

## CHAPTER 6

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## ARTICLE I

### Business Licenses

#### **Sec. 6-1-10. Business license required.**

(a) License. No person shall own, use, lease, operate or maintain a business within the City unless such person shall have first obtained a license from the City Clerk. The license application shall contain such information as the City Clerk, with the advice of the City Manager, shall require.

(b) License fee. License fees and renewal fees shall be established by resolution of the City Council. (Prior code 6-1)

#### **Sec. 6-1-20. Licenses revocable.**

All licenses issued by the City, not otherwise so identified, are hereby declared to be revocable upon the licensee's failure to comply with each and every requirement of the ordinance requiring such license and each and every requirement of this Article. (Prior code 6-2)

#### **Sec. 6-1-30. License revocation procedure.**

(a) If any fee, tax, penalty or interest imposed in this Chapter or any other ordinance of the City imposing a fee, tax, penalty or interest is not paid within forty-eight (48) hours after the licensee is advised in writing that the same is past due, pursuant to the terms of the ordinance imposing such fee, tax, penalty or interest, and if such ordinance imposing such fee, tax, penalty or interest also requires a license be obtained from the City, the City Manager may issue and serve a notice to the licensee setting forth the name of the licensee, the amount of the fee, tax, penalty or interest delinquent, the date of the accrual thereof, and the date of a hearing before the City Council to determine whether or not the license associated with the delinquent fee, tax, interest or penalty should be revoked. The hearing designated in the notice shall occur not more than thirty (30) days from the date of the notice.

(b) Upon the failure of the licensee to comply with any of the nonmonetary requirements of an ordinance requiring the licensee to obtain a license or any other nonmonetary requirements of this Article, the City Manager may issue the notice referred to in Subsection (a) above.

(c) Upon issuance of the notice referred to in Subsection (a) above, the City Manager may temporarily suspend the license referred to in Subsection (a) until the hearing referred to in Subsection (a) is held or the cause of the notice having been issued has been remedied.

(d) Upon the temporary suspension of a license by the City Manager, the City Manager shall notify the Chief of Police, who shall immediately enforce the suspension of the license by closing the licensee's business operations requiring the license as a condition of its operation. In such case, proceedings shall not be stayed, other than by a restraining order granted by a court of record pursuant to Rule 65 of the Colorado Rules of Civil Procedure. (Prior code 6-3)

#### **Sec. 6-1-40. Civil actions.**

(a) Debt recovery. The City Manager may also treat any such fees, taxes, penalties or interests due and unpaid as a debt due the City from the vendor. In case of failure to pay the fee or tax, or any

portion thereof, or any penalty or interest thereon due, the City Manager may obtain at law a judgment for the amount of such fees, taxes, penalties, interest and attorney fees in the county or district court having jurisdiction of the amounts sought to be collected.

(b) Attachment. Such actions may be actions in attachment, and writs of attachment may be issued to the Sheriff. It shall be the duty of the City Attorney when requested by the City Manager to commence action for the recovery of fees or taxes due the City, and this remedy shall be in addition to all other existing remedies provided by ordinance of the City. (Prior code 6-4)

**Sec. 6-1-50. Unpaid fee or tax a prior lien.**

(a) Lien authorized. All fees and taxes imposed by this Chapter or any other provisions of this Code or any ordinances of the City, together with any interest due thereon, shall be due and payable without demand at the office of the City Treasurer. All taxes, fees, interest and penalties, together with all costs and reasonable attorney's fees incurred in collecting the same, shall constitute, from the date each is due and payable, a perpetual lien upon the real and tangible personal property of the taxpayer or licensee until paid in full. Such lien shall have priority over all other liens except general tax liens, and may be enforced in accordance with the provisions of this Code or the laws of the State.

(b) Notice. If any fees, taxes, penalties, interest, costs or attorney's fees imposed by this Chapter or any other ordinance of the City and shown due by return filed by the licensee or taxpayer or shown due by assessments duly made as provided by ordinance are not paid within forty-eight (48) hours after the same are due, the City Manager may issue and serve a notice to the licensee or taxpayer, setting forth the name of the licensee or taxpayer, the amount of the fees, taxes, penalties, interest, costs and attorney's fees, the date of the accrual thereof and that the City claims a first, prior and perpetual lien on the real and tangible personal property of the licensee or taxpayer. Notices may be served personally, by posting the notice upon the licensee's property in a conspicuous place or mailing, by posting in the U.S. mail, postage prepaid, to the licensee's last known address. Notices shall be on forms prepared by the City Manager and shall be verified by the City Manager.

(c) Clerk and Recorder. A notice issued pursuant to Subsection (b) above may be filed in the office of the Clerk and Recorder of any county in the State in which the licensee or taxpayer owns real or tangible personal property. The filing of such notice shall constitute a lien on such property in that county.

(d) City Manager may issue warrant. Upon issuing a notice pursuant to Subsection (b) above, the City Manager may then issue a warrant directed to the sheriff of any county of the State, commanding him or her to levy upon, seize and sell sufficient of the real and personal property of the licensee or taxpayer found within his or her county for the payment of the amount due, together with any interest, penalties, costs and attorney's fees as may be provided by law. Such sheriff shall forthwith levy upon sufficient property of the licensee or taxpayer, and said property so levied upon shall be sold in all respects with like effect and in the same manner as is prescribed by law in respect to executions against property upon judgment in a court of record, and the remedies of garnishment shall apply. The sheriff shall be entitled to such fees in executing such warrant as are now allowed by law for similar services.

(e) Release. Any lien for fees, taxes, penalties, interest, costs or attorney's fees as shown in the records of the County Clerk and Recorder as provided in this Article, upon payment of all fees, taxes,

penalties and interest covered thereby, shall be released by the City Manager in the same manner as mortgages and judgments are released. (Prior code 6-5)

**Sec. 6-1-60. Lien adjudication.**

In any action affecting the title to real estate or the ownership or rights to possession of personal property, the City may be made a party defendant for the purpose of obtaining adjudication or determination of its lien upon the property involved therein, and in such action, service of summons upon the City Clerk shall be sufficient service and binding upon the City. (Prior code 6-6)

**Sec. 6-1-70. Collection by County Treasurer.**

The City Manager may certify to the County Treasurer the whole amount of any unpaid taxes, fees, penalties or interest, together with all costs and reasonable attorney's fees incurred in collecting the same, and the County Treasurer shall advertise and sell all property concerning which such default is suffered for the payment of unpaid taxes, fees or interest plus penalties, costs and attorney's fees. Said advertisements and sales shall be made at the same times, in the same manner, under all the same conditions and penalties, and with the same effect as provided by general law for sales of real estate in default of payment of the general property tax. (Prior code 6-7)

**Sec. 6-1-80. Summary foreclosure of lien.**

The City Manager may direct that liens for any unpaid taxes, fees, penalties or interest, together with all costs and reasonable attorney's fees incurred in collecting the same, be foreclosed pursuant to the summary proceeding set forth in Section 31-25-1101, C.R.S., as if such amounts constituted defaults in the payment of special assessments. (Prior code 6-8)

**Sec. 6-1-90. Compromise of tax claims.**

The City Manager may reduce or compromise a claim for unpaid taxes, fees, interest or penalties owed to the City pursuant to this Chapter. The City Manager may further enter into an agreement to pay any unpaid, reduced or compromised amounts owed to the City in installments over time. Before taking any such action, the City Manager shall consider any prior delinquencies by the taxpayer or licensee, the financial ability or inability of the party to pay the amount owing, the potential adverse or beneficial impacts upon the City from allowing the compromise, and any other factors deemed appropriate by the City Manager. Whenever a compromise of two thousand dollars (\$2,000.00) or more is made by the City Manager in any case, there shall be placed on file in the office of the City Clerk the opinion of the City Manager with his or her reasons therefor, which shall include the factors set forth above and a statement of:

- (1) The amount of tax or fee assessed;
- (2) The amount of interest, penalties, costs and attorney's fees imposed pursuant to this Chapter; and
- (3) The amount paid or to be paid in accordance with the terms of the compromise.

Such compromise of two thousand dollars (\$2,000.00) or more must be brought before the City Council for ratification, but failure of the Council to so ratify shall not invalidate a specific compromise agreement. (Prior code 6-9)

## ARTICLE II

### Alarm Systems

#### Sec. 6-2-10. Purpose.

It is the purpose of this Article to protect and promote the health, safety and general welfare of the residents of the City by reducing the number of avoidable alarms to emergency agencies. Avoidable alarms contribute to ineffective utilization of public safety, manpower and equipment. In addition, avoidable alarms require emergency responses which may contribute to a high accident rate and delayed responses to genuine emergencies. This Article seeks to ensure that police, ambulance and fire communications facilities will be available to dispatch police, ambulance and fire personnel on actual emergencies and to alleviate the nuisance of audible (avoidable) alarms to the surrounding community. Another purpose of the Article is to provide the City with the names of responsible people to contact in the case of activation of an alarm. (Prior code 6-21)

#### Sec. 6-2-20. Definitions.

For the purpose of this Article, the following terms shall have the meanings ascribed to them in this Section:

*Alarm business* means any person who engages in the business of selling, altering, installing, leasing, maintaining, repairing, replacing, servicing, monitoring or responding to an alarm system.

*Alarm subsystem* means that part of an alarm system which is designed for a particular hazard or emergency, and which is part of an alarm system designed for multiple hazard or emergency warnings. For example, an alarm system which provides both fire and intrusion warnings may have a fire alert subsystem.

*Alarm system* means a device or an assembly of equipment which is intended to alert persons outside a premises to a forcible entry or intrusion into the premises or to a fire or conditions similar to fire on the premises; whether by means of an audible response, by automatically dialing an emergency agency, by connection to a private answering point for the purpose of reporting to emergency agencies or by direct connection to an emergency agency.

*Alarm user* means any person who owns, leases or uses an alarm system within the City, except for a person whose alarm system is on a motor vehicle or is a proprietary system. If, however, an alarm system on a motor vehicle is connected with an alarm system at a premises (other than a proprietary system) in the City, the person using such system is an alarm user.

*Avoidable alarm* means the activation of an alarm system through mechanical failure, malfunction, improper installation or the negligence of the owner, user, custodian or lessee of an alarm system, or of his or her employees or agents, or through any other cause which through

direct connection to an emergency agency, or which through notification of an emergency agency by a private answering point or automatic dialing device, or which through notification to an emergency agency by any other second party or means indicates that an emergency situation exists requiring response by an emergency agency within the City when, in fact, no such emergency situation exists. An *avoidable alarm* also includes the knowing or intentional activation of an alarm to an emergency agency when the activator knows that an emergency situation does not exist. *Avoidable alarm* does not include alarms activated by violent conditions of nature, such as blizzards, tornadoes, earthquakes or any other similar cause beyond the control of the user of an alarm system. Activation of an alarm system under circumstances in which the activator reasonably believes that an emergency situation exists is not an *avoidable alarm*.

*Emergency agency* means the Police Department or Fire Department.

*False hold-up alarm* means any signal actuated by a hold-up alarm to which the police respond, which is not the result of a hold-up or robbery.

*False police alert alarm* means any signal activated by a police alert alarm to which police respond but which is not the result of an imminent danger of death or bodily injury.

*Hold-up alarm* means any police alarm device actuated by a hold-up or a robbery at a specific location or actuated by a victim of a hold-up or robbery at a specific location.

*Local alarm system* means a signaling system which, when activated, causes an audible signaling device to be activated outside the premises within which the system is installed.

*Police alert alarm* means an alarm or alarm system component which is intended to be used to signal police in an emergency situation where an imminent danger of death or bodily injury exists.

*Private answering point* means a business which offers the service of receiving emergency signals, monitoring said signals and relaying them to an emergency agency.

*Proprietary system* means an alarm, sound and/or recording alarm and supervisory signal at a control center located within the premises protected by the alarm, which does not activate an audible signaling device to alert persons outside of the premises on which the alarm system is located and is not intended to alert an emergency agency, the control center being under the supervision of the proprietor of the protected premises. If a proprietary system includes a signal line connected directly or by means of an automatic dialing device to an emergency agency, to a private answering point, or to a local alarm system, it thereby becomes an *alarm system* as defined in this Section. (Prior code 6-22)

### **Sec. 6-2-30. Exemptions.**

The provisions of this Article shall not apply to proprietary alarm systems or alarm systems located in buildings of federal, state or local governmental agencies or authorities or in public elementary or secondary schools. (Prior code 6-23)

**Sec. 6-2-40. Alarm user permits required.**

No person shall own, use, lease, operate or maintain an alarm system within the City unless such person shall have first obtained a permit from the City Clerk. (Prior code 6-24)

**Sec. 6-2-50. Alarm user permit application.**

(a) In order to obtain an alarm user permit, any person who operates an alarm system shall submit an application for such permit in the form designated by the City, which application shall contain the following information:

- (1) The name, address and telephone number of the person applying for a permit;
- (2) The address of the premises upon which the alarm system is or will be located;
- (3) The type of alarm system for which the permit is sought;
- (4) The name of the alarm business or businesses selling, installing, monitoring, inspecting, responding to and/or maintaining the alarm system, if applicable;
- (5) If available, the name and telephone number of two (2) other persons who can be reached at any time, day or night, and who are authorized by the owner of the premises in which the system is installed to open the premises; and
- (6) Any other information as the City Clerk may require.

(b) The information required on the permit application shall be treated as confidential and shall not be made available to the general public. The City Council finds that the release of such information would constitute an unwarranted invasion of personal privacy and could endanger the life or safety of persons at the premises where an alarm system is located. The information on a permit application shall be used by the City only for law enforcement purposes.

(c) The Chief of Police and the City Clerk shall issue such rules, regulations and procedures governing use of permit applications as are necessary to protect their confidentiality and provide for the efficient management of information. (Prior code 6-25)

**Sec. 6-2-60. Issuance.**

Upon receipt of a properly executed application, the City Clerk shall issue an alarm user permit to the applicant. Alarm user permits shall not be transferable and shall be maintained on the premises where the alarm system is located and made available for inspection by police officers. (Prior code 6-26)

**Sec. 6-2-70. Duration of permit.**

An alarm user permit shall have no expiration date, but shall be subject to suspension or revocation as provided in Section 6-2-80 below. (Prior code 6-27)

**Sec. 6-2-80. Revocation of permit.**

(a) An alarm user permit shall be revoked whenever twenty-five (25) or more avoidable alarms are recorded for a system in any one (1) permit year. The alarm user may reinstate a revoked permit by: payment of all applicable excessive use fees, as imposed pursuant to Section 6-2-90 below; payment of a reinstatement fee in an amount set forth in the City's fee schedule; and by submission of proof that modifications have been made to the alarm system to reduce the number of avoidable alarms.

(b) An alarm user permit shall be revoked whenever excessive use fees have not been previously paid within one (1) year of the occurrence of an avoidable alarm about which the alarm user has been issued an excessive use fee notice. (Prior code 6-28; Ord. 12-19 §1, 2012)

**Sec. 6-2-90. Notice of excessive use fees.**

(a) The City shall notify an alarm user in writing, by means of first-class mail sent to the address listed on the permit application, when an alarm user has had two (2) avoidable alarms during a permit year. Such notice of excessive use shall inform the alarm user that avoidable alarms will subject the alarm user to specific fees set forth and referenced in the City's fee schedule. Any and all fees imposed pursuant to this Section shall be due to the City within thirty (30) days following the date on which the fee is imposed by the City on an alarm user. Failure of any alarm user to remit the outstanding fees to the City within the applicable period shall constitute a prohibited act under this Code, subject to the general penalty provisions in Section 1-4-20 of this Code. At the end of the permit year, the City shall notify each alarm user in writing, by means of first-class mail sent to the address listed on the permit application, of any outstanding fees due to the City under this Section, if not previously paid.

(b) The Chief of Police and the City Clerk shall issue rules, regulations or procedures governing the number and type of any additional notices of excessive use.

