the annual licensing and limited regulation of all business conducted within the Town with necessary information concerning the activities of businesses in order to protect the property, health,

welfare, peace or safety of its citizens, inhabitants and visitors.  
(Ord. 536 §1, 2006)

6.01.030 Definitions. For the purpose of this Title, the following terms, phrases, words and their derivations shall have the meaning given in this Section.

**Business:** All activities, occupations, trades, pursuits, professions, and matters located within the Town, with a physical presence in the Town and operated on a permanent or ongoing basis whether operated with the object of gain, benefit, advantage or profit, or operated not for profit, to the business enterprise or to another person, directly or indirectly; provided that “business” shall not mean governmental agencies.

**Business enterprise:** Any entity, person, partnership, association, corporation, trust, society or club engaged in a business within the Town.

**Business license year:** For the year of 2006, the period between April 1<sup>st</sup> and December 31<sup>st</sup>. Starting 2007, the period will be between January 1<sup>st</sup> and December 31<sup>st</sup>.

**Director:** The Building and Planning Technician or the Town’s designee.

**Department:** The Town of Parachute Building and Planning Department.

**Employee:** Any person employed at any business enterprise who performs any part of their duties within the Town. All officers, agents, dealers, franchisees, etc., of a corporation or business trust, and partners of a partnership, except limited partners, are employees within this definition.

**Engage in business:** To commence, conduct or continue in any business.

**Licensee:** Any business granted a business license.

**Nonprofit:** Any business enterprises registered as nonprofit corporations within the State of Colorado or granted nonprofit status through the code of the Internal Revenue Service of the United States.

**Physical presence:** The address where the business is located. A post office box with a Parachute address for a business is considered a physical presence.

**Place of business:** The physical location of the business.

(Ord. 536 §1, 2006)

6.01.040 License Required. Every person must obtain a license from the Town before operating, conducting or carrying on any retail trade, profession or business within the Town; except

that nonprofit State corporations, excluding federal, State or municipal corporations, are hereby exempt from the license requirements set forth in this Chapter.  
(Ord. 536 §1, 2006)

6.01.050 License Application. An application for a business license shall be made to the Town Clerk on forms provided by the Town. Every applicant shall state under oath or affirmation such facts as may be required for the granting of such license. It is unlawful for any person to make any false statement or misrepresentation in connection with any application for a license.

(Ord. 536 §1, 2006)

6.01.060 License Fees.

A. Every person required to be licensed by the provisions of this Chapter shall pay an annual fee of \$50.00 for every new license, and \$25.00 for every renewal unless specified otherwise in this Code or any other ordinance.

B. Before granting the license, the fee required for the license must be paid at the office of the Town Clerk, and any other documentation required by this Chapter shall be provided.

(Ord. 536 §1, 2006)

6.01.070 Issuance. Upon receipt of the required fee and compliance with Section 6.01.040, the Town will issue a license that indicates that the license tax has been paid for the specified year.

(Ord. 536 §1, 2006)

6.01.080 Carrying or Posting the License Required. The license for a particular business location shall be posted at all times in a conspicuous place in the place of business. If the business is not operated, conducted or carried on at a fixed location, the licensee must carry the license upon his person when operating, conducting or carrying on any retail trade, profession or business. Every licensee shall produce his license for examination when requested to do so by any Town police officer or by any person representing the Town.

(Ord. 536 §1, 2006)

6.01.090 License Nontransferable. No license issued under the provisions of this Chapter shall be transferable from person to person or place to place.

(Ord. 536 §1, 2006)

6.01.100 Suspension. A license may be suspended:

- A. When any money due the Town has not been paid. This includes failure to pay civil penalties, fines, taxes, impact fees or any other money owed to the Town.
- B. When any activity conducted by the licensee or his employee or agent violates any federal, State or local rule, regulation or law.
- C. Upon failure to comply with the terms and conditions of the license.
- D. Upon any grounds of suspension provided by this Code.

(Ord. 536 §1, 2006)

6.01.110 Revocation of License. A license may be revoked by the Town:

- A. When it appears that the license was obtained by fraud, misrepresentation or false statements within the application.
- B. When it appears that the activity conducted pursuant to such license is a public nuisance as defined by this Code or statute or violates any federal, State or local rule, regulation or law;
- C. Upon failure to comply with the terms and conditions of the license;
- D. Upon any grounds of revocation provided by this Code.

(Ord. 536 §1, 2006)

6.01.120 Notice and Hearing Prior to Suspension or Revocation. All hearings to revoke, suspend or cancel a license shall be before the Board of Trustees. The suspension or revocation of any license shall not release or discharge anyone from his civil liability for the payment of the taxes, penalty and interest or from the prosecution of the offense.

(Ord. 536 §1, 2006)

6.01.130 Cease and Desist. If any business is operating without a license, the Town Clerk may issue and order to the business to cease and desist all further operation until a license is issued for the business. The order shall give the business three (3) days to pay all amounts due the Town; or to post a bond in the amount owing the Town and to request in writing a hearing with the Town Clerk. If the business does nothing, it shall cease operations on the third day. The hearing will be before the Board of Trustees. The proceedings shall not relieve or discharge anyone from the civil liability for the payment of the taxes, penalty and interest or from the prosecution of the offense.

(Ord. 536 §1, 2006)

6.01.140 Violations and Penalties. It shall be unlawful for any person to violate any of the provisions of this Chapter. Any violation of this Chapter shall be deemed a Class B municipal offense as defined in Section 11.01.030 of the Parachute Municipal Code, and the violator shall be punished accordingly. Each and every day during which said violation occurs shall be deemed a separate and distinct violation.

(Ord. 565 §3, 2007)

## CHAPTER 6.02

### Contractor Licenses and Regulations.

#### Sections:

6.02.010	Short Title.
6.02.020	Purpose.
6.02.030	Definitions.
6.02.040	Contractor Licensing Requirements.
6.02.050	License Application.
6.02.060	Renewal of License.
6.02.070	Classification of Licenses.
6.02.080	Insurance Requirements.
6.02.090	Examination Procedures.
6.02.100	Contractor License Fee Schedule.
6.02.110	Denial of License.
6.02.120	Revocation or Suspension of License.

6.02.010 Short Title. The Ordinance codified in this Title 6 shall be known and may be cited and referred to as the "Parachute Contractor License Regulations" and herein may be referred to as "these Regulations, or "this Code" or "Title 6".

(Ord. 536 §1, 2006)

6.02.020 Purpose. The purpose of this Title is to promote the public health, safety and welfare by establishing contractor licensing to assure that the persons responsible for the erection, construction, enlargement, alteration, repair, moving, removal or conversion of buildings and other structures in the Town of Parachute are qualified to perform such services and possess insurance to protect consumers during the process.

(Ord. 536 §1, 2006)

6.02.030 Definitions. For the purpose of this Title, the following terms, phrases, words and their derivations shall have the meaning given in this Section.

**Business license year:** For the year of 2006, the period between April 1<sup>st</sup> and December 31<sup>st</sup>. Starting 2007, the period will be between January 1<sup>st</sup> and December 31<sup>st</sup>.

**Contractor:** Any person, firm, co-partnership, corporation, association or other organization or any combination thereof who builds, constructs, alters, adds to, or repairs any building or structure either on its' own property, or who supervises or advises on any such activity, or hires and pays

subcontractors.

**Homeowner/Builder:** A property owner who elects to act as the contractor of a residential dwelling. A homeowner/builder may secure a permit on only one (1) residential dwelling in a twelve (12) month period with the intent of occupying the structure upon completion. Any person who builds two (2) or more residences in the Town of Parachute in any twelve (12) month period shall be deemed to be a contractor, who must then comply with Section 6.02.040 of this Chapter.

(Ord. 536 §1, 2006)

6.02.040 Contractor Licensing Requirements.

A. A contractor license is required for any person, firm, partnership, corporation, association, or any combination thereof which undertakes to perform any of the work for which a license is authorized in this Article within the Town for any compensation.

B. Permits will be issued only to licensed contractors or their authorized representative.

C. A contractor shall be responsible for all work included under the scope of the contractor's license.

D. The following are exempt from the requirements of this Chapter:

1. Any person performing work under the direction of a licensed contractor;

2. Any owner performing work on his/her own personal residence and buildings accessory thereto. Pursuant to this exception, he/she may construct only one (1) residence as his/her personal residence within a period of twelve (12) consecutive months;

3. Owners of commercial buildings may, at the discretion of the Building Official, be issued permits for minor remodel projects not involving structural changes, such as relocations of counters, construction of partitions and facade, provided that, in the opinion of the Building Official, the building owner is capable of doing the work. All electrical and plumbing work must be done by licensed electricians and licensed plumbers respectively;

4. Public utility companies and the Town of Parachute when engaged in the installation, operation and maintenance of equipment used in production or service from their source through the facilities owned or operated by such utility company to the point of customer service;

5. Contractors installing fabricated or manufactured units such as cabinets, counter tops, storm windows, carpet, and landscaping materials; and

6. Electrical and plumbing contractors registered and licensed by the State of Colorado.

(Ord. 536 §1, 2006)

6.02.050 License Applications, Qualifications and Changes.

A. An applicant for a license shall apply on forms provided by the Town, provide such information relating to the applicant's competence, experience and job references as required, and pay the fees as set forth herein.

B. No license shall be issued to an applicant until the applicant has successfully passed an examination to test the applicant's qualifications for the category of license requested, if required by Section 6.02.040.

C. An applicant for contractor license shall provide evidence of insurance coverage as specified in Section 6.02.070 of this Chapter.

D. The creation of a new legal entity, even though one (1) or more of the members, officers or directors have a license, shall require that a new license be obtained within thirty(30) business days after the change is made.

E. The dissolution of a corporation or partnership which has been licensed terminates the license and no person may operate under that license.

F. A licensee may elect to have his license become inactive by notifying the Building Official and paying the appropriate annual fee. No insurance certificates are required for an inactive license. No one shall perform work with an inactive license.

G. A licensee may upgrade a license to a broader classification by submitting a new application, successfully completing the examination if required, and paying the difference between the fees paid and the fee for the new license.

H. If a license is denied or revoked by the Building Official, and in case of an appeal, if the denial or revocation has been affirmed by the Board, the applicant may reapply, but not sooner than ninety (90) days after the denial or revocation, or in the case of an appeal, ninety (90) days after the order of the Board affirming the denial or revocation.

(Ord. 536 §1, 2006)

6.02.060 Renewal of License. A licensee under this Chapter shall renew the license yearly by paying the fees prescribed and filing the certificate of insurance prescribed by Section 6.02.070 of this Chapter. This certificate of insurance shall identify the limits of the insurance,

policy number, name of insurance company, effective date and expiration date of each policy.

(Ord. 536 §1, 2006)

6.02.070 Classification of Licenses.

A. General Contractor Class A Unlimited. This license shall entitle the licensee to contract for the construction, alteration or repair of any type or size of building or structure permitted by the International Building Code except electrical, plumbing, mechanical, fire extinguishing and elevators unless licensed to do such specialty trades.

B. General Contractor Class B Commercial. This license shall entitle the licensee to contract for the construction, alteration or repair of any type or size of building or structure permitted by the International Building Code except those classified as Type I or Type II fire-resistive construction, except electrical, plumbing, mechanical, fire extinguishing and elevators, unless licensed to do such specialty trades.

C. General Contractor Class C Light Commercial. This license shall entitle the licensee to contract for the construction, alteration or repair of A-3, E-3, H-4, M, R, or U occupancy groups of any type of construction permitted by the International Building Code except those classified as Type I or Type II fire-resistive construction, electrical, plumbing, mechanical, fire extinguishing and elevators, unless licensed to do such specialty trades.

D. General Contractor Class D Residential. This license shall entitle the licensee to contract for the construction, alteration or repair of R-3 and U occupancies of type V-N construction permitted by the International Building Code except electrical, plumbing and mechanical, unless licensed to do such specialty trades.

E. Class S Specialty Contractor's License. This license entitles the licensee to contract for labor or for labor and materials involving only one (1) trade as defined below. A Class S licensee may be licensed to perform more than one (1) such specialty.

1. S-1: Lathing, plastering and drywall. Installation of lathing, plastering and drywall, including the installation of nonbearing partitions and stucco.

2. S-2: Roof covering and waterproofing. Installation of roof coverings including valleys, gutters and down spouts, waterproofing and damp proofing.

3. S-3: Masonry and fireplaces. Laying and forming all types of masonry.

4. S-4: Concrete foundation and caissons. Installation of foundations and caissons.

5. S-5: Wood framing. The fabrication and erection of wood framing for all types of building.
6. S-6: Swimming pools and spas. Installation of swimming pools and spas.
7. S-7: Structural metals. The fabrication and erection of structural metal for all types of building or structures, excluding the complete construction of a building.
8. S-8: Precast concrete building units. The erection of precast concrete structural units for all types of buildings and structures.
9. S-9: Prefabricated metal patios, carports and awnings. The installation of prefabricated metal patios, carports and awnings.
10. S-10: Siding. The installation of siding on new or existing building structures.
11. S-11: Elevator. The installation of elevators, escalators or dumbwaiter in existing or new construction buildings or structures.
12. S-12: Demolition. The demolition of buildings or structures or portions thereof.
13. S-13: Moving. To prepare and move all types of buildings or structures.
14. S-14: Fire sprinkler. To install all types of fire-extinguishing systems.
15. S-15: Low voltage. To install low-voltage fire alarm, communications and computer wiring.
16. S-16: Lawn sprinkler. To install lawn sprinkler systems together with back flow-prevention devices.
17. S-17: Signs. To fabricate, erect, install, remodel, repair and maintain all types of signs.
18. S-18: Manufactured home installer. The installation of manufactured homes, inclusive of all utility connections and additions or modifications to manufactured homes.
19. S-19: Glass and glazing. The installation of all types of glazing in residential, commercial and industrial buildings including skylights, store fronts, structural glazing and

glass curtain walls.

20. S-20: Jobbers. Nonstructural building alterations with a total value of not more than five thousand dollars (\$5,000.00).

21. S-21: Other. Any other specialty trade not identified above.

F. Mechanical. This license entitle the holder to install, add to, alter or repair warm-air heating, venting, evaporative and refrigeration cooling, exhaust systems and the appurtenances, hot water systems, process piping, refrigeration systems and related appurtenances.

G. Electrical.

1. No person shall be granted a permit to engage in the electrical installation of wiring, appliances or electrical apparatus of any nature, kind or description (except central stations, power houses or substations) for the purpose of transmitting or utilizing current for light, heat, power or electrical signal systems or other purposes inside of or in connection with any building or buildings, unless such person has received an electrical contractor's license from the State of Colorado.

2. Any person desiring to engage in the business of contracting for the installation, altering or repairing of electrical wiring and apparatus of any kind or nature shall first register with the division stating the name of the person making the application, such person's place of business, the master electrician's name and the master electrician's license number.

3. No person shall be registered for contracting under this Section unless holding a contractor's license from the State of Colorado. Any person so holding a contractor's license in his or her profession shall be permitted to register with the Town upon his or her compliance with the other provisions of this Section, which registration shall be good for a period of one (1) year subject to suspension or revocation by the Building Official at any time if the holder thereof fails to comply with the provisions of this Chapter and all other provisions of this Code relating to electrical standards.

H. Plumbing.

1. Any person desiring to engage in the business of contracting for the installation, altering or repairing of plumbing fixtures and apparatus of any kind or nature shall first register with the Town stating the name of the person making the application, such person's place of business, the mater plumber's name and the master plumber's license number.

2. No person shall be registered for acting as master plumber under this Section unless holding a master's license from the State of Colorado. Any person so holding a master's license in this profession shall be permitted to register with the Town upon his or her compliance with the other provisions of this Section, which registration shall be good for a period of one (1) year subject to suspension or revocation by the Building Official at any time if the holder thereof fails to comply with the provisions of this Chapter and all other provisions of this Code relating to plumbing standards.

3. No master plumber shall employ any journey person or apprentice plumber who is not duly licensed or registered by the State of Colorado.

(Ord. 536 §1, 2006)

6.02.080 Insurance Requirements. Contractor shall procure and maintain, and shall cause each subcontractor of the contractor to procure and maintain (or shall insure the activity of contractor's subcontractors in contractor's own policy with respect to), the minimum insurance coverages listed below. Such coverages shall be procured and maintained with forms and insurers acceptable to the Town. All coverages shall be continuously maintained from the date of commencement of any work pursuant to the contractor's 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.