(c) Owners of new alarms will be allowed a ten-day grace period from issuance of the alarm user permit before any avoidable alarms are recorded by the City for excessive use fee purposes. (Prior code 6-29; Ord. 12-19 §2, 2012)

**Sec. 6-2-100. Challenge to avoidable alarm classification.**

The City Clerk shall establish procedures for administrative review of alarm user permit renewals, to provide an opportunity for an alarm user with more than three (3) avoidable alarms during a permit year to present evidence as to why any such alarm should not be classified as an avoidable alarm. In order to present such evidence for administrative review, an alarm user must so notify the City Clerk in writing within thirty (30) days after the date of mailing of any notification to the alarm user during the preceding period of an avoidable alarm. The failure to give timely notice shall be deemed a waiver of the right to challenge the classification. (Prior code 6-30)

**Sec. 6-2-110. Police and fire alarm interface.**

Alarm systems which are interconnected or otherwise transmit signals directly to the Police or Fire Departments shall be subject to the laws, rules, regulations and penalties adopted by the City relating to such systems. (Prior code 6-31)

**Sec. 6-2-120. Local alarms.**

All local alarm systems shall become deactivated and silenced automatically after a period of time not to exceed fifteen (15) minutes. Police and/or fire officials may disable an audible alarm signal that has not been silenced prior to the expiration of the fifteen-minute period, and shall not be liable for any damage that may result. (Prior code 6-32)

**Sec. 6-2-130. Permit for police alert alarms; charges for false alarms.**

(a) Permit for police alert alarms. No person shall own, use, lease, operate or maintain a police alert alarm within the City unless such person shall have first obtained a permit from the City Clerk. The permit application shall contain such information as the City Clerk, with the advice of the Chief of Police, shall require. In order for a police alert alarm to be eligible for response by the police, the user of such alarm must submit as part of his or her permit application a signed release and waiver granting permission for entry into premises by the police, which release and waiver shall be acceptable in form to the City Attorney. No police alert alarm permit may be renewed unless the user has paid all outstanding false police alert alarm charges imposed under Subsection (b) below. No release and waiver shall be renewed unless the user signs a new release and waiver at the time of renewal.

(b) False hold-up and false police alert alarm charges. Activation of hold-up alarms or police alert alarms shall be deemed an intentional act for which a fee shall be imposed in the specific amounts set forth and referenced in the City's fee schedule. Failure of any person to remit the outstanding fees to the City by the applicable due date shall constitute a prohibited act under this Code, subject to the general penalty provisions in Section 1-4-20 of this Code. (Prior code 6-33; Ord. 12-19 §3, 2012)

**Sec. 6-2-140. License required.**

It shall be unlawful for any person to operate, maintain, install or sell an alarm system or proprietary system without a license from the City Clerk. (Prior code 6-34)

**Sec. 6-2-150. License application.**

A person who is in the business of owning, operating, maintaining, installing or selling alarm systems or proprietary systems shall submit in writing an application for a license to the City Clerk. Such application shall contain specific provisions relating to testing procedures; to the skill and competency of the applicant to be a permittee; to the quality, efficiency and effectiveness of the alarm systems or proprietary systems owned, or to be operated, maintained, installed or sold by the applicant; and to such other information as the City Clerk shall find reasonably necessary to effectuate the purpose of this Article. Each application shall indicate the name, address and telephone

number of a representative of the applicant who can be contacted to service the applicant's alarm systems or proprietary systems. (Prior code 6-35)

**Sec. 6-2-160. License fee.**

License fees under this Section shall be established by resolution of the City Council and reviewed annually. (Prior code 6-36)

**Sec. 6-2-170. License issuance.**

The City Clerk is hereby authorized to issue a license to any person authorizing such person to do business in the City by performing any or all of the following functions: to own, operate, maintain, install or sell alarm systems or proprietary systems. (Prior code 6-37)

**Sec. 6-2-180. Alarm business regulations.**

(a) Every alarm business in the City shall provide all alarm systems purchasers or lessees with written instructions that provide adequate information to enable the alarm user to operate the alarm properly. A current copy of all such written instructions shall be furnished to the City Clerk upon request.

(b) Every alarm business in the City shall provide all alarm system purchasers or lessees with an application for an alarm user permit in the form designated by the City Clerk.

(c) Every alarm business in the City which owns, operates, maintains, installs or sells police alert alarms shall provide all police alert alarm purchasers or lessees with an application for a police alert alarm permit and a release and waiver in the form established pursuant to Subsection 6-2-130(a) of this Article.

(d) Any alarm business which monitors or responds to an alarm system will verify the alarm if possible and advise the police dispatcher, if successful or not. (Prior code 6-38)

### **ARTICLE III**

#### **Guard Service**

**Sec. 6-3-10. Definitions.**

The following words and phrases, when used in this Article, shall have the meanings, unless the context clearly indicates a different meaning, respectively ascribed to them as follows:

*Agents* and *employees* shall mean all persons employed by a merchant guard or merchant patrol, in the conduct of business, except stenographic and clerical employees whose duties are confined entirely to stenographic and clerical duties in the business office of the merchant guard or merchant patrol or other employees not directly engaged in providing protection and preserving the peace.

*Business or industrial guard* shall mean an individual who accepts employment from a single employer for the purpose of watching, guarding or otherwise protecting the person or property of that 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; and officers of the Police Department and deputy sheriffs engaged in off-duty employment.

*Merchant guard or merchant patrol* shall mean any person who conducts or is engaged in the business of providing protection to persons and property, or preserving the peace in the conduct of any business, except a business or industrial guard. (Prior code 6-51)

**Sec. 6-3-20. Identification cards.**

In addition to the license, the Chief of Police shall issue to each licensee an identification card approximately two and one-half (2½) inches by four (4) inches, which shall include the following:

- (1) The type of license and expiration date thereof;
- (2) Name, address, physical description and picture of the licensee;
- (3) The name of the employer if the licensee is a business or industrial guard or the agent and employees of a merchant guard or merchant patrol;
- (4) The signature of the licensee and that of the Chief of Police;
- (5) A statement as to whether or not the licensee is authorized to carry a firearm; and
- (6) Such other information as the Chief of Police may deem advisable. (Prior code 6-52)

**Sec. 6-3-30. Badges.**

The Chief of Police, in addition to the identification card provided for, may issue a uniform type badge to be designed by the Chief of Police, and the Chief of Police is hereby authorized to approve the use of badges and insignia, provided to agents or employees by the merchant guard or merchant patrol, or to business or industrial guards by an employer, where such badges and insignia are not a colorable imitation of, or cannot be confused with, the badge worn by officers of the Police Department. (Prior code 6-53)

**Sec. 6-3-40. Uniforms.**

Uniforms, if any, worn by business or industrial guards and agents, or employees of merchant guards or merchant patrols, while employed within the City, will be of a color different from that worn by officers of the Police Department, sheriff's officers and officers of the state patrol. Such uniforms shall be presented to the Chief of Police for approval as to color prior to issuance to employees and agents of merchant guards or merchant patrols and before being worn by business and industrial guards, and once this determination is made, it shall not thereafter be changed except by mutual agreement between the Chief of Police and the licensee. (Prior code 6-54)

**Sec. 6-3-50. Vehicles and equipment.**

The vehicles used in the conduct of the merchant guard or merchant patrol business within the City by any licensee shall be of a color approved by the Chief of Police and different from that of the vehicles of the Police Department, and once determined, shall not be changed except by mutual agreement between the Chief of Police and the licensee. In addition, such vehicles shall not be equipped with any lights or sirens in violation of the traffic code of the City, or the motor vehicle department of the State; nor shall any insignias be painted on the sides thereof which are similar to or which could be confused with that painted on the sides of the vehicles of the Police Department. (Prior code 6-55)

**Sec. 6-3-60. Use of words "police" or "officer" prohibited.**

The words *police*, *officer* or *Chief of Police* shall not be used in any advertising or upon the premises within the limits of the City occupied by the merchant guard or merchant patrol, nor on any of its vehicles or equipment. (Prior code 6-56)

**Sec. 6-3-70. Firearms.**

Licensees shall have the right to carry firearms only when specifically authorized by the Chief of Police, who will grant such authority only when, in the Chief of Police's opinion, the duties to be performed and the services to be rendered by the licensee require that a firearm be carried for the protection of the licensee and only when the licensee demonstrates that the licensee is proficient in the care, maintenance and use of firearms. The authority to carry firearms will be extended only while the licensee is performing the required duties of employment and while en route to or from the place of business. The authority to carry firearms will not be extended to any person under twenty-one (21) years of age. (Prior code 6-57)

**Sec. 6-3-80. Change in personnel.**

(a) Whenever a business or industrial guard or an agent or employee of a merchant guard or merchant patrol is discharged for any reason, the employer shall immediately notify the Chief of Police of such fact, together with the reasons for the dismissal.

(b) When a business or industrial guard or agent or employee of a merchant guard or merchant patrol is dismissed, such person shall forthwith surrender the identification card and any badge issued him or her to the Chief of Police. If the person surrendering a set of identification card and badge is reemployed during the remainder of the year, the identification card and badge may be reissued without charge.

(c) Any licensee changing place of business or abode shall immediately notify the Chief of Police of such fact, together with the address of the new place of business or abode; provided, however, that if a licensee changes the place of abode, this shall not be deemed to be a transfer of license, or require the payment of any additional fees. (Prior code 6-58)

**Sec. 6-3-90. Report of new vehicles.**

Whenever a new vehicle is acquired by a licensee for use in the conduct of business, the type and description of the vehicle shall be immediately reported to the Chief of Police. (Prior code 6-59)

**Sec. 6-3-100. Unlawful acts.**

It shall be unlawful:

- (1) For any licensee to arrest any person, except when that person commits a criminal offense in the presence of the licensee;
- (2) For any licensee to fail to turn over any such person arrested immediately to the Police Department;
- (3) For any licensee to draw or fire a firearm in the performance of duties except when necessary to protect the licensee from great bodily harm, or to prevent the commission of a felony;
- (4) For any licensee to hinder or interfere with any investigation under the jurisdiction of the Police Department;
- (5) For any licensee to fail to report immediately to the Police Department all violations of City, state or federal laws which constitute felonies or breach of the peace coming to the licensee's attention;
- (6) For any licensee to wear a uniform, badge or insignia other than that authorized by the Chief of Police;
- (7) For any licensee to represent himself or herself to be an officer of the Police Department;  
or
- (8) For any licensee to fail to conduct himself or herself in a lawful and orderly manner at all times. (Prior code 6-60)

**Sec. 6-3-110. Rules and regulations.**

The Chief of Police may issue and promulgate from time to time rules and regulations to provide for the health, safety and welfare of the City in relation to the merchant guard or merchant patrol business. Such rules may pertain by way of example to the duties of licensees, manner of conduct of merchant guard or merchant patrol businesses, merchant guards or merchant patrols and business or industrial guards, and reports to be furnished to the Chief of Police. (Prior code 6-61)

**Sec. 6-3-120. License required.**

(a) It shall be unlawful for any person to engage in or conduct a merchant guard or merchant patrol business or to act as a business or industrial guard without obtaining a license as provided in this Section.

(b) It shall be unlawful for any merchant guard or merchant patrol to employ any agent or employee unless the person to be employed has obtained a license as provided in this Section.

(c) It shall be unlawful for any person to accept employment as an agent or employee of a merchant guard or merchant patrol without obtaining a license as provided in this Section. (Prior code 6-62)

**Sec. 6-3-130. License application.**

An applicant for a license as a merchant guard or merchant patrol, business or industrial guard, or agent or employee of a merchant guard or merchant patrol, shall file an application with the City Clerk on forms to be provided by the City for that purpose, which shall contain the following:

(1) If an applicant for a license as a merchant guard or merchant patrol: A description of the nature and type of business to be conducted, the services to be offered, and the area expected to be covered in the conduct of the business; a statement as to the number of persons to be employed as agents or employees; a statement as to the number and type of vehicles to be used in the conduct of the business and a description thereof; a description of the equipment, but not including equipment used in the maintenance of the office, other than vehicles to be used in the conduct of the business; and any other pertinent facts required by the Chief of Police;

(2) If an applicant for a license as an agent or an employee of a merchant guard or merchant patrol, or as a business or industrial guard: The name of the person by whom the applicant is to be employed; the address where the applicant is to be employed; the nature of the services to be rendered; the purpose of the employment; and any other pertinent facts required by the Chief of Police. In addition, the Chief of Police shall require evidence that the applicant will be employed by a merchant guard or merchant patrol, or other employer in the event the application is approved;

(3) A statement as to whether or not the applicant has been convicted of any felony, misdemeanor or ordinance violation (other than traffic violations), the nature of the offense, the penalty or punishment imposed and the date and place where such offense occurred;

(4) A statement as to whether or not the applicant has ever had a judgment or conviction for fraud, deceit or misrepresentation entered against the applicant and, if so, the details thereof;

(5) A statement as to the business or employment record of the applicant for the ten (10) years immediately preceding the date of application;

(6) Three (3) letters certifying to the good character and business responsibility of the applicant; and

(7) A certificate of a licensed physician reciting that the applicant has been examined by the physician within sixty (60) days preceding the application date, and was found to be free of any defects which would affect the applicant's ability to satisfactorily perform the duties required by the employer. (Prior code 6-63)

**Sec. 6-3-140. Temporary license.**

In addition to the annual license provided in this Section, the Chief of Police may issue a temporary license for a period not to exceed thirty (30) days to any business or industrial guards, agents and employees of merchant guards or merchant patrols, upon the submission of a satisfactory application as provided in this Section. (Prior code 6-64)

**Sec. 6-3-150. License fees.**

Application and license fees under this Section are prescribed annually by City Council resolution. (Prior code 6-65)

**Sec. 6-3-160. Causes for denial.**

No license shall be issued under this Article to any of the following persons:

- (1) Any person under eighteen (18) years of age;
- (2) Any person whose character, reputation and record of sobriety are not satisfactory to the Chief of Police;
- (3) Any person convicted of a felony, misdemeanor or violation of a municipal ordinance pertaining to moral turpitude within ten (10) years immediately preceding the date of application;
- (4) Any person against whom a judgment or conviction for fraud, deceit or misrepresentation has been entered within ten (10) years immediately preceding the date of application;
- (5) Any person who has a record of drug addiction, or a record of violent acts against persons or property;
- (6) Any person who is unable to provide that he or she will be employed as a business or industrial guard, or an agent or employee of a merchant guard or merchant patrol upon issuance of the license; or
- (7) Any person whose physical and mental condition are such so as not to warrant confidence that the service to be rendered will not jeopardize the health, safety or welfare of any person. (Prior code 6-66)

**Sec. 6-3-170. Bonds.**

Persons licensed as a merchant guard or merchant patrol shall furnish a good and sufficient bond in the sum of five thousand dollars (\$5,000.00) conditioned on the faithful observance of this Article and conditioned on the faithful performance and honest conduct of the merchant guard or merchant patrol business. Such bond shall be payable to the City, and to the person who may have employed such licensee and been injured by any willful, wanton or dishonest act of the licensee or any agent or any of its employees. Such bond shall be further conditioned upon the payment of all wages and salaries due to all agents or employees of the merchant guard or merchant patrol and shall be directly payable to the employees in the event of default of payment. (Prior code 6-67)

**Sec. 6-3-180. Suspension or revocation.**

The Chief of Police shall have the power to suspend or revoke any license issued under this Article for violation of any federal or state statute, City ordinances or any of the provisions of this Article, or for any act committed by a licensee which is detrimental to the health, welfare and safety of the public. (Prior code 6-68)

**ARTICLE IV**

**Contractors**

**Sec. 6-4-10. Compliance with provisions required.**

It shall be unlawful for any contractor licensed or registered under the provisions of this Article to violate any provision of this Article, or to violate or refuse to obey any order issued, or to neglect to pay any fee assessed, under authority of this Article. (Prior code 6-81)

**Sec. 6-4-20. Permits issued only to licensed contractor.**

On any work requiring a licensed or registered contractor, permits under this Article shall be issued only to the contractor or registrant or to his or her authorized representative. (Prior code 6-82)

**Sec. 6-4-30. Fraudulent use of license.**

It shall be unlawful for any person to fraudulently use a license or registration issued to a contractor or registrant under this Article to obtain permits for another person. (Prior code 6-83)

**Sec. 6-4-40. Failure to obtain required permit or inspection.**

It shall be unlawful for a contractor to fail to obtain inspection services when the same are required, or to fail to obtain a permit when it is required. (Prior code 6-84)

**Sec. 6-4-50. Responsibility for contracted work.**

A contractor shall be responsible for all work included in his or her contract, whether or not such work is done by him or her directly or by a subcontractor. The contractor shall be responsible for all funds or property received by him or her for prosecution, for completion of a specific contract, or for a specific purpose. (Prior code 6-85)

**Sec. 6-4-60. Abandoning contract and departing from specifications restricted.**

It shall be unlawful for any contractor licensed or registered under this Article to make a material departure from the plans and specifications for any contract or undertaking, without approval. (Prior code 6-86)

**Sec. 6-4-70. Safety standards generally.**

(a) All state laws, provisions of this Article or other City ordinances dealing with measures for the safety of workmen and the public shall be observed by contractors and/or registrants within the City, in addition to any requirements contained within this Article.