A. Workers' Compensation insurance to cover obligations imposed by the Workers' Compensation Act of Colorado and any other applicable laws for any employee engaged in the performance of Work for the Contractor and Employers' Liability insurance with minimum limits of FIVE HUNDRED THOUSAND DOLLARS (\$500,000) each accident, FIVE HUNDRED THOUSAND DOLLARS (\$500,000) disease - policy limit, and FIVE HUNDRED THOUSAND DOLLARS (\$500,000) disease - each employee.

B. Comprehensive General Liability insurance with minimum combined single limits of ONE MILLION DOLLARS (\$1,000,000) each occurrence and ONE MILLION DOLLARS (\$1,000,000) aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy shall include coverage for explosion, collapse, and underground hazards. The policy shall contain a severability of interests provision.

C. Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than ONE MILLION DOLLARS (\$1,000,000) each occurrence and ONE MILLION DOLLARS (\$1,000,000) aggregate with respect to each of contractor's owned, hired and/or non-owned vehicles assigned to or used in performance of the contractor's work. The policy shall contain a severability of interests provision.

D. Lapse of insurance shall render the license suspended until such insurance is reinstated.

(Ord. 536 §1, 2006)

6.02.090 Examination Procedures.

A. The Building Official may, at his or her discretion, issue a license to contractors or qualified individuals who have successfully passed an examination in another jurisdiction that has comparable requirements to this Chapter.

B. The Building Official may require an exam of any specialty contractor if it becomes necessary to establish proper credentials for licensing.

(Ord. 536 §1, 2006)

6.02.100 Contractor License Fee Schedule.

A. Contractor's license fees shall be established and from time to time revised by resolution of the Board of Trustees.

B. Contractor's license fees and yearly renewal shall be as follows:

Classification	Description	Fee
Class A	General Contractor Unlimited	\$100.00
Class B	General Contractor Commercial	\$50.00
Class C	General Contractor Light Commercial	\$50.00
Class D	General Residential Contractor	\$50.00
Class S	Specialty License	\$25.00
Mechanical Contractor		\$50.00
Electrical Contractor		Exempt
Plumbing Contractor		Exempt

(Ord. 536 §1, 2006)

6.02.110 Denial of License.

A. The Building Official may deny a license under this Chapter upon a finding of any of the following:

1. The applicant has failed to provide information requested on the application form;
2. The applicant is not qualified by experience, training or education to engage in the activity authorized by the license;
3. The applicant's license for the same or similar work is under suspension or revocation in this or another jurisdiction;
4. The applicant has been convicted of an offense relating to the conduct of the activity licensed by this Chapter within three (3) months prior to the application;
5. The applicant has failed to pass an examination designed to test the applicant's qualification for the license requested;
6. The applicant has previously failed to comply with the ordinances and regulations of the Town relating to conducting any contracting business licensed by this Chapter.

B. If the Building Official denies a license application under this Section, he shall notify the applicant in writing stating the specific grounds for the denial. The applicant may thereafter appeal the denial of the application to the Board and obtain a hearing as described in Section 6.02.120 of this Chapter.

(Ord. 536 §1, 2006)

6.02.120 Revocation or Suspension of License.

A. The Building Official shall, upon the verified complaint in writing of any person, require the licensee to appear before the Board for hearing on the possible suspension or revocation of the license. The licensee shall be given a copy of the complaint and at least twenty (20) days written notice of the time and place of the hearing. The notice shall be served personally, or shall be mailed by first class mail to the licensee's last known mailing address. At the hearing the licensee shall have the right to present its case by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and truth disclosure of the facts. The licensee shall be entitled to said hearing to have the benefit of legal counsel of his own choosing and at his own expense.

B. The Board, after review of the evidence presented, shall have the power to suspend or revoke the license if the Board finds that the licensee committed one (1) or more of the following acts or omissions related to work as a contractor:

1. Violations of any provision of the Parachute Municipal Code, including any code which was adopted by reference;
2. Failure to comply with any lawful order of the Building Official or any other authorized representative of the Town;
3. Use of the license or registration to obtain permits required under the building codes for any other person;
4. Misrepresentation of a material fact when applying for a license, or fraud in obtaining a license;
5. Gross negligence in the work done by the licensee;
6. Failure to obtain a required permit;
7. Conviction of an offense involving misapplication of funds or property received from another.

C. If the Building Official finds that an emergency exists which justifies immediate suspension or revocation of a license, he may enter an order for immediate suspension of such license, pending further investigation and proceedings for suspension or revocation as provided in this Chapter. The licensee may, upon notice of such suspension, request an immediate hearing before the Building Official.

D. The Building Official may suspend licenses upon the written consent and approval of the licensee.

E. If the license of any contractor is revoked, another such license shall not be granted to such contractor within twelve (12) months after the effective date of the revocation. If a license is suspended, the Board shall state the period and terms of the suspension. Unless otherwise ordered by the Board, a license shall not be reinstated following a suspension or renewed following a revocation unless the contractor has successfully passed an examination as specified in Section 6.02.090 of this Chapter.

F. Definitions.

1. **Board:** The Parachute Board of Trustees.

2. **Department:** Building and Planning Department.
3. **Fraudulent Acts or Conduct:** The elements necessary for establishing are:
  - a. The contractor made a false representation of a past or present fact;
  - b. The fact was material;
  - c. The contractor made the representation without an honest belief that it was true;
  - d. The contractor made the representation with the intent that the Town and/or owner act or refrain from acting in reliance on it;
  - e. The Town and/or owner, relying on the representation, acted or refrained from acting as the contractor intended;
  - f. The Town and/or owner's reliance was justified.

If the Board finds that all of these elements have been established by preponderance of the evidence, then it may find that the contractor has committed a fraudulent act or acts or has committed fraudulent conduct. If, on the other hand, any one (1) or more of the elements has not been established by a preponderance of the evidence, the Board shall not find the acts or conduct to be fraudulent.

4. **Gross Negligence:** Negligence which consists of an affirmative act purposefully committed, or the purposeful failure to do an act which the contractor (or examinee) was under a duty to perform, which act or omission the contractor (or examinee) knew was dangerous to another person or property and which he or she performed or omitted heedlessly without regard to the consequences of the rights, health, safety, or welfare of another person or property.

5. **Willfully:** Designed, intentional, not accidental or involuntary, proceeding from a conscious motion of the will. A willful act may be described as one done intentionally, knowingly and purposely, without justifiable excuse, as distinguished from an act done carelessly, thoughtlessly, heedlessly or inadvertently.

(Ord. 536 §1, 2006)

6.02.130 **Violations and Penalties.** It shall be unlawful for any person to violate any of the provisions of this Chapter. Any violation of this Chapter shall be deemed a Class B municipal offense as defined in Section 11.01.030 of the Parachute Municipal Code, and the violator shall be punished accordingly. Each and every day during which said violation occurs shall be deemed a

separate and distinct violation.

(Ord. 565 §2, 2007)

## CHAPTER 6.03

### Transient Dealers

#### Sections:

6.03.010	Definitions
6.03.020	License Required
6.03.030	Unlawful Acts
6.03.040	Exemptions
6.03.050	License Application
6.03.060	License Fees, Duration, Records, Renewal of License
6.03.070	License Cancellation and Revocation

6.03.010      Definitions. When used in this Chapter, the following definitions apply:

A.      “Peddler” means any person, whether a resident of the Town or not, who goes from house to house, from place to place, or from street to street, conveying or transporting goods, wares, or merchandise, or offering or exposing the same for sale, or making sales and delivering articles to purchasers.

B.      “Solicitor” means any person, whether a resident of the Town or not, who goes from house to house, from place to place, or from street to street, soliciting or taking, or attempting to take, orders for the sale or purchase of goods, wares, or merchandise, including magazines, books, periodicals, real or personal property of any nature whatsoever for future delivery, or for services to be performed, or for the donation of money or financial assistance, whether or not such individual has, carries, or exposes for sale a sample of the subject for such order, or whether or not he is collecting advanced payments on such orders. This definition includes any person who, for himself or for another person, firm, or corporation hires, leases, uses, or occupies any building, motor vehicle, trailer, mobile home, structure, tent, hotel room, lodging room, house, apartment, shop, or other place within the Town for the primary purpose of exhibiting samples and taking orders for future delivery.