(b) It shall be unlawful for a contractor to be careless or negligent in obtaining minimum safety measures, including appliances, apparatus and equipment, to protect workmen and the public. (Prior code 6-87)

**Sec. 6-4-80. Compliance with law and supervisory clauses required.**

All licenses enumerated in Sections 6-4-200 through 6-4-320 of this Article shall be issued in accordance with the terms and provisions of this Article and other City ordinances, and shall be subject to the supervisory clauses contained in Section 6-4-170 of this Article. (Prior code 6-88)

**Sec. 6-4-90. Required; classification generally.**

Licenses shall be required for all types of work specified in Sections 6-4-200 through 6-4-320 of this Article unless otherwise stated, and shall be classified in accordance with the provisions of Sections 6-4-200 through 6-4-320 of this Article. (Prior code 6-89)

**Sec. 6-4-100. Application forms and signature.**

Applications for contractors' licenses and/or registrations shall be on such forms and shall furnish such information as the Building Official prescribes. The Building Official shall receive and sign all applications for licenses and/or registrations set out in Sections 6-4-200 through 6-4-320. (Prior code 6-90)

**Sec. 6-4-110. Application review standards.**

The Building Official shall review applicants for licenses and/or registrations issued under Sections 6-4-200 through 6-4-320 of this Article. The standard to be applied in the conduct of such review shall be the protection of the public health, welfare and safety of the people of the City, so that those who are recommended to be licensed or registered under this Article are financially and morally responsible and qualified, in terms of their skills, knowledge and practical experience, to contract for or to do the work for which they seek to be licensed. Applicants who are so qualified shall be licensed and/or registered as provided in Sections 6-4-200 through 6-4-320 of this Article. (Prior code 6-91)

**Sec. 6-4-120. Examinations.**

(a) The Building Official may, before approving any application for a license required by Section 6-4-90 of this Article, require the applicant to take a written or oral examination; electrical contractors are excepted from this requirement.

(b) The Building Official may, at his or her discretion, set standards for the examining requirements, so long as they do not conflict with any provision of this Article.

(c) The Building Official shall limit the examination requirements to areas applicable to the license being sought. (Prior code 6-92)

**Sec. 6-4-130. No examinations required.**

All persons who have been previously licensed by the City to engage in the trades, jobs or contractual services shall not be required to be examined; provided, however, that all persons must hold a license issued by the State, if required by the State, before engaging in any trade, job or contractual service within the City limits. (Prior code 6-93)

**Sec. 6-4-140. Prerequisites.**

Any licenses, registrations or other lawful requirements imposed upon an applicant for a contractor's license or registration under this Article, other ordinances of the City or laws of the State, shall be deemed prerequisites to the issuance of such license or registration. (Prior code 6-94)

**Sec. 6-4-150. Issuance.**

If, in the opinion of the Building Official, the applicant for a license or registration required by Sections 6-4-200 through 6-4-330 of this Article is qualified by training or experience to fulfill the obligations of a contractor, and is financially and morally responsible, he or she shall issue the applicant a license or registration upon payment of the annual fee prescribed in Section 6-4-320 of this Article. (Prior code 6-95)

**Sec. 6-4-160. Term and renewal.**

A contractor's license or registration issued under the provisions of Sections 6-4-200 through 6-4-330 of this Article shall terminate on the last day of the calendar year in which it was issued, and may be renewed any time prior to the expiration date by payment of the annual license fee prescribed by Section 6-4-330 of this Article. (Prior code 6-96)

**Sec. 6-4-170. Qualified supervisor to exempt licenses from certain requirements.**

(a) Except as otherwise specifically provided, all licenses enumerated in Sections 6-4-200 through 6-4-330 of this Article shall be issued under authority of and in accordance with the terms and provisions of this Section and shall be subject to the supervisory clauses contained in this Section.

(b) Licensees and/or registered electrical contractors, whether individuals, firms or corporations, shall not be required to possess those skills and qualifying experience records required for the work they are permitted to do under the terms and provisions of their respective licenses, provided that they retain in their business a supervisor whose skills and qualifying experience record are such that he or she would be qualified to do all work in his or her principal's license category. The licensees' or registrants' rights to do business shall be dependent upon the continued retention of the designated supervisors in an active, full-time capacity.

(c) Whenever a designated supervisor terminates his or her connection with a licensee or registrant or otherwise becomes inactive, the licensee or registrant shall immediately notify the

Building Official. In such event, the license or registration shall be deemed to be suspended and there shall be a thirty-day grace period in order to acquire a proper supervisor before complete termination of the license. Should the supervisor be replaced, or should his or her connection with the business of the licensee or registrant be renewed, such fact shall be made known to the Building Official. If the proposed replacement has been found by the Building Official to meet the qualifications imposed by this Section, the license shall again be deemed in full force and effect without imposition of an additional license or registration fee for the same calendar year.

(d) Each individual who is to act as a supervisor shall be reviewed in accordance with the provisions of Sections 6-4-80 through 6-4-190 for the work proposed to be done. Each individual who is to act as a supervisor shall be designated as such in each application for a license or registration. (Prior code 6-97)

**Sec. 6-4-180. Applications for permits.**

(a) No permit shall be issued to any contractor who has not first obtained a license as required by Section 6-4-90 of this Article or who is delinquent in the payment of his or her annual fee, or whose license or registration has been suspended or revoked by action of the City Council.

(b) Licensed contractors or registrants may apply for and be issued permits to do only such work as they are entitled to do under their respective licenses or registrations.

(c) Any application for a permit, license or registration filed in derogation of this Section shall be deemed to have been filed with fraudulent intent and shall be a nullity. Any permit, license or registration issued on the basis of such fraudulent application shall be null and void.

(d) Any individual who owns a Group R, Division 3 or M building, a Group R, Division 1 building where no more than four (4) dwelling or sleeping units are under a single roof, or any Group B, Division 2 occupancy building having an occupant load of not more than thirty (30) may make application for a permit to erect, construct, enlarge, alter, repair, improve, convert or demolish such building, and shall be excepted from the license or registration requirement of Section 6-4-90 of this Article; provided that such individual does not erect or construct more than one (1) of the building occupancies mentioned in this Subsection per every two (2) years, and does not enlarge, alter, repair, improve or convert more than one (1) of the building occupancies mentioned in this Subsection per every one (1) year.

(e) Applications under Subsection (d) above shall be processed as are all other applications for permits and shall be issued only in accordance with those portions of the building, electrical, plumbing, gas fitting, warm air heating, boiler and pressure vessel regulations which relate to structural, technical and safety requirements. (Prior code 6-98)

**Sec. 6-4-190. Insurance requirements.**

(a) Every contractor granted a license or registration under the terms of Sections 6-4-80 through 6-4-330 of this Article shall be required to maintain at all times employees' liability and public liability insurance with minimum limits of not less than three hundred thousand dollars (\$300,000.00) for one (1) person, and five hundred thousand dollars (\$500,000.00) for any one (1) accident, and

property damage insurance with a minimum limit of not less than one hundred thousand dollars (\$100,000.00) for any one (1) accident.

(b) At the time application is made, and before a license or registration can be issued, the contractor shall file with the Building Official a certificate signed by a qualified agent of an insurance company, stating: that the policies required by Subsection (a) above have been issued to the licensee for employees' liability or workmen's compensation insurance, public liability insurance and public property damage insurance; the minimum limits of each; the policy numbers; the name of the company; the effective date of the policies; and the expiration dates of the policies, together with a statement and a copy of an endorsement placed on each policy requiring ten (10) days' written notice by certified mail to the Building Inspector if it becomes necessary to cancel the policy for any reason.

(c) In the event of a cancellation of a policy, the licensee or registrant shall be required to furnish a new certificate in full compliance with the terms of this Section within the ten-day period; otherwise, the license or registration shall be automatically revoked. The license or registration shall be reinstated when the licensee or registrant has furnished a certificate of insurance in compliance with this Section, unless such license is suspended for reasons other than the failure to file a proper certificate of insurance. (Prior code 6-99)

**Sec. 6-4-200. Appliance licenses.**

(a) As used in this Section, the term *appliance* refers to any appliance whose installation would be subject to the regulations set out in the Uniform Building Code, this Chapter and the Uniform Plumbing Code.

(b) An appliance license shall entitle the holder thereof to contract for and install appliances, as defined in Subsection (a) above, where the installation of such appliance requires a permit under this Article, or under other City ordinances governing the contracting for and installation of appliances.

(c) Holders of plumbing, electrical, warm air heating, steam heating and gas fitting licenses are not required to hold appliance licenses to install domestic appliances. (Prior code 6-100)

**Sec. 6-4-210. Builder's licenses.**

(a) Class A. A builder's license, Class A, shall entitle the licensee to contract for and to do the work of building or contracting for, or altering or adding to the structural portions of any building, structure or portion thereof of types I, II, III, IV or V construction in any and all occupancy group classifications as defined in the Uniform Building Code where such work requires the issuance of a permit under this Code or other City ordinances. All such work shall be done in accordance with the terms and provisions of this Chapter and all other City and state laws governing the same. A builder's license, Class A, shall entitle the licensee to contract for and do necessary demolition and wrecking work in connection with the work specified in this Subsection.

(b) Class B. A builder's license, Class B, shall entitle the licensee to contract for and to do the work of building or contracting for, or altering or adding to structural portions of buildings, structures or portions thereof of types III, IV and V construction in the following number of occupancy classifications:

- (1) Group A, Division 4 – one (1) new structure, excluding stadiums;
- (2) Group B, Division 2 – two (2) new structures;
- (3) Group R, Division 1 – three (3) new structures or additions, where the floor area of any structure does not exceed four thousand (4,000) square feet;
- (4) Group R, Division 3 – five (5) new structures, where the floor area of any individual structure does not exceed three thousand (3,000) square feet; and
- (5) Group M – unlimited.

There is no limit on the number of additions or alterations, or remodeling of the group occupancies listed in this Subsection; provided, however, that the total of the additions to Group A-4 and B-2 occupancies does not exceed two thousand (2,000) square feet during any calendar year, and the total of the additions to Group R-1 occupancies does not exceed six thousand (6,000) square feet during any calendar year. A builder's license, Class B, shall entitle the licensee to contract for and do the necessary demolition and wrecking work in connection with the work specified in this Subsection.

(c) Class C. A builder's license, Class C, shall entitle the licensee to contract for and to do the work of building, contracting for, or altering or adding to structural portions of buildings, structures or portions thereof of types III, IV and V construction in the following number of occupancy classifications:

- (1) Group B, Division 2 – one (1) new structure, the floor area not to exceed one thousand (1,000) square feet or have an occupant load of more than thirty (30);
- (2) Group R, Division 1 – one (1) new structure or addition, where the floor area does not exceed two thousand (2,000) square feet;
- (3) Group R, Division 3 – two (2) new structures, where the floor area of any individual structure does not exceed one thousand five hundred (1,500) square feet; and
- (4) Group M – unlimited.

There is no limit on the number of additional alterations or remodeling of the group occupancies mentioned in this Subsection; provided, however, that the sum of additions to Group B-2 occupancies does not exceed one thousand (1,000) square feet, and that the sum of additions to Group R-1 occupancies does not exceed two thousand (2,000) square feet during any calendar year. A builder's license, Class C, shall entitle the licensee to contract for and to do the necessary demolition or wrecking work in connection with the work specified in this Subsection. (Prior code 6-101)

**Sec. 6-4-220. Concrete and form licenses.**

(a) A concrete and form license shall entitle the individual holder thereof to contract for and install forms for concrete products, to pour and finish concrete products and to mix concrete products, subject to the following limitations:

(1) All concrete work is to be done in accordance with Chapters 26, 27 and 38 of the 1988 Uniform Building Code, or subsequent editions that are currently in effect in the City.

(2) All concrete and form work on types I, II, III, IV and V structures over one thousand (1,000) square feet shall be under the supervision of a holder of a builder's license, Class A, B or C.

(b) Holders of a Class A, B or C builder's license need not have a concrete and form license to do the work referred to under this Section. (Prior code 6-102)

**Sec. 6-4-230. Electrical licenses.**

All electrical licenses are the responsibility of the Colorado Electrical Board. A registration fee of sixty dollars (\$60.00) per year will be required from all state-licensed electrical contractors working within the City. All other provisions of this Article will apply. (Prior code 6-103)

**Sec. 6-4-240. Excavating licenses.**

(a) An excavating license shall entitle the holder thereof to contract for and to do the work of cutting into public rights-of-way, and excavating into the public right-of-way and on private property within the City. The holder of an excavating license shall be subject to the provisions in Chapters 28 and 44 of the Uniform Building Code.

(b) The holders of a license under any other Section of this Article shall not be required to be licensed under this Section, but shall be subject to the provisions of this Section. (Prior code 6-104)

**Sec. 6-4-250. Gas fitter's license.**

(a) A gas fitter's license shall entitle the individual holder thereof to install all gas piping, fittings, controls, burners and venting on all gas-fired, oil-fired and liquefied-petroleum-fired appliances in accordance with the Gas Fitting Code and the Uniform Building Code.

(b) Holders of plumber's licenses, Class A, B or C, steam heating licenses, Class A or B, or warm air heating and ventilating licenses may do the work of a gas fitter without holding a gas fitting license.

(c) No person may install gas piping, fitting controls, burners or venting on gas-fired, oil-fired and liquefied-petroleum-fired appliances unless he or she is specifically licensed as mentioned under this Section. (Prior code 6-105)

**Sec. 6-4-260. House and building mover's licenses.**

The holder of a house and building mover's license shall be permitted to contract for and engage in the moving of structures within, into and out of the City limits, subject to the following limitations:

(1) New structural alterations, additions and foundation work are to be done by the holder of a builder's license, Class A, B or C.

(2) Plumbing work necessary in moving and relocating the structure is to be done by the holder of a Class A or B plumbing license.

(3) Electrical work necessary in moving and relocating the structure is to be done by the holder of a Class A or B electrical license. (Prior code 6-106)

**Sec. 6-4-270. Masonry licenses.**

(a) A masonry license shall entitle the individual license holder to erect, construct, alter or demolish chimneys, fireplaces, walls and pilasters, and to do other work on a building composed of masonry units in accordance with Chapters 24, 28 and 37 of the Uniform Building Code.

(b) Holders of builder's licenses, Class A, B or C, need not have a masonry license to do the work referred to under this Section. (Prior code 6-107)

**Sec. 6-4-280. Plumber's licenses.**

(a) A plumber's license, Class A, master, shall entitle the holder thereof to contract for and to install all sanitary plumbing and potable water supply piping for which a permit is required under the provisions of this Article, other City ordinances and state laws governing the same.

(b) A plumber's license, Class B, master, shall entitle the holder thereof to contract for and to install all sanitary plumbing and potable water supply piping for which a permit is required under the provisions of this Article, other City ordinances, and state laws governing the same, except that no individual job where a plumbing permit is required shall exceed the following number of fixtures:

- (1) Water closets, three (3);
- (2) Washbowls, five (5);
- (3) Bathtubs, two (2); and
- (4) Showers, two (2).

(c) A plumber's license, Class C, journeyman, shall entitle the individual holder thereof to install all sanitary plumbing and potable water supply piping for which a permit is required under the terms and provisions of this Article, other City ordinances, and state laws governing the same. Licensees under this Subsection may perform the work which they are licensed to do only under the supervision or in the employ of a plumber's license Class A or B master license.

(d) No more than two (2) unlicensed plumber's helpers may be employed for each licensed master or journeyman license holder without the prior consent of the Building Official. (Prior code 6-108)

**Sec. 6-4-290. Special contractor's licenses.**

A special contractor's license shall entitle the licensee to contract for and to do the work of a particular trade or job connected with the building industry, excluding the licenses enumerated in Sections 6-4-200 through 6-4-280 above. Such special contractor's license shall be limited to the

trade or particular kind of work specified in the license and such other work as may be incidental thereto. (Prior code 6-109)

**Sec. 6-4-300. Steam heating licenses.**

(a) A steam heating license, Class A, shall entitle the holder thereof to contract for and to install high-pressure and low-pressure steam and hot-water heating systems, processing pipes and similar commercial hot-water and water-vapor systems, and heating or steam power systems where the installation of such requires a permit under the provisions of this Article or other City ordinances governing the same.

(b) A steam heating license, Class B, shall entitle the individual license holder to install low-pressure steam and hot-water heating systems, processing pipes and similar commercial hot-water and water-vapor systems where the installation of such requires a permit under provisions of this Article or other City ordinances governing the same. Such installations shall be made in the following occupancies only:

(1) Group R-1 occupancies, where the floor area of any individual structure or addition does not exceed three thousand (3,000) square feet;

(2) Group B-2 occupancies, two (2) occupancies, where the floor area does not exceed one thousand (1,000) square feet;

(3) Group R-3 occupancies, where the floor area does not exceed two thousand (2,000) square feet; and

(4) Group M occupancies, unlimited.

(c) No person who engages in the installation of heating work shall employ unlicensed helpers unless under the direct supervision of a licensed Class A or B license holder.

(d) No more than two (2) unlicensed plumber's helpers may be employed for each licensed master or journeyman license holder without the prior consent of the Building Official. (Prior code 6-110)

**Sec. 6-4-310. Warm-air heating and ventilation licenses.**

A warm-air heating and ventilation license shall entitle the holder thereof to contract for and install warm-air heating and ventilation and their appurtenances. All work shall be performed only in accordance with the Warm Air Heating and Ventilating Code. All electrical work shall be performed by a holder of a Class A or B electrical license. (Prior code 6-111)

**Sec. 6-4-320. Wrecker's license.**

A wrecker's license shall entitle the holder thereof to contract and engage in the demolition of existing structures. All work connected with wrecking and demolishing structures shall be done in accordance with Chapter 44 of the Uniform Building Code, as adopted. (Prior code 6-112)

**Sec. 6-4-330. Annual fees designated.**

The annual license fees applicable to the licenses required and enumerated in Sections 6-4-200 through 6-4-320 above shall be established by resolution of the City Council. For any license issued after March 31 and before July 1 of any calendar year, the license fee shall be three-fourths ( $\frac{3}{4}$ ) of the fee established by the City Council. For any license issued after June 30 of any calendar year, the license fee shall be one-half ( $\frac{1}{2}$ ) of the fee established by the City Council. (Prior code 6-113)

**Sec. 6-4-340. Suspension and revocation.**

(a) The Building Official may, upon his or her own motion, and shall, upon the verified complaint in writing of any person, require any person licensed or registered under this Chapter to appear before the City Council for a hearing upon five (5) days' written notice, mailed to his or her last known post office address or served to him or her personally.

(b) The City Council shall have the power to temporarily suspend or permanently revoke a license or registration if the holder thereof, after a proper hearing, is found guilty of or commits one (1) or more of the acts prohibited in this Article. (Prior code 6-114)

**Sec. 6-4-350. Violation; penalty.**

(a) It shall be unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, convert, demolish, equip, use, occupy or maintain any building or structure in the City, or to cause the same to be done, contrary to or in violation of any of the provisions of this Article. Any person violating any of the provisions of this Article shall be deemed guilty of a violation of this Article and shall be subject to the penalty provided in Section 1-4-20 of this Code.

(b) The suspension or revocation of any license, permit or privilege conferred by the City shall not be deemed a penalty for the purposes of this Section. (Prior code 6-115)

**ARTICLE V**

**Gaming Devices**

**Sec. 6-5-10. Definitions.**

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

*Device fee* means the amount due to the City for the use and operation of a gaming device within the City limits of the City of Central.

*Gaming device* means any equipment or mechanical, electromechanical or electronic contrivance, component or machine used remotely or directly in connection with gaming or any game. The term includes a system for processing information which can alter the normal criteria of random selection which affects the operation of any game, or which determines the outcome of a game. The term includes a slot machine, poker table and blackjack table.

*License fee* means the amount due to the City to cover the administrative expenses incurred by the City in implementing this Article and licensing gaming devices.

*Licensee* means any individual, partnership and/or corporation licensed to operate a gaming establishment pursuant to the rules and regulations of the Colorado Gaming Commission and pursuant to the ordinances of the City.

*Limited card games and slot machines, limited gaming or gaming* means slot machines and the card games or poker and blackjack, which are authorized by the Colorado Limited Gaming Act of 1991, defined and regulated by the Colorado Limited Gaming Control Commission.

*Person* means an individual, partnership, business trust, government or governmental subdivision or agency, estate, association, trust, for-profit corporation, nonprofit corporation, organization or any other legal entity or a manager, agent, servant, officer or employee thereof.

*Slot machine* means any mechanical, electrical, video, electronic or other device, contrivance or machine which, after insertion of a coin, token or similar object, or upon payment of any required consideration whatsoever by a player, is available to be played or operated, and which, whether by reason of the skill of the player or application of the element of chance, or both, may deliver or entitle the player operating the machine to receive cash premiums, merchandise, tokens or redeemable game credits, or any thing of value other than unredeemable free games, whether the payoff is made automatically from the machines or in any other manner. As used in this Article, *slot machine* does not include antique gambling devices manufactured in 1966 or earlier and not used for gambling purposes or in connection with limited gaming.

*Transportation improvements* means any facilities, works, projects, resources and improvements necessary to provide public transportation, parking, safety protection facilities, roadway maintenance and construction, shelters, pedestrian facilities, bike paths, shuttle service and all related buildings, improvements and structures, and other properties and facilities in connection with such transportation improvements, including operation and maintenance and transportation planning costs. (Prior code 6-131)

**Sec. 6-5-20. License required.**

It is unlawful for any person to operate any gaming device within the City limits without having first obtained a license for each individual gaming device being operated in the City. The license shall be issued to a gaming establishment and shall cover each gaming device operating within such gaming establishment. The license shall be issued, and renewed pursuant to Section 6-5-60 of this Article, on an annual basis. (Prior code 6-132)

**Sec. 6-5-30. License fee imposed.**

(a) The annual license fee, based on the number of gaming devices within each gaming establishment, is one thousand dollars (\$1,000.00) per gaming device. Annual license fees shall be paid on a monthly basis in the amount of eighty-three dollars and thirty-three cents (\$83.33) per gaming device operated within a gaming establishment.

(b) Notwithstanding the foregoing requirement to pay an annual license fee for each gaming device, the City Council is authorized to establish incentive programs wherein annual license fees may be temporarily waived or reduced on such terms and conditions as set forth by resolution of City Council. (Prior code 6-133)

**Sec. 6-5-40. Device fee imposed.**

(a) In addition to, and separate and apart from, the license fee imposed under this Article, each gaming establishment shall be required to pay a monthly device fee for each gaming device operated within a gaming establishment. The purposes of the device fee are: (1) to assist the City in paying costs for transportation services and improvements that are necessary and as a result of and roughly proportionate to the impacts on the City of limited gaming; and (2) to assist the City in funding certain marketing and advertising costs in calendar year 2014 that are related to promoting the limited gaming industry. The monthly device fee is directly related to the need for increased transportation services and improvements necessary to serve the customers, employees and users of gaming establishments and the need for advertising and marketing efforts to promote the limited gaming industry within the City, and will provide a significant and proportional benefit to such businesses.

(b) That portion of the device fee allocated to transportation improvements (the "transportation fee") shall be twenty-two dollars and eight cents (\$22.08) per month for each gaming device. In order to ensure sufficient revenue collections, that portion of the device fee allocated to advertising and marketing expenses (the "marketing fee") shall be adjustable based upon the number of gaming devices in operation and the amount of revenue needed. The base marketing fee shall be five dollars (\$5.00) per month for each gaming device and the maximum marketing fee shall be seven dollars (\$7.00) per month. The adjustable marketing fee for each gaming device shall be effective through December 31, 2014, unless an extension of the same is approved by ordinance of the City Council. If no extension of the marketing fee is approved by the City Council, the device fee shall be reduced to twenty-two dollars and eight cents (\$22.08) commencing January 1, 2015.

(1) Revenues collected from imposition of the transportation fee shall be used exclusively for transportation services and improvements primarily serving the gaming areas that are expected to be provided pursuant to an intergovernmental agreement between the City and the Central City Business Improvement District (the "CCBID"), and shall not be used for general operating expenses of the City.

(2) Revenues collected from imposition of the marketing fee shall be used exclusively to defray the costs of advertising and marketing that are expected to be provided pursuant to an intergovernmental agreement between the City and the CCBID, and shall not be used for general operating expenses of the City.

(3) The amount of the marketing fee shall be determined each month by the Finance Director based upon the current number of gaming devices in the City and the expected amounts of the costs of advertising and marketing for 2014. The monthly amount of the marketing fee may be specifically identified on the monthly device fee invoice.

(c) Notwithstanding the foregoing requirement to pay a monthly device fee to assist the City and the CCBID with providing transportation services and improvements and funding advertising and marketing expenses, the City Council is authorized to establish incentive programs wherein such

device fee may be temporarily waived or reduced on such terms and conditions as set forth by resolution of City Council.

(d) All revenues collected by the City from the transportation fee and the marketing fee shall be remitted to the CCBID or paid to the CCBID's contractors pursuant to the terms of an intergovernmental agreement by and between the City and the CCBID, which agreement shall memorialize the transportation services and improvements and the joint advertising and marketing efforts to be provided by the CCBID and the responsibilities of the respective entities, or shall otherwise be appropriated and spent by the City as approved by City Council. (Prior code 6-134; Ord. 11-16 §1, 2011; Ord. 12-12 §1, 2012; Ord. 13-17 §1, 2013)

**Sec. 6-5-50. Payment of fees.**

(a) Payment of license and device fees shall be made to the City at least one (1) day prior to the first day of the month for which the fees apply. Any fees received after the first day of the month for such month shall be made retroactive to the first of the month in which the fees are received.

(b) Payment of the license and device fees by the licensee and acceptance and receipt of such payment by the City shall constitute the City's acceptance of the gaming device's operation for the month in which payment is received. Fees received after the fifteenth day of each month will be considered delinquent and will be subject to the penalties and interest as described in Section 6-5-90 of this Article.

(c) In the event that any due date for license or device fees should fall on a Saturday, Sunday or legal holiday, the due date shall be extended to the next business day. Postmarks will be accepted for due date purposes.

(d) In the event that new gaming devices are placed in operation after the fifteenth day of any month and a license or device fee for the additional devices was not paid with the licensee's regular, monthly remittance, license and device fees in the entire monthly amount for the additional devices shall be paid no less than forty-eight (48) hours prior to the devices becoming operational.

(e) In the event that gaming devices are removed from operation after device fees for the appropriate month have already been paid for the devices, no credits or refunds will be given. Further, device and license fees will not be prorated in any form.

(f) In the event a gaming device is exchanged for or replaced with another gaming device, no additional device fee or license fee will be become due and payable.

(g) New gaming establishments are required to remit device and license fees to the City at least ten (10) days prior to the opening of such establishment. (Prior code 6-135)

**Sec. 6-5-60. Renewal of licenses.**

(a) Subject to the power of the City to deny, revoke or suspend licenses, any license in force shall be automatically renewed annually by the City unless notice of nonrenewal of such license is received by the City from the licensee not less than thirty (30) days prior to the expiration of the annual license.

(b) Upon the automatic renewal of each annual license, license and device fees for each month shall be due and payable on the first day of each month. (Prior code 6-136)

**Sec. 6-5-70. License revocable.**

Every license issued pursuant to this Article is revocable by the City upon the licensee's failure to comply with each and every requirement contained in this Article subject to the procedures set forth in Section 6-5-130 of this Article. No licensee acquires any vested interest or property right by the payment of license or device fees to operate a gaming device within the City limits. (Prior code 6-137)

**Sec. 6-5-80. Quarterly report required.**

(a) As a condition of the license and the use and operation of a gaming device within the City limits, the licensee shall provide to the City a written report listing all gaming devices in operation as of the date of the report and a diagram and/or map showing the location of all gaming devices within the establishment. The report shall include each gaming device's serial number or identification number. This information shall be provided to the City by the fifteenth day of the first month of each quarter (January, April, July, October). Such information will be used by the City in conjunction with the State Division of Gaming's monthly reports to verify the accuracy of gaming device counts on a random basis.

(b) In the event the City discovers discrepancies between the information provided by the licensee, the City's records and the State Division of Gaming's records, the establishment shall be notified in writing within ten (10) days of the discrepancy and given ten (10) days to respond with relevant information. Should it be determined that the licensee knowingly and/or willingly provided false information, penalties and fees as provided for in this Article may be assessed at the discretion of the City. (Prior code 6-138)

**Sec. 6-5-90. Delinquency or nonpayment.**

Failure to remit license or device fees by the fifteenth day of each month as described in this Article will be considered a delinquency or nonpayment of fees and shall constitute an offense and a violation thereof. Every licensee violating this Article by delinquency or nonpayment shall be fined a penalty of five percent (5%) of the total amount of fees due upon each device in operation. Each calendar day in violation of this Article shall constitute a separate offense; provided, however, that the maximum fine for delinquency shall not exceed twenty percent (20%) of the total amount of fees due upon each gaming device in operation. (Prior code 6-139)

**Sec. 6-5-100. Unpaid fees; liens against property.**

(a) Lien authorized. If device or license fees have not been remitted by the twentieth day of each month and a licensee has therefore been assessed penalties in the maximum amount of twenty percent (20%) of the total amount of fees due, the Finance Department may issue a notice, setting forth the name of the licensee, the amount of the overdue fees, penalties and interest, the date of the accrual thereof, and that the City claims a first and prior lien therefor, second only to the first and prior lien claim by the State, on the real and tangible personal property of the licensee except as to the preexisting claims or liens of a bona fide mortgagee, pledge, judgment creditor or purchaser whose

rights shall have attached prior to the filing of the notice as provided in this Article on property of the person.

(b) Notice. Said notice shall be on forms prepared by the Finance Department, shall be verified by the Finance Director, City Manager or City Clerk, and may be filed in the office of the Clerk and Recorder of any county in the State in which the person owns real or tangible personal property. The filing of such notice shall constitute a lien on such property in that county and constitute a notice thereof.

(1) After said notice has been filed, or concurrently therewith, or any time when fees due are unpaid, whether such notice is filed or not, the City Manager may issue a warrant directed to any duly authorized revenue collector, or to the sheriff of any county of the State, commanding him or her to levy upon, seize and sell sufficient of the real and personal property of the licensee-debtor found within his or her county for the payment of the amount due, together with interest, penalties and costs as may be provided by law, subject to valid preexisting claims or liens.

(2) Such revenue collector or sheriff shall forthwith levy upon sufficient property of the licensee-debtor, and said property so levied upon shall be sold and in all respects with like effect and in the same manner as is prescribed by law in respect to executions against property upon judgment in a court of record, and the remedies of garnishment shall apply. The sheriff shall be entitled to such fees in executing such warrant, as are now allowed by law for similar services.

(c) Release of lien. Any lien for device or license fees as shown in the records of the County Clerk and Recorder as provided in this Article, upon payment of all fees, penalties and interest covered thereby, shall be released by the Finance Department in the same manner as mortgages and judgments are released. (Prior code 6-140)

**Sec. 6-5-110. Rate of interest.**

Interest shall begin to accrue on all device and license fees and penalties due the on the fifteenth day of the month following the month in which they were due. The annual rate of interest shall be established by the State Commissioner of Banking pursuant to Section 3-21-110.5, C.R.S. (Prior code 6-141)

**Sec. 6-5-120. Civil action.**

(a) Debt recovery. The City may also treat any such fees, penalties or interest due and unpaid as a debt due to the City from the licensee. In case of failure to pay the fees, any portion thereof or any penalty or interest thereon due, the City may receive at law the amount of such fees, penalties and interest in the County or District Court having jurisdiction of the amounts sought to be collected.

(b) Attachment. Such actions may be actions in attachment, and writs of attachment may be issued to the sheriff. It shall be the duty of the City Attorney when requested by the City Manager or Finance Department to commence action for the recovery of fees due under this Article, and this remedy shall be in addition to all other existing remedies provided in this Article or the Code, including Section 1-4-20 of this Code. (Prior code 6-142)

**Sec. 6-5-130. Revocation of gaming device operation.**

Upon such time as the City files a lien against any property for delinquent or unpaid license or device fees, the City shall also be authorized to revoke the licensee's license and the right to operate any gaming device within the City limits. Revocation proceedings shall provide notice and public hearing in accordance with the process established by Resolution No. 4-04 of the City Council. (Prior code 6-143)

**ARTICLE VI**

**Liquor Licenses**

**Sec. 6-6-10. Definitions.**

As used in this Article, the following words shall be construed to have the meanings defined below:

*Common consumption area* means a pedestrian area located wholly within a designated Entertainment District and approved by the Liquor Licensing Authority that uses physical barriers to close the areas to motor vehicle traffic and limit pedestrian access.

*Common Consumption Area Law* means Sections 12-47-301(11), 12-47-908 and 12-47-909, C.R.S.

*Entertainment District* means an area within the City that is designated as an Entertainment District of a size no more than one hundred (100) acres and containing at least twenty thousand (20,000) square feet of premises licensed as a tavern, hotel and restaurant, brew pub or vintner's restaurant at the time the District is created.

*Licensee* means a person to whom a license is granted by the Local Licensing Authority to manufacture or sell alcohol beverages as provided under the Colorado Liquor Code.

*Liquor license* means any of the class of licenses set forth in Section 12-47-309, C.R.S., issued pursuant to local licensing authority.