C.      “Transient merchant” means any person, firm, or corporation whether as owner, agent, cosignee, or employee, whether a resident of the Town or not, who engages in the temporary business of selling and delivering goods, wares, property, and merchandise within the Town of Parachute; and who, in the furtherance of such purpose, hires, leases, uses, or occupies any building, structure, motor vehicles, trailer, mobile home, tent, hotel room, lodging room, house, apartment, shop, or any street, alley, parking lot or other public place within the Town for the exhibition and sale of food, food products, goods, wares, or merchandise.

6.03.020 License Required. It is unlawful for any peddler, solicitor, or transient merchant to engage in any such business in the Town without first obtaining a license therefor in compliance with the provisions of this Chapter.

6.03.030 Unlawful Acts. A. It is unlawful for any person to engage in activity as a peddler, solicitor, or transient merchant without first having obtained a license in accordance with this Chapter. Upon request by a Town official or a member of the public, a licensee shall exhibit its license issued by the Town.

B. It is unlawful for any person to conduct any selling or soliciting activity on or in any public street, alley or right-of-way without first having obtained a license pursuant to this Chapter.

C. Any violation of this Chapter shall constitute a Class B municipal offense. Each day that a violation of this Chapter occurs shall constitute a separate and distinct offense and shall be punished accordingly.

6.03.040 Exemptions. The terms of this Chapter do not apply to:

- A. Persons selling personal property at wholesale to dealers in such articles.
- B. Acts of merchants or their employees in delivering goods in their regular course of business.
- C. Newspaper carriers or delivery persons.
- D. Real estate agents and brokers, and insurance agents licensed by the State of Colorado.
- E. Employees of any public utility, or entity holding a franchise from the Town.
- F. Dissemination of information without solicitation of money or other consideration.
- G. Any sale required by statute or court order.
- H. Bona fide religious solicitation, where the solicitor does not attempt to sell merchandise other than books, tracts, or audiovisual material.
- I. Bona fide solicitation for funds or the sale of merchandise, food or food products by charitable organizations recognized by State or federal law.
- J. Leases or agreements between a vendor and the Town for use of Town owned property.

6.03.050 License Application. Applicants for a new license under this Chapter shall file with the Town Clerk, at least fifteen (15) days before the date upon which the applicant desires to begin its business, a sworn application in writing, in a form to be furnished by the Town Clerk, which shall contain the following information:

- A. The name of the applicant;
- B. The name of any business entity that the applicant is employed by or serving as an agent for;
- C. The permanent home address of the applicant and the full local address where the sales will take place;
- D. The length of time or duration for which the right to do business is desired, not to exceed twelve (12) months;
- E. The nature of the goods and services sold, and the manner and means by which the goods will be sold and orders taken;
- F. The current driver's license and motor vehicle license plate number and vehicle identification number of the applicant;
- G. If the applicant is a transient merchant, evidence that a planning clearance for the proposed location has been issued by the Town. Such planning clearance may be required to include a certification by the Town's building official that the proposed operation of the transient merchant will be in compliance with all applicable building and electrical codes;
- H. If the applicant is a mobile food or food services vendor, applicant shall provide a current health department certificate;
- I. If the applicant intends to utilize real property for the conduct of business or sales, proof that the applicant is or has permission of the owner of the property;
- J. Proof that the applicant has obtained a business license, if applicable, in accordance with Section 6.01.040; and
- J. Proof that the applicant has obtained a State and municipal sales tax license, if applicable, in accordance with the requirements of Chapter 5.10.

6.03.060 License Fees, Duration, Records, Renewal of License. A. A license for a peddler, solicitor, or transient merchant shall be issued for the duration of the proposed activity, not to exceed the period from January 1 – December 31 of each year. In order to obtain such a license, the applicant shall pay to the Town a license fee as may be established by resolution of the Town's

Board of Trustees. In the event the Town is the applicant for such a license, the Town shall not be required to pay any license fee.

B. The Town Clerk shall maintain a record of all peddler, solicitor and transient merchant license applications and license fees paid.

C. The Town Administrator may approve the initial license upon payment of the license fee and the filing of a complete application. In the event the Town Administrator denies a license application for cause, the applicant, upon written request, may appeal such denial to the Board of Trustees. The applicant shall be given at least five (5) days written notice of the date and time when the Board of Trustees will review the denial of the license by the Town Administrator and shall be given an opportunity to be heard. The Board of Trustees shall either affirm or reverse the decision of the Town Administrator and shall state in writing the grounds for its decision.

D. Any licensee desiring to renew its license for an additional term shall file an application for renewal with the Town Clerk at least forty-five (45) days prior to the expiration of its existing license. A renewal application shall be substantially similar to an application for a new license described in Section 6.03.050. After the Town Clerk has certified that an application for renewal of a license is complete, and after applicant has paid the license renewal application fee as may be established by resolution of the Town's Board of Trustees, the application shall be presented to the Board of Trustees. The Board of Trustees may consider all relevant factors affecting the public health, safety and welfare, including whether the business is truly transient in nature and whether the business is having an adverse affect on permanent businesses in Town. The Board of Trustees may approve the application for renewal of a license for a term not to exceed twelve (12) months, deny the application or approve the application with conditions.

6.03.070 License Cancellation and Revocation. A license issued under this Chapter may be revoked by the Town Administrator for cause, after notice to the licensee. Such license may be revoked for any of the following reasons:

A. Fraud, misrepresentation, or false statements contained in the application.

B. Fraud, misrepresentation, or false statements made in the course of carrying on the business as licensed under this Chapter.

C. Failure to maintain at all times a Town of Parachute business license, if applicable, a State and municipal sales tax license, if applicable, or the failure to remit municipal sales taxes as required by law.

D. Any violation of this Chapter, any violation of the Town's adopted building and electrical codes, or any other violation of law.

E. Conducting the business licensed by this Chapter in an unlawful manner or in such a manner as to constitute a breach of the peace, or to constitute a danger to the health, safety, or general welfare of the public.

In the event a licensee disagrees with the revocation of its license by the Town Administrator, the licensee may appeal such decision to the Board of Trustees. A notice of appeal shall be filed by the licensee with the Town Clerk within five (5) days following receipt of a notice of revocation of license by the Town Administrator. Notice of a hearing on the appeal of the revocation of a license shall be given in writing to the licensee, setting forth the time and place of the hearing. Such notice shall be mailed or delivered to the licensee at its local address as set forth in the application at least five (5) days prior to the hearing. After hearing the evidence presented at the hearing, the Board of Trustees shall either affirm or reverse the decision of the Town Administrator to revoke the subject license, stating in writing the grounds for its decision.

(Ord. 298, 1989; Amended Ord. 629, 2011)

## CHAPTER 6.10

### Sexually Oriented Businesses.

#### Sections:

- 6.10.010 Findings of Fact.
- 6.10.020 Necessity of Regulation.
- 6.10.030 Licensing Officer.
- 6.10.040 Office Created.
- 6.10.050 Powers of Licensing Officer.
- 6.10.060 Duties and Functions.
- 6.10.070 Records Required.
- 6.10.080 Sexually Oriented Businesses.
- 6.10.090 Purpose and Description.
- 6.10.100 Definitions.
- 6.10.110 License Required.
- 6.10.120 Issuance of A Sexually Oriented Business License.
- 6.10.130 Manager's Registration.
- 6.10.140 Employee Registration.
- 6.10.150 Inspection.
- 6.10.160 Expiration of License.
- 6.10.170 License Suspension or Revocation.
- 6.10.180 Mandatory License Revocation.
- 6.10.190 Hours of Operation.
- 6.10.200 Peep Booth Regulations.
- 6.10.210 Lighting Regulations.
- 6.10.220 Additional Regulations - Adult Theaters, and Adult Cabarets.
- 6.10.230 Conduct For Sexually Oriented Businesses.
- 6.10.240 Sexually Oriented Businesses - Employee Tips.
- 6.10.250 Adult Motel Regulations.
- 6.10.260 Injunction.
- 6.10.270 Fees.
- 6.10.280 Issuance or Denial.
- 6.10.290 Posting, Display of License.
- 6.10.300 Licenses for Branch Establishments.
- 6.10.310 Transfer of License.
- 6.10.320 Renewal of License.
- 6.10.330 Qualifications of Applicants.
- 6.10.340 Grounds for Suspension or Revocation.
- 6.10.350 Hearing Procedures.
- 6.10.360 Hearings.
- 6.10.370 Notice of Suspension or Revocation.