*Local Licensing Authority* means the City Council of the City of Central.

*Promotional association* means an association that is incorporated within the State that organizes and promotes entertainment activities within a common consumption area, is organized or authorized by two (2) or more people who own or lease property within an Entertainment District and is certified by the Local Licensing Authority. (Prior code 6-200; Ord. 12-06 §1, 2012)

**Sec. 6-6-20. Application.**

Applications for liquor licenses shall be processed in compliance with all procedures outlined in the state statutes. (Prior code 6-201)

**Sec. 6-6-30. Application and license fees.**

(a) In addition to any state fees, accompanying an application for a liquor or fermented beverage license or amendment or renewal thereto shall be a local fee to cover expenses of processing said application and issuing the requested license in such amounts as are set by state statute and regulation, as amended from time to time.

(b) In addition to any state fees, all liquor or fermented beverage licenses shall be subject to a local fee in such fee amounts as are set by state statute and regulation, as amended from time to time. (Prior code 6-202)

**Sec. 6-6-40. Distance from schools.**

The distance restriction from a public or parochial school to a building in which liquor is to be sold is eliminated as allowed under Section 12-47-313(d)(3), C.R.S. (Prior code 6-203)

**Sec. 6-6-50. Administrative applications.**

(a) The following liquor-related applications may be decided by the City Clerk, subject to appeal or referral to the Local Licensing Authority:

- (1) Transfer of ownership of existing license;
- (2) Change of corporate structure of existing license;
- (3) Renewal of existing license;
- (4) Manager registration for existing license;
- (5) Special events permit;
- (6) Change of corporate or trade name permit for existing license;
- (7) Bed and breakfast permits;
- (8) Recertification of promotional associations; and
- (9) All other City license-related applications not requiring a public hearing by the Colorado Liquor Code.

(b) The City Clerk may refer to the Local Licensing Authority for a decision regarding any administrative application when, as determined in the discretion of the City Clerk, the public interest would be best served by the determination of the matter by the Local Licensing Authority.

(c) Administrative applications denied by the City Clerk may be appealed to the Local Licensing Authority. Appeals must be submitted in writing to the City Clerk within ten (10) days of denial, and a hearing may be requested. Appeals to the Local Licensing Authority will be decided de novo.

(d) As authorized pursuant to Section 12-48-107(5), C.R.S., approval by the City of a special event permit application shall not require the State's approval or disapproval. Within ten (10) days of issuance of a special event permit, the City Clerk shall notify the state liquor enforcement division of the name of the organization to which a special event permit was issued, the address of the permitted location and the permitted dates of alcohol beverage service. (Ord. 12-06 §2, 2012)

**Sec. 6-6-60. Creation of Entertainment District and general requirements.**

(a) In order to exercise the City's local option to allow common consumption areas in the City and to effectuate the purposes and intent of Section 12-47-301(11), C.R.S., there is hereby established and designated the Central City Entertainment District, whose boundaries include all lands, inclusive of rights-of-way, located in the Historic Downtown Gaming and Gregory Gulch Gaming zone districts as such districts' boundaries may be changed. Properties may be included or excluded from the Central City Entertainment District by resolution of the City Council. By establishing the Central City Entertainment District, the City authorizes the licensing of designated common consumption areas in which alcohol beverages may be sold and consumed subject to the requirements of this Article, the Code and the Common Consumption Area Law.

(b) The Local Licensing Authority has the following powers with respect to common consumption areas and promotional associations:

- (1) Designate one (1) or more common consumption areas;
- (2) Certify or decertify a promotional association;
- (3) Authorize inclusion or exclusion of licensed establishments from a common consumption area;
- (4) Impose reasonable conditions of approval on the licensing of common consumption areas, certification of promotional associations or the inclusion or exclusion of licensed establishments within the common consumption area; and
- (5) Exercise all powers necessary to effectuate the purposes of the Common Consumption Area Law.

(c) The standards for common consumption area licenses issued to promotional associations shall be in addition to all other standards applicable under this Article, the Code and the Colorado Liquor Code.

(d) Decisions on applications for common consumption areas, promotional associations and inclusions and exclusions from the common consumption area shall be made by the Local Licensing Authority within sixty (60) days of receipt of a complete application. A decision to deny any such application by the Local Licensing Authority shall be in writing and shall be provided to the applicant within five (5) business days of the decision. (Ord. 12-06 §3, 2012)

**Sec. 6-6-70. Common consumption areas.**

(a) Within the Central City Entertainment District, common consumption areas may be licensed by the Local Licensing Authority upon application by a promotional association in conformance with the requirements of this Article and the Colorado Liquor Code.

(b) A promotional association may submit an application for the designation of a common consumption area on forms approved by the City Clerk in accordance with the following minimum information:

(1) Application and license fees.

(2) Name, address and list of all officers of the promotional association.

(3) Documentation of how the application addresses the reasonable requirements of the neighborhood or desires of the adult inhabitants.

(4) The size, in terms of acreage or square footage, of the common consumption area; all areas must be contiguous within the common consumption area.

(5) Proposed hours, dates and days of operation of the common consumption area.

(6) A site plan detailing the proposed common consumption area, including the following information: boundaries of the area, location and description of physical barriers; location of all entrances and exits; location of all attached licensed premises; location of signs to be posted notifying customers of the hours of operation; and restrictions associated with the common consumption area.

(7) A security plan detailing security arrangements for the common consumption area, including but not limited to the following information: evidence of completed liquor training of all security personnel approved by the City Clerk; number and location of security personnel during the days and hours of operation of the common consumption area; and evidence of appropriate licensing under Article III of this Chapter.

(8) Signed statement that the common consumption area and all licensed establishments therein can be operated in compliance with this Article, all applicable provisions of this Code and the Colorado Liquor Code.

(9) Documentation evidencing legal authorization for use of the common consumption area.

(10) Proof of insurance of general liability and liquor liability naming the City and its officers and employees as additional insureds in a minimum amount of one million dollars (\$1,000,000.00).

(c) An application for establishment of a common consumption area shall be considered at a duly noticed public hearing of the Liquor Licensing Authority based on the following criteria of approval:

(1) There must be at least two (2) licensed establishments within the common consumption area;

(2) Use of the common consumption area is compatible with the reasonable requirements of the neighborhood or the desires of the adult inhabitants; and

(3) Evidence that the common consumption area is clearly delineated and continuously maintained using physical barriers to prohibit motor vehicle traffic (except emergency vehicles) and to limit pedestrian access.

(d) A tavern, hotel and restaurant, brew pub, retail gaming tavern or vintner's restaurant licensee may request inclusion into the licensed common consumption area by submitting an application to the Liquor Licensing Authority with the following information:

(1) Written request and approval from the promotional association to allow the licensee to be included within the common consumption area, unless the promotional association does not exist, in which case the licensee shall request authorization from the promotional association when it is established and prior to the licensee's license renewal.

(2) Confirmation that the licensee's licensed premises is located within the Entertainment District and within the common consumption area.

(e) The Local Licensing Authority may reject a licensee's inclusion in a common consumption area if the licensed premises is not within the common consumption area and if the licensee:

(1) Fails to obtain consent from the promotional association to be included within the common consumption area;

(2) Fails to establish that the licensed premises and common consumption area can be operated without violating this Article or the Common Consumption Area Law;

(3) Creates a public safety risk to the neighborhood in terms of law enforcement call-outs, breaches in securing the perimeter of the common consumption area, unauthorized liquor consumption outside of the common consumption area, noise or nuisance complaints generated from activities within the common consumption area or similar, documented public safety risks; or

(4) Violates Section 12-47-909 of the Colorado Liquor Code.

(f) All renewal applications for common consumption areas shall be submitted to the City Clerk no later than forty-five (45) days prior to the date on which the license expires. If there is evidence that the license should not be renewed, the City Clerk shall set the application for hearing with the Local Licensing Authority. (Ord. 12-06 §3, 2012)

**Sec. 6-6-80. Promotional associations.**

(a) For certification and recertification as a promotional association, the following information is required to be submitted to the City Clerk in conjunction with or prior to application for establishment of a common consumption area:

(1) Application fee;

(2) Copy of articles of incorporation and bylaws;

- (3) List of names of all directors and officers of the promotional association;
  - (4) List of licensed establishments within the common consumption area; and
  - (5) Certificates of general liability and liquor liability insurance are provided in the amounts required under this Article.
- (b) The Local Licensing Authority may certify a promotional association if the following criteria of approval are met:
- (1) The annual reporting requirements have been or will be met;
  - (2) Evidence establishes that the common consumption area can be and is operated without violating the Colorado Liquor Code, this Article or other applicable provision of this Code;
  - (3) There are at least two (2) licensed premises within the common consumption area; and
  - (4) The required insurance as set forth in Paragraph 6-6-70(b)(10) is provided and continuously maintained.
- (c) A promotional association shall apply for annual recertification by January 31 of each year on forms prepared and approved by the City Clerk.
- (d) The Local Licensing Authority may decertify a promotional association subject to the process as provided in Section 12-47-601 of the Colorado Liquor Code.
- (e) Operational requirements of promotional associations:
- (1) The size of the licensed common consumption area shall not be modified except with the approval of the Local Licensing Authority.
  - (2) The promotional association shall provide adequate security in terms of personnel, physical barriers, training and similar means, to ensure compliance with the Colorado Liquor Code and to prevent a public safety risk to the neighborhood.
  - (3) The promotional association shall post signs at the entrances and exits of the common consumption area, notifying customers of the hours of operation and restrictions associated with the common consumption area.
  - (4) No one shall leave the common consumption area with an unconsumed alcohol beverage.
  - (5) All security personnel must complete a liquor training program approved by the City Clerk prior to staffing the common consumption area.
  - (6) Common consumption areas may be operated until 10:00 p.m. on the days specified in the application. It is unlawful for any promotional association to allow consumption of alcohol beverages in the common consumption area after 10:00 p.m. (Ord. 12-06 §3, 2012)

**Sec. 6-6-90. Violations.**

Noncompliance with any provision of this Article or the Common Consumption Area Law shall be deemed a violation of this Code. Violations of this Article shall be cause for suspension or revocation of the licensed premises, the common consumption area license or decertification of the promotional association and may be subject to other enforcement provisions set forth in this Code. (Ord. 12-06 §3, 2012)

**Sec. 6-6-100. Fees established.**

Application, renewal and licensing fees shall be set by resolution of the City Council. (Ord. 12-06 §3, 2012)

**ARTICLE VII**

**Medical Marijuana Licenses**

*Division 1*

*Medical Marijuana Establishments*

**Sec. 6-7-10. Findings.**

The City Council adopts this Article based upon the following findings of fact:

(1) On November 7, 2000, the voters of the State of Colorado approved Amendment 20. Amendment 20 added Section 14 of Article XVIII to the Colorado Constitution and created a limited exception from criminal liability under state law (as opposed to federal law) for seriously ill persons who are in need of marijuana for specified medical purposes and who obtain and use medical marijuana under the limited, specified circumstances described in Amendment 20.

(2) The intent of Amendment 20 is to enable certain specified persons who comply with the registration provisions of the law to legally obtain, possess, cultivate, grow, use and distribute marijuana without fear of criminal prosecution under state (as opposed to federal) law.

(3) Despite the adoption of Amendment 20, marijuana is still a controlled substance under state and federal law. As a result, making it legal for a person to obtain, possess, cultivate, grow, use and distribute marijuana, even for medical use as contemplated by Amendment 20, has the potential for abuse that should be closely monitored and regulated by local authorities to the extent possible.

(4) If not closely monitored and regulated, the presence of marijuana, even for the purposes legally permitted by Amendment 20, can cause an increase in illegal activities within the City affecting the health, safety, order, comfort, convenience and general welfare of the residents of the City.

(5) If medical marijuana establishments operating pursuant to Amendment 20 were allowed to be established and to operate without appropriate local regulation of their location, medical marijuana establishments might be established in areas that would conflict with the City's

comprehensive land use plan; be inconsistent with surrounding uses; or otherwise be detrimental to the public health, safety and welfare.

(6) Nothing in this Article allows a person to:

a. Engage in conduct that endangers others or causes a public nuisance;

b. Possess, cultivate, grow, use or distribute marijuana for any purpose other than for use as medical marijuana as authorized and limited by Amendment 20 and the implementing state statutes and administrative regulations;

c. Possess, cultivate, grow, use or distribute marijuana that is otherwise illegal under applicable law; or

d. Engage in any activity related to the possession, cultivation, growing, use or distribution of marijuana that is otherwise not permitted under the laws of the City or the State.

(7) This Article is necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the order, comfort and convenience of the City and the inhabitants thereof.

(8) No person, business, activity or use that distributed or involved the distribution of marijuana within the City prior to the enactment of this Article, as originally adopted by Ordinance No. 10-01, shall be deemed to have been legally established under this Code, and no such person, business, activity or use shall be entitled to claim legal, nonconforming status under any provision of this Code or applicable law. (Ord. 12-16 §1, 2012)

#### **Sec. 6-7-20. Authority.**

The City Council hereby finds, determines and declares that it has the power to adopt this Article pursuant to:

(1) The Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.;

(2) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers);

(3) Section 31-15-103, C.R.S. (concerning municipal police powers);

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

(5) Section 31-15-501, C.R.S. (concerning municipal authority to regulate businesses);

(6) The authority granted to home rule municipalities by Article XX of the Colorado Constitution;

(7) Section 14 of Article XVIII of the Colorado Constitution; and

(8) The powers contained in the Home Rule Charter. (Ord. 12-16 §1, 2012)

**Sec. 6-7-30. Definitions.**

(a) As used in this Article, the following words shall have the following meanings:

*Amendment 20* means a voter-initiated amendment to the Colorado Constitution adopted November 7, 2000, codified as Section 14 of Article XVIII to the Colorado Constitution.

*Applicant* means a person who has submitted an application for a license pursuant to this Article.

*Application* means an application for a license submitted pursuant to this Article.

*City Manager* means the City Manager of the City or his or her designee.

*Colorado Medical Marijuana Code* means Article 43.3 of Title 12 of the Colorado Revised Statutes, inclusive of promulgated rules, and as may be amended.

*Cultivation* means the process by which a person promotes the germination and growth of a seed to a mature marijuana plant. *Cultivation* does not include the storing or watering of mature marijuana plants without the aid of grow lighting.

*Day* means a calendar day, unless otherwise indicated.

*Good cause* means and includes: (1) the licensee has violated, does not meet or has failed to comply with any of the terms, conditions or provisions of this Article and any rule and regulation promulgated pursuant to this Article or the Colorado Medical Marijuana Code; (2) the licensee has failed to comply with any special terms or conditions that were placed on its license at the time the license was issued pursuant to an order of the Colorado Department of Revenue or Local Licensing Authority; or (3) the licensee's medical marijuana center has been operated in a manner that adversely affects the public health, welfare or safety of the immediate neighborhood in which the medical marijuana establishment is located. Evidence to support such a finding can include: (1) a continuing pattern of offenses against the public peace, as defined in Article VII of Chapter 10 of this Code; (2) a continuing pattern of drug-related criminal conduct within the premises of the medical marijuana establishment or in the immediate area surrounding the medical marijuana establishment; or (3) a continuing pattern of criminal conduct directly related to or arising from the operation of the medical marijuana establishment.

*License* means a license to operate a medical marijuana establishment issued pursuant to this Article.

*Licensee* means a person licensed pursuant to this Article and the Colorado Medical Marijuana Code.

*Local Licensing Authority* means the City Council as may be delegated to the City Manager as more specifically enumerated in this Article.

*Medical marijuana center* means a premises licensed pursuant to the Colorado Medical Marijuana Code to operate a business described in Section 12-43.3-402, C.R.S., that sells medical

marijuana to registered patients or primary caregivers as defined in Section 14 of Article XVIII of the Colorado Constitution but is not a caregiver.

*Medical marijuana establishment* means a medical marijuana center, a medical marijuana-infused product manufacturer or an optional premises cultivation operation.

*Medical marijuana-infused product* means a product infused with medical marijuana that is intended for use or consumption other than by smoking, including but not limited to edible products, ointments and tinctures.

*Medical marijuana-infused product manufacturer* means a person licensed pursuant to this Article and the Colorado Medical Marijuana Code to operate a business as described in Section 12-43.3-404, C.R.S.

*Optional premises cultivation operation* means a premises licensed pursuant to this Article and the Colorado Medical Marijuana Code where a business described in Section 12-43.3-403, C.R.S., will operate.

*Patient* has the meaning provided in Section 14(a)(d) of Article XVIII of the Colorado Constitution as further defined and regulated in Section 25-1.5-106, C.R.S., and 5 C.C.R. 1006-2.

*Primary caregiver* has the meaning provided in Section 14(1)(f) of Article XVIII of the Colorado Constitution as further defined and regulated in Section 25-1.5-106, C.R.S., and 5 C.C.R. 1006-2.

*School* means a public or private preschool or a public or private elementary, middle, junior high or high school.

(b) In addition to the definitions provided in Subsection (a) above, the other defined terms in Amendment 20 are incorporated into this Article by reference. (Ord. 12-16 §1, 2012)

**Sec. 6-7-40. License required.**

No person shall operate a medical marijuana establishment within the City without a valid license issued in accordance with this Article. (Ord. 12-16 §1, 2012)

**Sec. 6-7-50. Application for license.**

(a) An applicant seeking to obtain a license pursuant to this Article shall file an application with the City Manager. The form of the application shall be provided by the State and shall include all information required by the Colorado Medical Marijuana Code and any additional information requested by the City Manager if such information, in his or her opinion, is reasonably necessary to complete the investigation and review of the application.

(b) A license issued pursuant to this Article does not eliminate the need for the licensee to obtain other required City licenses and licenses related to the operation of the approved medical marijuana center, including, without limitation:

- (1) Any required land use approval, if applicable;

(2) A City business and sales tax license; and

(3) Any building permits, including mechanical, plumbing license or electrical license. (Ord. 12-16 §1, 2012)

**Sec. 6-7-60. Application fee.**

An applicant shall pay to the City a nonrefundable application fee when the application is filed. The purpose of the fee is to cover the administrative costs of processing the application. The amount of the application fee shall be fixed by the City Council by resolution. (Ord. 12-16 §1, 2012)

**Sec. 6-7-70. Investigation of application.**

(a) The City Manager shall determine whether the application is complete and notify the applicant of any deficiencies. Upon receipt of a properly completed application, together with all information required in connection therewith and the payment of the application fee as required by Section 6-7-60 above, the City Manager shall transmit copies of the application to:

(1) The Police Department;

(2) The Planning Department; and

(3) Any other person or agency which the City Manager determines should properly investigate and comment upon the application.

(b) Upon receipt of a completed application, the Police Department shall obtain and review a criminal background records search on the applicant from the Colorado Bureau of Investigation.

(c) Within twenty (20) days of receipt of a completed application, those City departments and other referral agencies described in Subsection (a) above shall provide the City Manager with comments concerning the application. (Ord. 12-16 §1, 2012)

**Sec. 6-7-80. Standards for issuance of license.**

(a) The City Manager is authorized to administratively approve a license under this Article so long as the following conditions are met:

(1) The application (including any required attachments and submissions) is complete and signed by the applicant;

(2) The applicant has paid the application fee and any other fees required by this Code;

(3) The application does not contain a material falsehood or misrepresentation;

(4) The application complies with all of the requirements of this Article, this Code and the Colorado Medical Marijuana Code;

(5) The applicant has received written approval from the Police Department as to the applicant's criminal background; and

(6) The proposed location of the medical marijuana establishment is in compliance with the location, zoning and building requirements set forth in this Code.

(b) The City Manager may refer an application for a license under this Article to the City Council for a public hearing as permitted by Section 12-43.3-302, C.R.S. (Ord. 12-16 §1, 2012)

**Sec. 6-7-90. Denial of license.**

The Local Licensing Authority shall deny an application for a license under this Article when the applicant fails to meet all of the standards set forth in Section 6-7-80 above. (Ord. 12-16 §1, 2012)

**Sec. 6-7-100. Authority to impose conditions on license.**

The Local Licensing Authority is authorized to impose such reasonable terms and conditions on a license as may be necessary to protect the public health, safety and welfare and to obtain compliance with the requirements of this Article and applicable law. (Ord. 12-16 §1, 2012)

**Sec. 6-7-110. Decision on application.**

The Local Licensing Authority shall approve, deny or conditionally approve an application within thirty (30) days of the receipt of the completed application. The decision and the reasons for the decision, as well as any conditions of approval, shall be in writing. (Ord. 12-16 §1, 2012)

**Sec. 6-7-120. Notice of decision.**

The City Manager shall notify the applicant of the decision on the application within three (3) business days of rendering the decision. A copy of the decision shall be sent by certified mail to the applicant at the address shown in the application. (Ord. 12-16 §1, 2012)

**Sec. 6-7-130. Appeal of denial or conditional approval of license.**

(a) An applicant has the right to appeal the City Manager's denial or conditional approval of an application to the City Council by filing a written request with the City Manager within twenty (20) days of the date of the notice of the decision described in notice of decision, as follows.

(b) The applicant shall be provided with not less than ten (10) days' prior written notice of the appeal hearing to be held by the City Council.

(c) The burden of proof in an appeal filed under this Section shall be on the applicant.

(d) If the City Council finds by a preponderance of the evidence that the decision of the City Manager was correct, the City Council shall uphold the decision of the City Manager. If the City Council finds by a preponderance of the evidence that the decision of the City Manager was incorrect, the City Manager's decision shall be set aside and the license issued (if it was previously denied) or the conditions of approval stricken or modified.

(e) Any decision made by the City Council on an application for a license shall be a final decision and may be appealed to the District Court pursuant to Rule 106(a)(4) of the Colorado Rules

of Civil Procedure. The applicant's failure to timely appeal the decision is a waiver of the applicant's right to contest the denial or conditional approval of the application. (Ord. 12-16 §1, 2012)

**Sec. 6-7-140. Contents of license.**

(a) A license shall contain the following information:

- (1) The name of the licensee;
- (2) The date of the issuance of the license;
- (3) The address at which the licensee is authorized to operate the medical marijuana establishment;
- (4) Any special conditions of approval imposed upon the license by the City Manager, pursuant to notice of decision, as follows; and
- (5) The date of the expiration of the license.

(b) A license must be signed by both the applicant and the City Manager to be valid. (Ord. 12-16 §1, 2012)

**Sec. 6-7-150. License transferable.**

A licensee may transfer or assign all ownership, rights and interests in a license subject to prior application to and approval by the City Manager and compliance with Section 12-43.3-309, C.R.S. The City Manager may refer the transfer application to the City Council for a public hearing in conformance with Section 12-43.3-309, C.R.S. Any attempt to transfer or assign a license in violation of this Section voids the license. (Ord. 12-16 §1, 2012)

**Sec. 6-7-160. Duration of license; renewal.**

(a) Each license issued pursuant to this Article shall be valid for one (1) year from the date of issuance and may be renewed as provided in this Section.

(b) An application for the renewal of an existing license shall be made to the City Manager not less than forty-five (45) days prior to the date of expiration. The process for renewal shall be administrative, in accordance with Section 12-43.3-311, C.R.S., provided that any decision not to renew shall be made by the City Council in accordance with the requirements set forth in Section 12-43.3-311, C.R.S.

(c) At the time of the filing of an application for the renewal of an existing license, the applicant shall pay a renewal fee in an amount fixed by resolution by the City Council. (Ord. 12-16 §1, 2012)

**Sec. 6-7-170. Duties of licensee.**

It is the duty and obligation of each licensee to do the following:

- (1) Comply with all of the terms and conditions of the license;

- (2) Comply with all of the requirements of this Article;
- (3) Comply with all other applicable City ordinances;
- (4) Comply with the Colorado Medical Marijuana Code;
- (5) Comply with all state laws and administrative regulations pertaining to the medical use of marijuana;
- (6) Comply with all applicable federal laws, rules or regulations, other than a federal law, rule or regulation concerning the possession, sale or distribution of marijuana which conflicts with Amendment 20;
- (7) Permit inspection of its records and operation by the City Manager for the purpose of determining the licensee's compliance with the terms and conditions of the license; and
- (8) Post the license in a conspicuous location at the medical marijuana establishment. (Ord. 12-16 §1, 2012)

**Sec. 6-7-180. Suspension or revocation of license.**

(a) A license issued pursuant to this Article may be suspended or revoked by the Local Licensing Authority for the following reasons:

- (1) Fraud, misrepresentation or a false statement of material fact contained in the license application;
- (2) A violation of any City, state or federal law or regulation, other than a federal law or regulation concerning the possession, sale or distribution of marijuana that conflicts with Amendment 20;
- (3) A violation of any of the terms and conditions of the license;
- (4) A violation of any of the provisions of this Article; or
- (5) Good cause.

(b) Hearing, burden of proof.

(1) Any authorized City official may request in writing that a license issued under this Article be suspended or revoked. The written request to suspend or revoke must include the allegations upon which the suspension or revocation is based and must be provided to the licensee.

(2) The City Council shall preside over the hearing on the suspension or revocation.

(3) The date and time of the hearing must be set, written notice of which must be sent by regular mail, postage prepaid, to the licensee at least ten (10) days prior to the hearing date.

(4) The hearing must be conducted based on the allegations provided in the written request. The hearing is informal where no rules of evidence shall apply. The burden shall be on the City to prove by a preponderance of the evidence that the licensee has violated the provisions of Subsection (a) above.

(5) A written decision must be provided to the licensee within ten (10) business days of the conclusion of the hearing. Notice shall be given by mailing a copy of the decision to the licensee by regular mail, postage prepaid, at the address shown in the license. Notice is deemed to have been properly given upon mailing.

(c) In connection with the suspension of a license, the City Manager may impose reasonable conditions.

(d) Any decision made by the City Council shall be a final decision and may be appealed to the District Court, pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. The licensee's failure to timely appeal the decision is a waiver of the licensee's right to contest the suspension or revocation of the license. (Ord. 12-16 §1, 2012)

**Sec. 6-7-190. Prohibited locations; permanent location required.**

Prior to the issuance of a license for a medical marijuana establishment, the City Manager shall determine whether the proposed location of the medical marijuana establishment complies with the requirements of this Section and Chapter 16 of this Code. Failure to comply with the requirements of this Section shall preclude issuance of a license.

(1) No medical marijuana establishment shall be located within an area zoned for single-family residential use.

(2) Each medical marijuana establishment shall be operated from a permanent location. No medical marijuana dispensary shall be permitted to operate from a moveable, mobile or transitory location.

(3) No medical marijuana establishment shall be located within one thousand (1,000) feet of a school, an alcohol or drug treatment facility, the principal campus of a college, university or seminary or a residential child care facility.

(4) Medical marijuana establishments that were lawfully in existence at a specific location within the City as of the effective date of the ordinance codified herein shall not be subject to the prohibition at that location. (Ord. 12-16 §1, 2012)

**Sec. 6-7-200. On-site cultivation prohibited.**

The cultivation of marijuana on or within a medical marijuana center is prohibited. (Ord. 12-16 §1, 2012)

**Sec. 6-7-210. Hours of operation.**

A medical marijuana establishment may serve, sell or distribute medical marijuana only between the hours of 10:00 a.m. and 10:00 p.m., Monday through Sunday. (Ord. 12-16 §1, 2012; Ord. 13-10 §1, 2013)

**Sec. 6-7-220. Signage.**

All signage for a medical marijuana establishment shall comply with the requirements of Chapter 14 of this Code. (Ord. 12-16 §1, 2012)

**Sec. 6-7-230. Required warnings to be posted.**

There shall be posted in a conspicuous location in each medical marijuana establishment a legible sign containing the following warnings:

- (1) A warning that the diversion of marijuana for nonmedical purposes is a violation of state law;
- (2) A warning that the use of medical marijuana may impair a person's ability to drive a motor vehicle or operate machinery, and that it is illegal under state law to drive a motor vehicle or to operate machinery when under the influence of or impaired by marijuana;
- (3) A warning that loitering in or around the medical marijuana establishment is prohibited by state law; and
- (4) A warning that possession and distribution of marijuana is a violation of federal law. (Ord. 12-16 §1, 2012)

**Sec. 6-7-240. Paraphernalia.**

Devices, contrivances, instruments and paraphernalia for inhaling or otherwise consuming marijuana, including but not limited to rolling papers and related tools, water pipes and vaporizers, may lawfully be sold at a medical marijuana establishment. Such items may be sold or provided only to patients or primary caregivers. (Ord. 12-16 §1, 2012)

**Sec. 6-7-250. Alcohol.**

The sale or consumption of an alcoholic beverage within a medical marijuana establishment is prohibited. (Ord. 12-16 §1, 2012)

**Sec. 6-7-260. Security requirements.**

A licensee shall provide security on the premises of a medical marijuana establishment in accordance with the Colorado Medical Marijuana Code. (Ord. 12-16 §1, 2012)

**Sec. 6-7-270. Taxes.**

Each licensee shall pay sales tax on all medical marijuana, paraphernalia and other tangible personal property sold by the licensee at the medical marijuana establishment. (Ord. 12-16 §1, 2012)

**Sec. 6-7-280. Penalties; injunctive relief.**

(a) It is a municipal offense for any person to violate any provision of this Article. Any person convicted of having violated any provision of this Article shall be punished as set forth in Section 1-4-20 of this Code.

(b) In addition to all other remedies available to the City under this Code and by law, the operation of a medical marijuana establishment without a valid license issued pursuant to this Article may be enjoined by the City in an action brought in a court of competent jurisdiction. (Ord. 12-16 §1, 2012)

**Sec. 6-7-290. No waiver of governmental immunity.**

In adopting this Article, the City Council is relying on and does not waive or intend to waive by any provision of this Article the monetary limitations (presently one hundred fifty thousand dollars [\$150,000.00] per person and six hundred thousand dollars [\$600,000.00] per occurrence) or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S., or any other limitation, right, immunity or protection otherwise available to the City, its officers or its employees. (Ord. 12-16 §1, 2012)

**Sec. 6-7-300. No City liability.**

By accepting a license issued pursuant to this Article, a licensee releases the City, its officers, elected officials, employees, attorneys and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of establishment owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations. The City Manager may require a licensee to execute a written instrument confirming the provisions of this Section. (Ord. 12-16 §1, 2012)

**Sec. 6-7-310. Indemnification of City.**

By accepting a license issued pursuant to this Article, a licensee, jointly and severally if more than one (1), agrees to indemnify and defend the City, its officers, elected officials, employees, attorneys, agents, insurers and self-insurance pool against all liability, claims and demands on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other loss of any kind whatsoever, which arise out of or are in any manner connected with the operation of the medical marijuana establishment that is the subject of the license. The licensee further agrees to investigate, handle, respond to and provide defense for and defend against any such liability, claims or demands at its expense and to bear all other costs and expenses related thereto, including court costs and attorney fees. The City Manager may require a licensee to execute a written instrument confirming the provisions of this Section. (Ord. 12-16 §1, 2012)

**Sec. 6-7-320. Other laws remain applicable.**

The provisions of this Article do not protect licensees, operators, employees, customers and clients of a licensed medical marijuana establishment from prosecution pursuant to any laws that may prohibit the cultivation, sale, use or possession of controlled substances. In addition, as of the date of the adoption of this Article, the cultivation, sale, possession, distribution and use of marijuana remain violations of federal and state law (except for conduct covered by Amendment 20), and this Article affords no protection against prosecution under such federal and state laws. Licensees, operators, employees, customers and clients of a licensed medical marijuana establishment assume any and all risk and any and all liability arising or resulting from the operation of the establishment under any state or federal law. Further, to the greatest extent licensed by law, any actions taken under the provisions of this Article by any public officers, elected or appointed officials, employees, attorneys and agents of the City shall not become a personal liability of such person or of the City. (Ord. 12-16 §1, 2012)

**Sec. 6-7-330. Compliance with state law.**

Except as otherwise provided herein, the Local Licensing Authority shall be governed by the Colorado Medical Marijuana Code now in effect or subsequently amended. In the event of a conflict between the provisions of this Article and those in the Colorado Medical Marijuana Code, the more stringent provision shall apply. (Ord. 12-16 §1, 2012)

*Division 2  
Primary Caregivers*

**Sec. 6-7-410. Primary caregiver requirements.**

(a) No primary caregiver shall produce, offer, sell or grow medical marijuana within the City without a valid business and sales tax license issued in accordance with this Chapter.

(b) Primary caregivers shall comply with all applicable provisions of this Code and specifically the business licensing and sales tax licensing and reporting requirements set forth in this Chapter. A primary caregiver shall provide the registry identification card number of each of his or her patients to employees of the City, including any police officer of the City, upon request in the course of their official duties while investigating compliance with the requirements of this Article.

(c) To the extent required by law, written documentation that includes the name, address or other information of a patient or primary caregiver, including but not limited to applications, permits and correspondence, shall be maintained by the City as confidential. No person shall be permitted to have access to such confidential documentation except for authorized employees and contractors of the City in the course of their official duties and authorized employees of authorized law enforcement agencies.