- 6.10.380 Effect of Suspension or Revocation.
- 6.10.390 Appeals.
- 6.10.400 Summary Suspension.
- 6.10.410 Board Decision; Effect of
- 6.10.420 Fine in Lieu of Hearing.

6.10.010 Findings of Fact. The Parachute Board of Trustees finds it necessary for the public health, safety and welfare to establish regulations governing the operations of sexually oriented businesses to provide uniform procedures for the issuance, suspension and revocation of business licenses issued by the Town for sexually oriented business establishments, and

(Ord. 442 §1, 2001)

6.10.020 Necessity of Regulation. It is necessary to regulate said businesses in a manner which will protect the property values, neighborhoods, and residents from the adverse impacts of sexually oriented businesses while providing those who desire to patronize these businesses the opportunity to do so.

(Ord. 442 §1, 2001)

6.10.030 Licensing Officer. The position of Licensing Officer is hereby created.

(Ord. 442 §1, 2001)

6.10.040 Office Created. The office of Licensing Officer is hereby created.

(Ord. 442 §1, 2001)

6.10.050 Powers of Licensing Officer. Except as otherwise provided, the Licensing Officer shall have full power to grant, renew, suspend during investigation, and revoke all licenses provided for in Section 6.10.060 of the Parachute Municipal Code, subject always to appeal to the Board of Trustees as hereinafter provided.

(Ord. 442 §1, 2001)

6.10.060 Duties and Functions. The Licensing Officer shall collect all license fees and shall issue licenses in the name of the Town to all persons qualified under the provisions of Section 6.10 of the Parachute Municipal Code, and shall:

A. Make Rules. Promulgate and enforce all reasonable rules and regulations necessary to the operation and enforcement of Chapter 6.10 of the Parachute Municipal Code.

- B. Adopt Forms. Adopt all forms and prescribe the information to be required therein.
- C. Require Affidavits. Require applicants to submit all affidavits and oaths necessary to the administration of Chapter 6.10 of the Parachute Municipal Code.
- D. Obtain Endorsement. Submit all applications to appropriate Town officials and agencies for their endorsements thereon as to compliance by the applicant with all Town regulations which such officials and agencies are charged to enforce.
- E. Investigate. Investigate or cause to be investigated the eligibility of any applicant for a license.
- F. Examine Records. Examine the books and records of any applicant or licensee when reasonably necessary to the administration and enforcement of Chapter 6.10 of the Parachute Municipal Code.
- G. Administer Oaths; Issue Subpoenas. In conducting any investigation or hearing, the Licensing Officer or his designee is empowered to administer oaths and issue subpoenas. Compliance with any subpoena issued by the Licensing Officer may be enforced by application to the Municipal Court of the Town, where enforcement may be in the same manner as a contempt of court is enforced.

(Ord. 442 §1, 2001)

6.10.070 Records Required. The Licensing Officer shall keep a record of all licenses issued, setting forth the name of every licensee, the place of business licensed, if any, the residence of the licensee, and the residence of each of the individual members of the licensee firm, or of each of the directing officers of the licensee corporation, the kind and grade of license issued, and any other information deemed pertinent by the Licensing Officer.

(Ord. 442 §1, 2001)

6.10.080 Sexually Oriented Businesses. All Sexually Oriented Businesses, as defined in Section 6.10.100 of the Parachute Municipal Code, shall be licensed and subject to all of the provisions of Chapter 6.10.

(Ord. 442 §1, 2001)

6.10.090 Purpose and Description. The purpose of these regulations is to provide for the regulation and licensing of sexually oriented businesses within the Town in a manner which will protect the property values, neighborhoods and residents from the potential adverse secondary effects of sexually oriented businesses while providing to those who desire to patronize sexually oriented businesses the opportunity to do so. It is not the intent of this Chapter to suppress any speech

activities protected by the First and Fourteenth Amendments of the United States Constitution or Article II, Section 10 Colorado Constitution, but to impose content-neutral regulations which address the adverse secondary effects of sexually oriented businesses. Nothing in this Chapter is intended to authorize or license anything otherwise prohibited by law.

Sexually oriented businesses are frequently used for unlawful sexual activities, including prostitution. The concern over sexually transmitted diseases is a legitimate health concern of the Town which demands reasonable regulation of sexually oriented businesses to protect the health and well-being of the citizens, including the patrons of sexually oriented businesses. Licensing of sexually oriented businesses is a legitimate and reasonable means of ensuring that operators of sexually oriented businesses comply with reasonable regulations and that operators do not knowingly allow their businesses to be used as places of illegal sexual activity or solicitation. There is convincing documented evidence that sexually oriented businesses, because of their nature, have a deleterious effect on both the existing businesses around them and surrounding residential areas causing increased crime and downgrading of property values. The purpose of this Chapter is to control adverse effects from sexually oriented businesses and thereby protect the health, safety and welfare of the citizens; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of the surrounding neighborhoods and deter the spread of urban blight.

(Ord. 442 §1, 2001)

6.10.100 Definitions.

A. Adult Arcade: Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

B. Adult Bookstore or Adult Video Store: A business having as a substantial and significant portion of its stock and trade, revenues, space or advertising expenditures, resulting from the sale, renting or viewing of one or more of the following:

1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, laser disks, slides or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or
2. Instruments, devices, or paraphernalia which are designed for specified sexual activities.

C. Adult Cabaret: A nightclub, bar, restaurant or similar business which regularly features:

1. Persons who appear in a state of nudity; or
2. Live performances which are characterized by the exposure to specified anatomical areas or by specified sexual activities; or
3. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

D. Adult Motel: A hotel, motel or similar business which offers private rooms to the public and provides patrons live performances or closed-circuit television transmissions, not including pay per view satellite transmissions, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

E. Adult Motion Picture Theater: A business where films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

F. Adult Theater: A theater, concert hall, auditorium, or similar business which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

G. Employee: Includes any person who is paid directly or indirectly by the licensee for services performed on the premises whether such person would otherwise as a matter of law be classified as an employee, agent, manager, entertainer or independent contractor.

H. Licensing Officer: The Licensing Officer referred to in Section 6.10.050 of the Parachute Municipal Code is the Town Clerk unless another official has been designated by the Town Administrator or Board of Trustees as the Licensing Officer.

I. Manager: Any person other than a licensee who is employed by a sexually oriented business to act as a manager or supervisor of the employees, finances or patrons of the business or is otherwise responsible for operation of the business.

J. Peep booth: A viewing room, other than a private room, of less than one hundred fifty (150) square feet of floor space upon the premises of a sexually oriented business where there is exhibited photographs, films, motion pictures, video cassettes, or other video reproductions, slides or other visual representations which depict or describe specified sexual activities or specified anatomical areas.

K. Person: An individual, proprietorship, partnership, corporation, association or other legal entity.

L. Private Room: A room in an adult motel that is not a peep booth, has a bed in the room, has a bath in the room or adjacent to the room, and is used primarily for lodging.

M. Sexual Encounter Establishment: A business or commercial establishment, which as one of its primary business purposes, offers for any form of consideration, a place where two (2) or more persons may congregate, associate or consort for the purpose of specified sexual activities or the exposure of specified anatomical areas, when one or more of the persons exposes any specified anatomical area.

N. Sexually Oriented Business: An adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, sexual encounter establishment or other similar business and includes:

1. The opening or commencement of any sexually oriented business as a new business.
2. The conversion of an existing business, whether or not a sexually oriented business, to a sexually oriented business.
3. The addition of any sexually oriented business to any other existing sexually oriented business.
4. The relocation of any sexually oriented business; or
5. The continuation of a sexually oriented business in existence on the effective date of this Ordinance.

O. Specified Anatomical Areas: Are defined as:

1. Less than completely and opaquely covered: human genitals, pubic region, buttocks and female breast below a point above the top of the areola.
2. Human male genitals in a discernibly turgid state even if completely and opaquely covered.

P. Specified Sexual Activities: Acts, simulated acts, exhibitions, representations, depictions or descriptions of:

1. Human genitals in a state of sexual stimulation or arousal.

2. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

3. Intrusion, however slight, of any object, any part of an animal's body, or any part of a person's body into the genital or anal openings of any person's body or into the body of an animal.