(d) The cultivation, production or processing of medical marijuana and medical marijuana plants by primary caregivers for patients is a home occupation subject to the regulations set forth in Chapter 16 of this Code. (Ord. 12-16 §1, 2012)

## ARTICLE VIII

### Pawnbroker Licensing Code

#### Sec. 6-8-10. Title and scope.

(a) This Article shall be known and cited as the City Pawnbroker Licensing Code and shall apply to any business operating as a pawnbroker as defined herein.

(b) The City Manager may promulgate additional administrative procedures, rules, and regulations to further effectuate the terms of this Article. (Ord. 12-02 §1, 2012)

#### Sec. 6-8-20. Definitions.

As used in this Article, unless otherwise noted:

*Applicant* means any natural person who is the sole proprietor, any partnership, limited liability company, corporation, or any other business entity that has submitted an application for a license pursuant to this Article.

*City* means the City of Central, Colorado.

*City Manager* means the City Manager or the City Manager's designee.

*Contract for purchase* means a contract entered into between a pawnbroker and a pledgor pursuant to which the pawnbroker advances money to the pledgor on the delivery of tangible personal property by the pledgor on the condition that the pledgor, for a fixed price and within a fixed time period, to be no less than thirty (30) days, has the option to cancel said contract.

*Fixed price* means the amount agreed upon to cancel a contract for purchase during the option period, which amount shall not exceed one-fifth ( $\frac{1}{5}$ ) of the original purchase price for each month, plus the original purchase price.

*Fixed time* means that period of time, to be no less than thirty (30) days, as set forth in a contract for purchase, for an option to cancel said contract.

*Internet pawnbroker* means a business operation that:

a. Engages in pawnbrokering, which business is principally conducted over the Internet or by such other electronic communication;

b. Has no retail business location or other form of storefront location within the City from which the business conducts either any retail transaction with any person or any pawnbrokering transaction that is not conducted over the Internet or by such other electronic communication; and

c. Either:

1. Maintains within the City, directly or indirectly or by a subsidiary, an office, building, structure, distributing house, warehouse or other place of business;
2. Maintains within the City an office for employees, agents or commissioned sales persons to solicit or conduct business; or
3. Owns, leases, rents or otherwise exercises control over real or personal property within the City.

*Law enforcement agency* means the Police Department or any other agency designated to provide law enforcement services by and on behalf of the City.

*Licensee* means any natural person who is the sole proprietor, any partnership, limited liability company, corporation or other business entity that is licensed to conduct pawnbrokering in compliance with this Article, or any employee, agent or any other person acting on the licensee's behalf.

*Manager* means any natural person on the licensee's premises who manages, directs, supervises, oversees and administers the transactions and acts of servants of the establishment, and is issued a City license or permit, including but not limited to the officers of the applicant or licensee.

*Pawn ticket* means either:

- a. For all retail pawnbrokers, one (1) of a series of numbered records of a licensee's contracts for purchase torn from a bound book containing stubs that are correspondingly serially numbered containing information specified in Section 6-8-330 of this Article and given to a pledgor upon entering a contract for purchase with the pawnbroker; or
- b. For internet pawnbrokers, a serially numbered electronic record of the licensee's contracts for purchase containing information specified in Section 6-8-330 of this Article, a copy of which shall be given to a pledgor upon entering a contract for purchase with the pawnbroker.

*Pawnbroker* means any person, partnership, limited liability company, corporation or any other firm or company regularly engaged in the business of making contracts for purchase or purchase transactions in the course of the pawnbroker's business. *Pawnbroker* shall include, without limitation, all owners, managers and supervisors of a pawnbrokering business required to be licensed by the City whose regular duties include making contracts for purchase, purchase transactions or executing any documents required to be prepared pursuant to this Article. *Pawnbroker* does not include secondhand dealers as defined in and regulated by Sections 18-13-114 through 18-13-118, C.R.S.

*Pawnbrokering* means the business of pawnbroker as defined in this Section, including internet pawnbrokering.

*Peace officer* means any sheriff, undersheriff or deputy sheriff (other than one appointed with authority only to receive and serve summons and civil process), police officer, state patrol officer

or investigator for a district attorney or the Colorado Attorney General who is employed by the State, or a city, county, town or judicial district within the State.

*Person* means any natural person or non-natural entity, including but not limited to a corporation, partnership, unincorporated association or joint venture.

*Pledge or pledged property* means any tangible personal property deposited with a licensee pursuant to a contract for purchase in the course of its business as defined in this Article.

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

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

*Retail pawnbroker* means all pawnbrokers except Internet pawnbrokers.

*Tangible personal property* means all personal property other than automobiles, motor vehicles and boats choses in action, securities or printed evidences of indebtedness, which property is deposited with or actually delivered into the possession of a pawnbroker in the course of its business in connection with a contract for purchase or purchase transaction. For purposes of this Article, *tangible personal property* does not include automobiles, motorcycles, boats and other motor vehicles. (Ord. 12-02 §1, 2012)

#### **Sec. 6-8-30. Signatures.**

(a) Unless otherwise prohibited in this Article, all signatures required by this Article may be an electronic signature as defined by Sections 24-71-101(a) and 24-71.3-102(8), C.R.S.

(b) Signatures that are not notarized shall be presumed to be invalid unless they are presented in conjunction with the legibly printed first, middle and last name of the individual representing the signature as his or her own. (Ord. 12-02 §1, 2012)

#### **Sec. 6-8-40. Authorized methods of notification, transmittal and delivery.**

Unless this Article prohibits or provides for a specific method of notification or delivery, all deliveries, written notices, notifications and communications required by this Article may be given by hand delivery, registered or certified mail, facsimile, by a delivery service that guarantees overnight delivery to a party at the address provided by the other party, or as changed upon written notice to the other party, or by electronic mail or other electronic messaging system as authorized under the Uniform Electronic Transactions Act as adopted by the State in Sections 24-71.3-101 through 24-71.3-121, C.R.S. (Ord. 12-02 §1, 2012)

#### **Sec. 6-8-50. Pawnbroker license required.**

(a) It shall be unlawful for any person to engage in the business of pawnbrokering in the City without first having obtained a pawnbroker's license in accordance with this Article in addition to all

other licenses required by the City. Such licenses shall be kept current at all times, and failure to maintain a current license shall constitute a violation of this Article.

(b) It shall be unlawful for any person to engage in the business of pawnbrokering except as provided in and authorized by this Article. (Ord. 12-02 §1, 2012)

**Sec. 6-8-60. Zoning conformation and geographical limitations.**

(a) A licensee shall conduct pawnbrokering from only one (1) business location, which shall be the location listed on the licensee's license. This provision shall not prohibit a licensee from using warehouses or other storage locations away from the licensed place of business, but such other location shall be used only if the licensee first submits written notice to the City Manager of such off-site locations. Such off-site locations shall be open to any peace officer, including those officers of the law enforcement agency, for inspection as provided in Section 6-8-400 of this Article.

(b) All licensees under this Article must conform to all applicable zoning, sign and subdivision regulations of this Code generally found in Chapters 14, 16 and 17.

(c) It shall be unlawful to engage in pawnbrokering as a home occupation. (Ord. 12-02 §1, 2012)

**Sec. 6-8-70. Duty and authority of City Clerk.**

The City Clerk shall be responsible for receiving all applications for and issuing all licenses pursuant to this Article, conducting or directing investigations of the character, responsibility and fitness of applicants and managers, assisting all applicants and licensees in the licensing process and maintaining adequate records of all licenses and applications therefor. (Ord. 12-02 §1, 2012)

**Sec. 6-8-80. Application for license.**

(a) All applicants for a pawnbroker's license shall file an application for such license with the City Clerk on forms to be promulgated and provided by the City Clerk. Such forms shall require information sufficient to establish conformance with this Article and the laws and regulations of the City and, at a minimum, shall require the following:

(1) The names of each individual applicant, partner of a partnership, manager of a limited liability company, officers and directors of the applicant and holders of twenty percent (20%) or more of the corporate stock of the corporate applicant, holders of twenty percent (20%) or more interest in a limited liability company or any other person with a financial interest of twenty percent (20%) or more in the applicant.

(2) The names of all managers of the applicant.

(3) Proof of the name and date of birth of all natural persons named in the application, such as a birth certificate, alien registration card or other reasonable identification card.

(4) A photograph and a complete set of fingerprints of the individual applicant, partner of a partnership, manager of a limited liability company, officers and managers of the applicant.

(5) A written certificate or other form of confirmation prepared by the Community Development Department that the pawnbroking business is a permitted use for the proposed location.

(6) Written proof of the applicant's right to possession of the premises proposed for the applicant.

(7) A financial questionnaire, consent to release financial information and a current personal financial statement or a balance sheet and income account statement for the preceding twelve-month period prior to the date of the application for each individual applicant, partner of a partnership, manager of a limited liability company, officer and manager of the applicant.

(8) For any corporate owner and/or operator of the applicant, evidence that the corporations are in good standing under the statutes of the State, or in the case of a foreign corporation, evidence that it is currently authorized to do business in the State.

(9) Any other information that is requested on the application forms.

(b) Applicants shall only submit applications to the City Clerk by hand delivery, mail or by a delivery service. The City Clerk shall not accept applications submitted by facsimile, electronic mail, any other electronic messaging system or any other means not specifically permitted by this Section. (Ord. 12-02 §1, 2012)

**Sec. 6-8-90. Application and investigation fees.**

Every applicant shall pay an application fee at the time of filing an application, as set forth by resolution of City Council. In addition, the applicant shall pay in full all other fees, including but not limited to fees imposed by the State, for processing of information, fingerprints, photographs and background investigations. (Ord. 12-02 §1, 2012)

**Sec. 6-8-100. Bond required.**

(a) Every applicant for a pawnbroker's license shall furnish with its application an initial bond with a responsible surety, to be approved by the City Manager, in the amount of ten thousand dollars (\$10,000.00), for the benefit of the people of the City, conditioned upon the safekeeping or return of all tangible personal property held by the pawnbroker, as required by law and ordinance, and the due observance of the provisions of this Article. No license shall be issued or renewed absent such approved bond.

(b) Notwithstanding Subsection (a) above, the City Council may, by amendment of this Section, increase or decrease the amount of the bond required for any applicant or licensee. Any such change shall be effective on January 1 of the year following that year in which such change was enacted.

(c) Termination or cancellation of an approved bond shall be grounds for summary suspension of the license and for subsequent revocation if a new bond is not furnished within thirty (30) days after demand by the City Manager. (Ord. 12-02 §1, 2012)

**Sec. 6-8-110. Completed application.**

An application shall not be deemed complete and shall not be processed until all information required by the application is completed in full, submitted to the City Clerk with all required signatures in original, handwritten form, and all information and fees required pursuant to this Article are submitted. All signatures required in the application must be notarized in order to meet the requirements of this Section. Incomplete applications may be returned to the applicant for completion or correction without any further action. The City shall not be responsible for the failure of a license to be issued or renewed prior to an expiration date because of a late, incomplete or defective application. (Ord. 12-02 §1, 2012)

**Sec. 6-8-120. Investigation of certain applicants required.**

Upon receipt of a properly completed application, together with all information required in connection therewith, fingerprints and photographs and the payment of all application and license fees, the City Clerk shall conduct an investigation of the background, character and financial responsibility of each individual applicant, partner of a partnership, manager of a limited liability company, officer and manager of the applicant. Each applicant shall pay a nonrefundable investigation fee at the time the application is filed in the amount then charged by the Colorado Department of Public Safety for each person who will be investigated. The City Clerk shall provide the City Manager with a recommendation with respect to the granting or denial of the license and reasons therefor. (Ord. 12-02 §1, 2012)

**Sec. 6-8-130. City Manager's approval required.**

The City Manager shall have final authority to approve or deny any application or application for renewal and to review any determination of the City Clerk made with respect thereto. The City Manager retains the discretion to issue the license or reject the application upon the basis of the criteria set forth herein, the recommendations and findings of the City Clerk and a determination of whether the applicant has made a sufficient showing of good moral character, financial responsibility, experience and general fitness to command the confidence of the public and to warrant the belief that the business will be operated lawfully, honestly and efficiently. (Ord. 12-02 §1, 2012)

**Sec. 6-8-140. Annual license fee.**

All applicants for a pawnbroker license shall pay the City Clerk the annual license fee for such license at the time an initial application for a license is filed or at the time a renewal application is filed. Annual license fees shall be set forth by resolution of the City Council. (Ord. 12-02 §1, 2012)

**Sec. 6-8-150. Denial; suspension; revocation.**

(a) Denial. The City Manager may administratively deny the application of any applicant without a hearing if it is shown that the applicant is not financially responsible, not in good standing or not authorized to do business in the State, or not of good moral character as to reasonably assure that the operations of the applicant will be conducted lawfully and in a manner that will not be detrimental to the public interest. Any appeal of such an administrative denial may be available in accordance with state law.

(b) Suspension or revocation. The City Manager may suspend any license issued under this Article if, after notice to the licensee and a hearing, the City Manager determines that the licensee is not financially responsible, not in good standing or not authorized to do business in the State, is not of good moral character as to reasonably assure that the operations of the licensee will be conducted lawfully and in a manner that will not be detrimental to the public interest or has violated any provision of this Article. The City Manager shall notify licensees in writing of the time and place fixed for a suspension or revocation hearing at least ten (10) days prior to the date on which such a hearing is scheduled. Any appeal of a suspension or revocation of a license issued under this Article shall be reviewed in accordance with Rule 106 of the Colorado Rules of Civil Procedure. The City Manager shall also retain the discretion to declare the licensee ineligible for relicensing for the purpose of pawnbrokering within the City limits at any future time.

(c) Good moral character. In determining the good moral character of any applicant or licensee, the City Manager may consider whether such person or entity has been adjudged in any civil or criminal proceeding to have indulged in business or trade practices prohibited by law or convicted of or entered a plea of nolo contendere for any felony or any other offense involving moral turpitude and pertinent circumstances connected therewith.

(d) Financially responsible. As used in this Article, *financially responsible* means having sufficient income and assets to defray expenses and provide for liabilities of the business as they become due.

(e) Notwithstanding the provisions of this Subsection, a pawnbroker may apply for relicensing and present evidence of rehabilitation at an administrative hearing before the City Manager. The City Manager may grant a pawnbroker a new license provided that the City Manager finds adequate evidence of rehabilitation was presented to reasonably assure the City Manager that the pawnbroker will conduct its operations lawfully and in a manner that will not be detrimental to the public interest.

(f) Any applicant or licensee wishing to appeal any ruling or decision pertaining to licenses issued under this Article that is not quasi-judicial shall appeal to the City Manager. All such appeals shall be in writing and shall be received by the City within fourteen (14) days of the decision or ruling that is the subject of the appeal. The City Manager shall notify the pawnbroker in writing of the time and place fixed for such hearing.

(g) The City Manager shall render all decisions under this Subsection in writing, and shall provide a copy of the decision to the pawnbroker within twenty (20) days after such hearing. All such decisions shall be final. (Ord. 12-02 §1, 2012)

#### **Sec. 6-8-160. Expiration and annual renewal.**

Each license issued pursuant to this Article shall be valid for a period of one (1) year from the date of issuance, and an application for renewal shall be filed not less than thirty (30) days prior to the expiration of the period for which the license is issued. The City Manager may approve a late application for renewal if good cause is shown for the late filing. Each renewal application shall include copies of the licensee's balance sheets and income statements for the preceding twelve-month period. When an application for renewal is received in proper form by the City Clerk, the City Clerk shall conduct an investigation and submit to the City Manager a recommendation with respect to the

approval or denial of the renewal application unless the City Clerk deems an investigation unnecessary and elects to recommend approval without such investigation. (Ord. 12-02 §1, 2012)

**Sec. 6-8-170. License display required.**

Once the City has issued a license pursuant to this Article, it shall be unlawful for the licensee to fail to display such license within the licensed premises in a location that is prominent and readily viewable by the public. (Ord. 12-02 §1, 2012)

**Sec. 6-8-180. Transferability; change of ownership; change of corporate structure.**

(a) Licenses issued under this Article shall not be sold or transferred except in accordance with this Section.

(b) Any licensee may transfer a license, provided that the transfer would not effectuate a change in fifty percent (50%) or more of the licensee's owners or fifty percent (50%) or more of the licensee's business interests within any one (1) year.