4. Cunnilingus, fellatio, anilingus, masturbation, bestiality, lewd exhibition of genitals or excretory function.

5. Flagellation, mutilation or torture for purposes of sexual arousal, gratification, or abuse.

Q. Stage: A raised floor or platform at least three feet (3') above the surrounding floor measured perpendicularly from the edge of the stage to the surrounding floor and at least thirty six (36) square feet in area.

(Ord. 442 §1, 2001)

6.10.110 License Required.

A. It shall be unlawful for any person to operate a Sexually Oriented Business without a license issued by the Licensing Officer under the provisions of this Chapter.

1. An application for a license must be made on a form provided by the Town.

2. The application must be accompanied by a diagram showing the configuration of the premises, including a statement of total floor space occupied by the business, and designating the use of each room or other area of the premises.

3. The diagram shall designate those rooms or other areas of the premises where patrons are not permitted.

4. The diagram need not be professionally prepared but must 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 inches (+/- 6").

5. The diagram shall designate the place at which the license will be conspicuously posted.

6. No alteration in the configuration of the premises or any change in use of any room or area as shown on the diagram may be made without the prior written approval of the

Town.

7. 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 and that the use of any area or room in the premises has not changed.

B. The applicant must be qualified according to the provisions of this Title and the premises must be inspected by the Grand Valley Fire Protection District, Building Official of the Building Department and the Licensing Officer and found to be in compliance with the law.

C. Contemporaneously with the submission of an application for a license, the applicant shall submit the conditional use permit from the Town Planning Department indicating that the requirements of permits and final approval of the Town are met unless the applicant's sexually oriented business is an existing nonconforming use under the provisions of the Town's nonconforming standards. In the event that such permit is subject to appeal, no further action shall be taken upon such application until such appeal is finally adjudicated.

(Ord. 442 §1, 2001)

6.10.120 Issuance of A Sexually Oriented Business License.

A. The sexually oriented business shall be issued a license within thirty (30) days after receipt of an application if the requirements set forth under the issuance or denial standards of the Town are met, unless the Licensing Officer finds one or more of the following:

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

2. An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.

3. The premises to be used for the sexually oriented business have not been approved by the Grand Valley Fire Protection District, the Building Official and the Licensing Officer as being in compliance with applicable laws and ordinances.

4. The applicant has not been issued a permit by the Town Planning Department indicating the requirements of the Town's land use standards are met and that such permit, if issued, is not subject to appeal or the applicant's sexually oriented business is an existing nonconforming use under the Town's land use standards.

B. The license, 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 license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

C. The Grand Valley Fire Protection District and Building Official shall complete their certification that the premises are in compliance or not in compliance within twenty (20) days of receipt of the application by the Licensing Officer. Their certifications shall be promptly presented to the Licensing Officer. The Licensing Officer's inspection shall be completed within thirty (30) days after the receipt of the application.

D. A denial by the Licensing Officer of the application shall be in accordance with subsection 6.10.280 (B) of this Chapter. The applicant may appeal the denial in accordance with the provisions of subsections 6.10.280 (C) and (D) of the Parachute Municipal Code.

(Ord. 442 §1, 2001)

6.10.130      Manager's Registration.

A. It shall be unlawful for any person to work as a manager of a sexually oriented business without first registering with the Licensing Officer.

B. The registration of a manager with the Licensing Officer is in lieu of the issuance of a license to a manager.

C. The Licensing Officer shall register a manager if all of the requirements for a license as set forth under Section 6.10.330 and Section 6.10.120 of the Parachute Municipal Code are met.

D. The manager's registration shall be issued or denied in accordance with the criteria for issuance or denial of a license as set forth in Sections 6.10.280 to 6.10.320.

E. The registration may be suspended or revoked for any grounds for the suspension or revocation of a license as set forth in Sections 6.10.340 to 6.10.6.10.420 or Sections 6.10.170 or 6.10.180 of this Title.

(Ord. 442 §1, 2001)

6.10.140      Employee Registration. Each licensee will provide to the Licensing Officer the full name, aliases if any, address, telephone number and date of birth of any employee within five (5) days of employment.

(Ord. 442 §1, 2001)

6.10.150 Inspection.

A. The licensee or the licensee's employees shall permit representatives of the Police Department, Health Department, Building Official of the Building Department, the Grand Valley Fire Protection District, Planning Department, Licensing Officer or other Town departments or agencies to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law as provided for in this Section.

B. Town departments and agencies shall conduct such inspections in a reasonable manner and only as frequently as may be reasonably necessary.

C. Inspections shall take place during the regular business hours of the sexually oriented business or when any person is on the premises.

D. It shall be unlawful for the licensee or any employee to refuse to permit such lawful inspection of the premises as provided in this Section.

(Ord. 442 §1, 2001)

6.10.160 Expiration of License. Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in Section 6.10.320 of this Chapter.

(Ord. 442 §1, 2001)

6.10.170 License Suspension or Revocation.

A. In addition to, the grounds set forth for suspension or revocation of a license in Section 6.10.340 to Section 6.10.420 of this Title, the Licensing Officer shall suspend a license for a period not to exceed six (6) months and may revoke a license if the Licensing Officer determines that a licensee or an employee of a licensee has:

1. Violated or is not in compliance with any of this Title.
2. Refused to allow an inspection of the sexually oriented business premises as authorized by this Section.
3. Knowingly permitted any unlawful act upon the premises.

B. In determining the action to be taken as provided in this Section, the Licensing Officer shall consider the following aggravating and mitigating circumstances:

1. Whether the licensee has been previously suspended or revoked.

2. Whether the licensee was warned that the conduct involved could lead to a suspension or revocation.
3. Whether the cause for suspension or revocation involves one or several violations.
4. Whether the violation(s) are technical or substantive in nature.
5. The extent to which the licensee, licensee's agents and employees, as opposed to patrons, were involved in the violation(s).
6. The extent to which the licensee or licensee's employees had knowledge of the violation(s).
7. Any corrective or remedial action the licensee has taken to prevent similar violation(s) in the future.
8. Whether the violation(s) involved the commission of a crime, and if so, the degree of felony or misdemeanor involved.
9. The extent to which the violation(s) caused personal injuries or property damages.
10. Whether the licensee has paid damages or made restitution to any person or entity damaged by the violation(s).
11. The extent to which the violations posed a significant risk to the health, safety and welfare of persons on or off of the licensed premises.
12. The length of time over which the violation(s) extended.
13. The extent to which the licensee or licensee's employees realized a financial gain from the violation(s).
14. The number of employees, patrons, or both involved in the violation(s).
15. The nature and extent of enforcement action taken by the Town or any law enforcement to detect the violation(s).
16. The involvement of any persons under twenty one (21) years of age in the violation(s).

17. The extent to which the licensee or licensee's employees have attempted to cover up the violation(s), destroy evidence or otherwise hinder the investigation and detection of the violation(s).

18. The extent to which the licensee and licensee's employees have acted in good faith.

(Ord. 442 §1, 2001)

6.10.180 Mandatory License Revocation.

A. The Licensing Officer shall revoke a license if the Licensing Officer determines that:

1. A license has previously been suspended within the preceding twelve (12) months;

2. A licensee gave false information in the material submitted to the Licensing Officer;

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

4. A licensee or an employee has knowingly allowed prostitution on the premises;

5. A licensee or an employee knowingly operated the sexually oriented business during a period of time when the license was suspended.

6. Excluding conduct within a private room of an adult motel, a licensee or employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sexual conduct to occur on the premises.

B. When the Licensing Officer revokes a license, the revocation shall continue for one year, and the licensee shall not be issued a sexually oriented license for one year from the date revocation became effective.

(Ord. 442 §1, 2001)

6.10.190 Hours of Operation.

A. 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 from:

1. On any Tuesday through Saturday from two o'clock (2:00) A.M. until seven o'clock (7:00) A.M.;

2. On any Monday other than a Monday which falls on January 1, from twelve o'clock midnight (12:00) until seven o'clock (7:00) A.M.;

3. On any Sunday from two o'clock (2:00) A.M. until eight o'clock (8:00) A.M.;

4. On any Monday which falls on January 1, from two o'clock (2:00) A.M. until seven o'clock (7:00) A.M.

B. This Section shall not apply to those areas of an adult motel which are private rooms.

(Ord. 442 §1, 2001)

6.10.200 Peep Booth Regulations.

A. A licensee who has peep booths upon the premises shall comply with all of the following requirements:

1. The diagram accompanying an application for a license shall specify the location of one or more manager's stations.

2. It is the duty of the licensee to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

3. 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 restrooms. Restrooms may not contain film or video reproduction equipment or equipment for showing slides or photographs. If the premises has two (2) or more manager's stations, 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 of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

4. It shall be the duty of the licensee and employees present on the premises to ensure that the view area specified in subsection (A) (3) above remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises which has been designated in the application as an area to which patrons will not be permitted.

5. It shall be the duty of the licensee to ensure that all walls shall be maintained without holes or damage.

6. No peep booth may be occupied by more than one person at any time.

B. It shall be unlawful for any person having a duty under subsections (A)(1) through (A)(5) of this Section to knowingly fail to fulfill that duty.

(Ord. 442 §1, 2001)

6.10.210 Lighting Regulations.

A. Excluding a private room of an adult motel, the interior portion of the premises to which patrons are permitted access shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place at an illumination of not less than two (2.0) foot-candle 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 that any patron is present on the premises.

(Ord. 442 §1, 2001)

6.10.220 Additional Regulations - Adult Theaters, and Adult Cabarets.

A. Any adult cabaret or adult theater shall have one or more separate areas designated in the diagram submitted as part of the application as a stage for the licensee or employees to perform as entertainers. Entertainers shall perform only upon the stage. The stage shall be fixed and immovable. No seating for the audience shall be permitted within three feet (3') of the edge of the stage. No members of the audience shall be permitted upon the stage or within three feet (3') of the edge of the stage.

B. It shall be unlawful for the licensee or for any employee to violate any of the requirements of this Section or to knowingly permit any patron to violate the requirements of this Section.

C. In any adult theater or adult cabaret that features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities, the licensee and all employees present on the premises and all patrons shall be at least twenty-one (21) years of age.

(Ord. 442 §1, 2001)

6.10.230 Conduct For Sexually Oriented Businesses.

A. No licensee or employee mingling with the patrons, or serving food or drinks, shall be unclothed or in such attire, costume or clothing, so as to expose to view any specified anatomical area.

B. No licensee or employee shall encourage or knowingly permit any person upon the premises to touch, caress or fondle the breasts, anus or specified anatomical areas of any person.

C. No licensee or employee shall violate the requirements of subsections 6.10.180 (A)(2) through (A)(5) of this Title.

D. It shall be unlawful for any licensee or employee to knowingly permit a patron to violate any of the requirements of this Section.

(Ord. 442 §1, 2001)

6.10.240 Sexually Oriented Businesses - 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 C of this Section.

B. A licensee that desires to provide for tips from its patrons shall establish one 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 or more signs to be conspicuously visible to the patrons on the premises in letters at least one inch (1") high to read as follows: "All tips are to be placed in tip box and not handed directly to the entertainer. Any physical contact between the patron and the entertainer is strictly prohibited."

(Ord. 442 §1, 2001)

6.10.250 Adult Motel Regulations. An adult motel that, in addition to the renting of private rooms, operates a sexually oriented business as otherwise defined in this Chapter shall comply with all of the requirements set forth in this Chapter pertaining to that business.

(Ord. 442 §1, 2001)

6.10.260 Injunction. Any person who operates or causes to be operated a sexually oriented business without a license is subject to suit for injunction as well as criminal prosecution.

(Ord. 442 §1, 2001)

6.10.270 Fees. A business license fee of three hundred fifty dollars (\$350.00) and a manager's registration fee of seventy-five dollars (\$75.00) shall be paid upon submission of an application and annually thereafter upon renewal of the sexually oriented business license.

(Ord. 442 §1, 2001)

6.10.280 Issuance or Denial.

A. Except as otherwise provided by Title 6 of the Parachute Municipal Code, the Licensing Officer shall issue a license to an applicant if he finds after investigation:

1. All conditions imposed upon the applicant as prerequisites to the issuance of the said license by the terms of the provisions pertaining to the particular license sought have been met including but not limited to meeting the qualifications of applicants standard set forth in Section 6.10.330.

2. The required application and license fees have been paid;

3. The use to which the premises are proposed to be put shall conform to the requirements of applicable building, fire, safety and zoning regulations; and

4. All other specific requirements of the terms and provisions relating to the application for the particular license requested for use at the premises specified in the application have been met.

B. If the Licensing Officer shall not so find he shall thereupon deny such application and notify the applicant of the denial by serving upon the applicant personally a copy of such denial and the reasons supporting such denial or by mailing the same to him by registered or certified mail at the business address shown on the application.

C. Any applicant aggrieved by any final order of the Licensing Officer after the denial of such application shall have the right to appeal to the Board of Trustees by filing a written appeal, stating the grounds thereof, with the Licensing Officer within ten (10) days following the date of denial of said application.

D. In the event an appeal is timely filed, it shall be heard at the next regular Board of Trustees meeting occurring at least ten (10) days after said filing with the Licensing Officer. Review by the Board of Trustees shall be a *de novo* hearing.

(Ord. 442 §1, 2001)

6.10.290 Posting, Display of License.

A. Every license issued by the Town for a business or activity to be conducted at a particular street address shall be posted during the period such license is valid. Such license shall be posted in a conspicuous place and shall be visible from the principal entrance of the business or activity. When such license expires, it shall be removed; no license not in full force and effect shall remain posted.

B. It shall be the duty of each and every person to whom a license has been issued to exhibit the same upon the request of any peace officer, the Licensing Officer, or other official of the Town.

(Ord. 442 §1, 2001)

6.10.300 Licenses for Branch Establishments. A license shall be obtained in the same manner prescribed herein for each branch establishment or location of the business as if each such branch establishment or location were a separate business; provided that warehouses and wholesale distributing plants used in connection with and incidental to a business licensed under the provisions of this Title shall not be deemed to be separate places of business or branch establishments.

(Ord. 442 §1, 2001)

6.10.310 Transfer of License. No license shall be transferred from one person to another or from one location to another. Any change of ownership or change of location of a licensed business or activity shall require a new application and license with payment of fees therefor according to the provisions pertaining to the particular kind of license.

(Ord. 442 §1, 2001)

6.10.320 Renewal of License.

A. At any time within thirty (30) days prior to the expiration of his current license, a licensee may make application for a license renewal for the succeeding year and pay the required fees therefor. Unless otherwise provided by this Title, if application is so made and no action or proceeding is pending against the licensee for suspension or revocation of his current license or licenses, he may continue in his business or activity for the succeeding period unless or until his application for license renewal is denied.

B. In the event a suspension or revocation proceeding is pending when a license renewal is applied for, the business or activity may continue in operation during the pendency of such suspension or revocation proceeding but the application for a license renewal shall not be acted upon until the suspension or revocation proceeding has been completed.

(Ord. 442 §1, 2001)

6.10.330 Qualifications of Applicants.

The general standards set out in this Section relative to the qualifications of every applicant for a Town license shall be considered and applied by the Licensing Officer. The applicant shall:

A. Not have a history of prior misconduct which constitutes evidence that serious criminal conduct would likely result from the granting of a license issued pursuant to this Chapter.

B. No Obligations to the Town. Not be in default under the provisions of this Title or indebted to or obligated in any manner to the Town.

C. Compliance with all Town Regulations. Present certificates furnished by the appropriate officers or agencies to the effect that the proposed use of any premises is in compliance with all applicable Town regulations including, by way of description and not of limitation, zoning, building and fire codes and the like.

(Ord. 442 §1, 2001)

6.10.340 Grounds for Suspension or Revocation.

The Licensing Officer shall suspend for a period not to exceed six (6) months or revoke any license issued by the Town if he finds that:

A. The licensee has failed to pay the annual license fee.

B. The licensee has failed to file required reports or to furnish such other information as may be reasonably required by the Licensing Officer or other Town official under the authority vested in him by the terms of the provisions relating to the specific license;

C. The licensee or any agent or employee of such licensee has violated any provisions of this Title pertaining to his license or any regulations or order lawfully made under and within the authority of this Title relating to the license;

D. The licensee or any agent or employee of such licensee has violated any law of the United States, of the State of Colorado or the Town of Parachute when such violation occurred on the licensed premises, or relates to conduct or activity of any business required to be licensed by this Title.

(Ord. 442 §1, 2001)

6.10.350 Hearing Procedures.

A. Upon commencement of suspension or revocation proceedings, the Licensing Officer shall set a time and place for the hearing of the matter.

B. The Licensing Officer shall give the licensee timely notice of the time and place of the hearing and the violations asserted. Such notice shall be served personally or by mailing by first-class mail to the last address furnished to the Licensing Officer by the licensee, at least ten (10) days, including Saturdays, Sundays and legal holidays prior to the hearing, In lieu of such service, or in addition thereto, a copy of such notice may be affixed to the principal entrance of the licensed premises which shall be deemed to be the principal place of business or main office or may be affixed to some prominent structure on such premises.

C. In any such action, a public hearing shall be granted at which the licensee shall be afforded an opportunity to be heard, present evidence, cross-examine witnesses, and offer evidence in mitigation of any violations.

D. All evidence shall be recorded stenographically or by electronic recording device.

E. In all such proceedings, the Town Attorney shall act on behalf of the Town during the hearing.

(Ord. 442 §1, 2001)

6.10.360 Hearings. The Licensing Officer or his designee shall conduct hearings for suspension or revocation of licenses granted pursuant to Sections 6.40.010 to 6.40.090. The Licensing Officer shall make findings of fact and conclusions concerning the revocation or suspension of a license. The Licensing Officer shall transmit a copy of the final findings of fact and conclusion to the licensee as provided hereafter.

(Ord. 442 §1, 2001)

6.10.370 Notice of Suspension or Revocation.

A. Upon suspension or revocation of any license required by this Title, notice of such suspension or revocation shall be given by personally serving the licensee with the order of suspension or revocation or by mailing such order to such person by certified or registered mail at the business address of the licensee as shown on the license or at the address of the designated agent. In lieu of such service, or in addition thereto, a copy of such order may be affixed to the principal entrance of the licensed premises which shall be deemed to be the principal place of business or main office, or may be affixed to some prominent structure on such premises.

B. The order shall be effective immediately upon service of notice thereof unless the order provides otherwise. Service of such order shall be complete upon mailing or posting.

(Ord. 442 §1, 2001)

6.10.380 Effect of Suspension or Revocation. Upon the effective date of suspension or revocation of any license required for a business or activity, the licensee of such licensed business or activity shall cease and desist from further operation or activity.

(Ord. 442 §1, 2001)

6.10.390 Appeals. Any person aggrieved by any final order of the Licensing Officer after hearing shall have the right to appeal to the Board of Trustees by filing a written appeal with the Town Clerk within ten (10) days following the effective date of the action or order complained of, and such appeal shall have the effect of staying execution of such final order pending appeal.

A. Contents of Appeal. An appeal shall be in writing and shall set out a copy of the order appealed from and shall include a statement of the facts relied upon to contest such order.

B. Hearing.

1. The Town Clerk shall fix a time and place for hearing the appeal which shall be at the next regular meeting of the Board of Trustees occurring not less than ten (10) days following receipt of the notice of appeal or the record on appeal, whichever is later, and shall cause written notice of the same to be served upon the applicant informing him thereof. The Town Clerk shall also give such notice to the Licensing Officer and such Officer may appear and defend the order.

2. Upon appeal to the Board of Trustees of the suspension or revocation, the Board shall review the record, including the transcript of proceedings and evidence before the Licensing Officer, and shall determine whether there is substantial evidence in the record to support the recommendation of the Licensing Officer. If there is substantial evidence in the record to support the recommendation of the Licensing Officer, then the Board of Trustees shall affirm the decision of the Licensing Officer. If there is not substantial evidence in the record to support the recommendation of the Licensing Officer, then the Board of Trustees may reverse the recommendation of the Licensing Officer or remand the matter back to the Licensing Officer for further proceedings. No new evidence shall be submitted to the Board of Trustees unless a majority of the Trustees determine that such evidence could not have been reasonably presented at the time the matter was heard before the Licensing Officer. If the Board of Trustees decides to hear new evidence, it may hear the new evidence or remand the matter to the Licensing Officer.

3. The appellant seeking review of the action of the Licensing Officer, at the time of the filing of the notice of appeal, shall pay to the Town the estimated cost for preparing a transcript of the proceedings before the licensing officer. The cost of preparing a transcript of testimony before the Licensing Officer shall be charged at rates ordinarily charged by certified court reporters. The cost of preparing the transcript shall be estimated by the Town Clerk. In the event the cost of the transcript is greater than the cost estimated by the Town Clerk, the appellant shall pay this additional cost within ten (10) days after billing by the Town Clerk. In the event that the cost of the transcript is less than the estimated sum paid by the appellant, the Town Clerk shall refund the excess paid within ten (10) days after actual cost of the transcript is determined.

(Ord. 442 §1, 2001)

6.10.400 Summary Suspension. When the conduct of any licensee, agent or employee is so inimical to the public health, safety and general welfare as to constitute a nuisance or hazard and thus give rise to an emergency, the Licensing Officer shall have the authority to summarily order the cessation of business and the closure of the premises pending a hearing on the question of whether to suspend or revoke the license. Unless waived by the licensee in writing, the Board of Trustees within fifteen (15) days after the Licensing Officer has acted shall conduct a hearing upon the summary order and the activity giving rise to such order. The order shall state the grounds for its issuance and shall give notice of the hearing and shall be served upon the affected person in the manner prescribed in subsection 6.10.350(B). At such hearing the licensee shall show cause why the summary suspension should not be made a final order of suspension or revocation.

(Ord. 442 §1, 2001)

6.10.410 Board Decision; Effect of.

A. The decision of the Board of Trustees in all cases shall be final and conclusive and shall be served upon the licensee by personal service, by registered or certified mail, or by posting as provided in Section 6.10.370 of this Chapter.

B. A decision of the Board of Trustees is reviewable only by Court under C.R.C.P. 106(a)(4). There shall be no stay of execution pending a review by the Court except by Court order.

(Ord. 442 §1, 2001)

6.10.420 Fine in Lieu of Hearing.

A. Upon application, stipulation or admission by the licensee, made ten (10) days prior to a scheduled suspension or revocation hearing unless waived by the Licensing Officer, the licensee may request permission to pay a fine in lieu of a hearing. Upon the receipt of the petition, the Licensing Officer or his designee may, in his sole discretion, stay a proposed hearing and cause any

investigation to be made which he deems desirable and may, in his sole discretion, grant the petition if he is satisfied:

1. That the public welfare and morals would not be impaired by permitting the licensee to continue operation and that the payment of the fine will achieve the desired disciplinary purposes;

2. That the licensee has not had his license suspended or revoked, nor paid any fine in lieu of suspension during the two (2) years immediately preceding the date of the alleged violations; and

3. That the books and records of the licensee are kept in such a manner that economic loss can be determined with reasonable accuracy therefrom.

B. The fine accepted shall be the equivalent to twenty percent (20%) of the estimated gross revenues from the sale of such merchandise or services on the dates of the alleged violations; except that the fine shall be not less than five hundred dollars (\$500.00) nor more than ten thousand dollars (\$10,000.00).

C. Payment of any fine pursuant to the provisions of subsection (A) of this Section shall be payable in full in the form of cash, certified check or cashier's check made payable to the Town of Parachute. The proceeds of the payment of the fine shall be paid into the General Fund of the Town.

D. Upon payment of the fine pursuant to subsection (A) of this Section, the Licensing Officer or his designee shall enter his further order permanently staying the suspension or revocation hearing.

E. The authority of the Licensing Officer or his designee under this section is limited to:

1. The granting of such stays as are necessary for him to complete his investigation and make his findings; and

2. If he makes such findings, to the granting of an order permanently staying the imposition of the hearing; and

3. The determination of the fine to be imposed.

F. If the Licensing Officer does not make the findings required in subsection (A) of this Section and does not order the hearing permanently stayed, the hearing shall proceed as scheduled.

G. The determination of the Licensing Officer to deny a fine in lieu of a hearing, or to allow a fine in lieu of a hearing, and the determination of the amount of the fine, shall be final decisions committed to his discretion and not subject to appeal to the Board of Trustees.

(Ord. 442 §1, 2001)

6.10.430 Violations and Penalties. It shall be unlawful for any person to violate any of the provisions of this Chapter. Any violation of this Chapter shall be deemed a Class A municipal offense as defined in Section 11.01.030 of the Parachute Municipal Code, and the violator shall be punished accordingly. Each and every day during which said violation occurs shall be deemed a separate and distinct violation.

(Ord. 565 §10, 2007)