(c) Any change in the licensee or transfer of the license shall result in termination of the license unless the licensee files a written notice of such change with the City Clerk and pays a nonrefundable fee as set forth by resolution of City Council within thirty (30) days of any such change. Any such change shall be reported on forms promulgated and provided by the City Clerk and shall require the names of all new partners of a partnership, manager of a limited liability company, officers, directors or holders of twenty percent (20%) or more of the corporate stock or holders of twenty percent (20%) or more interest in a limited liability company stock who were not previously holders of such amount of stock, or any person with a financial interest of twenty percent (20%) or more in the licensee, all of whom shall be required to furnish, together with such notice, all of the information required from such persons in connection with an original application, and each person shall be investigated by the City Clerk as provided in Section 6-8-120 of this Article. Grounds for denial of any such transfer of corporate or limited liability ownership, change of corporate or limited liability company structure, partnership and termination of the license thereon shall be the same as for denial of the license under Section 6-8-150. (Ord. 12-02 §1, 2012)

**Sec. 6-8-190. Manager; change of manager.**

(a) A licensee shall employ a manager to operate the pawnbrokering business, provided, however, that the licensee retains complete control of all aspects of the business, including but not limited to maintaining the licensee's right to possession of the premises, responsibility for all debts and bearing all risk of loss or opportunity for profit from the business.

(b) In the event a licensee changes a manager of a pawnbrokering establishment, the licensee shall immediately report such change and register the new manager on forms promulgated and provided by the City Clerk within thirty (30) days of the manager's employment with the licensee. The new manager shall submit a photograph and a complete set of fingerprints and shall be investigated by the City Clerk as provided in Section 6-8-120. The licensee shall pay a nonrefundable investigation fee in the amount then charged by the Colorado Department of Public Safety, as well as a manager registration fee, in an amount set forth by resolution of City Council. Failure of a licensee to report such a change or failure of the manager to meet the standards and qualifications as required

in Section 6-8-130 of this Article shall be grounds for termination of the license. (Ord. 12-02 §1, 2012)

**Sec. 6-8-200. Permitted hours of operation for retail pawnbrokers.**

Retail pawnbroker licensees may be open for business and operate an establishment wherein the business of pawnbrokering is carried on a maximum of twenty-four (24) hours per day. (Ord. 12-02 §1, 2012)

**Sec. 6-8-210. Relocation of business.**

(a) No license shall be valid for any location other than the location for which it is issued, except as hereinafter provided.

(b) A licensee may relocate its place of business under the same license in accordance with the following procedure:

(1) A licensee wishing to relocate its place of business within the City shall give written notice thereof to the City Clerk no less than thirty (30) days prior to the date of relocation.

(2) The City Clerk shall enter an order permitting the relocation and amend the license accordingly upon a finding that the licensee has the right to possession of the proposed location, the location is reasonably accessible to the licensee's existing pledgors, and is zoned for pawnbrokering. Absent such findings, the City Clerk shall issue a written order denying the Licensee permission to relocate. The City Clerk shall provide a copy of such order to the licensee along with written notice of the reason for the denial.

(3) If the City Clerk denies a licensee permission to relocate its business, the licensee may file a written request for review thereof with the City Clerk within ten (10) days following the date upon which the notice of denial was provided. The City Manager shall then review and either affirm or reverse the denial.

(4) If the City Clerk approves the relocation, the licensee shall provide written notice of such relocation to each pledgor with whom the licensee has an existing contract for purchase. Such notices shall be transmitted at least fifteen (15) days prior to the date of relocation. The licensee shall file an affidavit of such mailing with the City Clerk, together with a sample copy of the notice of relocation. The licensee shall retain in its records any undelivered notice returned to it; provided, however, that the licensee shall retain any returned notice sent by mail in its unopened envelope. (Ord. 12-02 §1, 2012)

**Sec. 6-8-220. Property held; time limit; sale of unredeemed articles.**

(a) A licensee shall hold tangible personal property that it has purchased through a purchase transaction for thirty (30) days following the date of purchase, during which time such property shall be held separate and apart from any other tangible personal property, shall be held in compliance with Section 6-8-260 of this Article and shall not be changed in form or altered in any way.

(b) The licensee shall hold all tangible personal property pledged on a contract for purchase in its possession during the term of the contract for purchase, plus a period of ten (10) days following the maturity date of the contract for purchase, during which time such goods shall be held separate and apart from any other tangible personal property, shall be held in compliance with Section 6-8-260 of this Article and shall not be changed in form or altered in any way.

(c) If the pledgor fails or neglects to cancel the contract for purchase by repayment of the balance of the principal and payment of all accrued interest charges, the licensee shall provide written notice to the pledgor after the maturity date of the contract for purchase to the address designated in the licensee's register as required by Subsection 6-8-320(a) of this Article. The notice shall give the number of the pawn ticket and a description of the property pledged. The notice shall also notify the pledgor that the contract for purchase must be canceled within ten (10) days from the date of the notice, specify the date upon which such cancellation must be made and shall state that, upon the pledgor's failure to cancel the contract for purchase by such date, the pledged property shall be deemed forfeited to the licensee and the right of the pledgor to cancel the contract for purchase shall be terminated. Such notice shall be in the form substantially as follows:

Central City, Colorado, \_\_\_\_\_ 20\_\_.

To (Name): \_\_\_\_\_

(Street address): \_\_\_\_\_

(City, State, Zip Code): \_\_\_\_\_

You are hereby notified to cancel the Contract for Purchase on or before ten (10) days from the above date, to wit: (Date), or the Pledged Property will be forfeited to the Pawnbroker under the Contract for Purchase and your rights to the Pledged Property will thereafter be terminated. Your Pawn Ticket is No. \_\_\_\_\_, the property pledged by you as security is described as follows:

(General description of property): \_\_\_\_\_

(Licensee): \_\_\_\_\_

(Licensee's address): \_\_\_\_\_

(d) If the notice required by Subsection (c) above is returned to the licensee, the licensee shall retain the original notice returned to it; provided, however, that the licensee shall retain any returned notice sent by mail in its unopened envelope. Notwithstanding the notice, if the pledgor fails to cancel the contract for purchase within the ten-day period designated in the notice, the pledgor shall forfeit all right, title and interest in and to the pledged property to the licensee, the pledgor's debt to the licensee shall be satisfied and the licensee shall acquire title to the property subject to the provisions of Section 6-8-250 below. (Ord. 12-02 §1, 2012)

**Sec. 6-8-230. Unlawful transactions.**

(a) It is unlawful for any retail pawnbroker licensee to make a contract for purchase, acquire a pawn ticket by transfer, or make a purchase transaction with the following:

- (1) Any person under the influence of alcohol or any controlled substance;

(2) Any person known by such licensee to have been convicted of a felony, without first notifying the law enforcement agency;

(3) Any person appearing to the licensee to be in an abnormal mental state;

(4) Any person whose actions would give the licensee probable cause to believe that the tangible personal property that is the subject of a contract for purchase or purchase transaction with that person was obtained illegally.

(b) It is unlawful for any licensee to make a contract for purchase, acquire a pawn ticket by transfer or make a purchase transaction with any person under eighteen (18) years of age or with any person in possession of tangible personal property that is the subject of a contract for purchase or purchase transaction with an identification number thereon which is obscured. For the purposes of this Section, *identification number* means a serial or motor number placed by the manufacturer or owner upon an article as a permanent individual identifying mark, and *obscured* means destroyed, removed, altered, concealed or defaced so as to render illegible by ordinary means of inspection.

(c) With respect to a contract for purchase, no licensee may permit any pledgor to become obligated on the same day in any way under more than one (1) contract for purchase agreement with the licensee that would result in the licensee obtaining a greater amount of money than would be permitted if the licensee and pledgor had entered into only one (1) contract for purchase covering the same tangible personal property.

(d) No licensee shall violate the terms of any contract for purchase. (Ord. 12-02 §1, 2012)

**Sec. 6-8-240. Unlawful to pawn certain items.**

It is unlawful for any licensee to accept in pledge, buy, sell or display in its place of business any switchblade knife, any knife whose blade is detachable from its handle, any knife whose blade opens by any mechanical means, any gravity knife, any throwing star, any brass or metallic knuckles or other items commonly used for and designed for the purpose of beating or striking others, any nunchaku, blackjack or billy club, property with missing or altered serial numbers on items that are likely to or commonly known to have serial numbers or any other property that is illegal to possess. (Ord. 12-02 §1, 2012)

**Sec. 6-8-250. Accepting lost or stolen articles.**

A licensee that accepts in pledge any tangible personal property pursuant to a contract for purchase from a person who is not the owner thereof does not obtain title to the property, either by reason of a pledgor's failure to cancel the contract for purchase or by the pledgor's transference of the pawn ticket to the licensee. Ignorance of the fact that the pledged property was lost or stolen shall not be construed to affect the question of title; and, if the licensee shall sell such property to a third person, the licensee shall remain liable to the original owner in any appropriate legal action. The lawful owner may, upon proving ownership of the lost or stolen property, claim the same from the licensee or recover the same by means of any appropriate legal action. (Ord. 12-02 §1, 2012)

**Sec. 6-8-260. Safekeeping; insurance.**

All licensees shall provide a safe place for the keeping of pledged property they have received and shall maintain sufficient insurance on the pledged property held for the benefit of the pledgor to pay fifty percent (50%) of the real value thereof in case of fire, theft, or other casualty loss. The City Manager shall not approve an application for a license under this Article unless and until the applicant has provided such insurance policies to the City Manager. Neither the licensee nor surety shall be relieved from their responsibility by reason of such fire, theft or other casualty loss, nor from any other cause unless they have rendered full performance in accordance with the contract for purchase. (Ord. 12-02 §1, 2012)

**Sec. 6-8-270. Liability for pledged property.**

A licensee shall be liable for the loss of pledged property or part thereof, or for injury thereto, whether caused by fire, theft, burglary or otherwise, as a result of its failure to exercise reasonable care in regard to such property. A licensee shall not be liable, in the absence of an express agreement to the contrary, for the loss of or injury to pledged property that could not have been avoided by the exercise of due care. Nothing herein shall affect the right of the pledgor to insurance proceeds on such property. (Ord. 12-02 §1, 2012)

**Sec. 6-8-280. Intermediate payments; receipts.**

The licensee shall accept intermediate payments, without penalty, upon contracts for purchase that have not yet matured when presented with the pawn ticket and shall treat the amount tendered as a payment upon the existing contract for purchase. The licensee shall give a receipt for all moneys received on account of or in payment of the contract for purchase, and such receipt shall show the date and the amount of the payment received. Retail pawnbroker licensees shall enter the date and amount of each such payment upon the appropriate serially numbered stub in the bound book required to be kept by Section 6-8-320 of this Article at the time of each such payment. Internet pawnbroker licensees shall keep a record of the date and amount of each such payment in the register required to be kept by Section 6-8-320 at the time of each such payment. The total amount of money presented shall be applied against the amount of the pledgor's indebtedness. In no event shall any late charges, collection fees or other such service charges be deducted from the amount of the payment tendered to the licensee. (Ord. 12-02 §1, 2012)

**Sec. 6-8-290. Interest rate; commission.**

No licensee shall ask, demand or receive any greater rate of interest, commission and compensation than the total rate of one-fifth ( $\frac{1}{5}$ ) of the original purchase price for each month, plus the original purchase price. The licensee shall not assess any other charges against the pledgor upon renewal of any contracts for purchase or at any other time. If a licensee assesses any such charges, the pledgor's contract with the licensee shall be void. Any contract that requires a pledgor to pay the licensee a commission for making a contract for purchase on tangible personal property shall be null and void. (Ord. 12-02 §1, 2012)

**Sec. 6-8-300. No deficiency or offsets permitted.**

(a) Licensees shall rely solely on the property pledged for payment of the contract for purchase, and licensees are prohibited from seeking such payment from the following sources:

- (1) The personal credit of the pledgor; or
- (2) The surplus or deficit arising out of another contract for purchase between the parties.

(b) Licensees shall not collect any deficiency balances, and any attempt to do so by a licensee shall void the contract. (Ord. 12-02 §1, 2012)

**Sec. 6-8-310. Videotape and photograph requirements.**

Retail pawnbroker licensees shall video record all transactions, including those that do not result in a contract for purchase or purchase transaction, and shall digitally photograph the face of each pledgor who enters into a purchase transaction or contract for purchase with the retail pawnbroker licensee. The video recording and photograph shall be in a format approved by the law enforcement agency and shall be of such quality that it clearly displays an identifiable frontal image of the pledgor. The retail pawnbroker licensee shall keep all such video recordings for a minimum of ninety (90) days from the date upon which they were created and shall be subject to review by peace officers or the law enforcement agency. The retail pawnbroker licensee shall keep the digital photograph of all pledgors for one hundred and eighty (180) days from the date upon which it was created, regardless of whether that photograph was captured by still camera or video recording. (Ord. 12-02 §1, 2012)

**Sec. 6-8-320. Books and records.**

(a) All licensees shall keep an alphabetical index of the names of pledgors and a numerical register or automated format approved by the law enforcement agency in which the licensee shall legibly record the following information in the English language, in ink or in such a manner as to comply with the Uniform Electronic Transactions Act, Sections 24-71.3-101 through 24-72.3-121, C.R.S., and contemporaneously with each contract for purchase or purchase transaction:

- (1) The name of the pledgor;
- (2) The address and phone number of the pledgor;
- (3) The date of birth of the pledgor;
- (4) A photocopy or scanned copy of either the pledgor's valid Colorado driver's license, or of one (1) of the following alternative forms of identification:
  - a. Valid Colorado identification card,
  - b. A valid driver's license with photograph, issued by another state,
  - c. Military identification card,
  - d. Valid passport,

e. Alien registration card, or

f. An identification document with no photograph, issued by the state or federal government.

(5) The date, time and place of the contract for purchase or purchase transaction;

(6) An accurate, detailed and legible account and description of each item of tangible personal property, including but not limited to any trademark, identification number, serial number, model number, brand name or identifying marks on such property;

(7) The signature of the pledgor; and

(8) A clear and identifiable imprint of the pledgor's right index finger or, if such an imprint cannot be obtained, a clear and identifiable imprint of the pledgor's left index finger or other fingerprint sufficient to identify the pledgor.

(b) Internet pawnbroker licensees may alternatively obtain and verify the information required in Subsection (a) above at the time of inquiry and at the time of funding of the transaction. Such verification may include, but shall not be limited to, the validity of a driver's license or other form of identification, telephone numbers, mailing and electronic addresses, bank account information and any other such information as may be obtained via electronic identification check. If the internet pawnbroker licensee obtains such verification, it shall be legibly recorded in the licensee's numerical register or automated format approved by the law enforcement agency.

(c) All licensees shall obtain a signed written declaration of the pledgor's ownership which shall state that the pledgor owns each item of tangible personal property in its entirety, how long the pledgor has owned the property, whether the pledgor or someone else has found the property and, if the property was found, the details of the finding. The pledgor shall sign his or her name on the register or other tangible or electronic record and on the individual declaration of ownership for each item of tangible personal property pledged and shall receive a copy of the contract for purchase or a receipt of the purchase transaction.

(d) All licensees shall keep the register or other tangible or electronic record for at least three (3) years after the date of the last transaction entered in the register and shall keep all registers in a place that is reasonably safe from destruction or theft.

(e) Such registers and other books and records of the licensee, including all electronic records or databases, shall be open to inspection in accordance with Section 6-8-400 of this Article. Upon demand by any authorized agent, the licensee shall produce and show any tangible personal property given to the licensee in connection with any contract for purchase or purchase transaction. The licensee's records shall note the date on which each contract for purchase was canceled, redeemed or forfeited and sold.

(f) All licensees shall provide the law enforcement agency on a weekly basis with two (2) records, in a format acceptable to the law enforcement agency, of all tangible personal property that the licensee accepted pursuant to a contract for purchase or a purchase transaction during the preceding week and one (1) copy of each pledgor's declaration of ownership. The records shall

contain the same information required to be recorded in the licensee's register or other tangible or electronic record pursuant to this Article. The law enforcement agency shall designate the day of the week on which the records and declarations shall be submitted. (Ord. 12-02 §1, 2012)

**Sec. 6-8-330. Pawn tickets.**

(a) At the time of making a contract for purchase or upon the subsequent renewal of any contract for purchase, a licensee shall deliver to the pledgor a pawn ticket that shall contain the following information:

- (1) The name and address of the licensee;
- (2) A description of the pledge sufficient to adequately identify the pledge;
- (3) The date of the transaction; and
- (4) The amount, duration, and terms of the contract for purchase.

(b) Language that represents suitably this Section through and including Section 6-8-340 below shall appear on the pawn ticket.

(c) The licensee may insert on the pawn ticket any other terms, conditions and information not inconsistent with the provisions of this Article. (Ord. 12-02 §1, 2012)

**Sec. 6-8-340. Cancellation of contract for purchase; transfer of pawn ticket generally; transfer to pawnbroker.**

(a) The holder of the pawn ticket shall be presumed to be the person entitled to cancel the contract for purchase.

(b) Except as otherwise provided in this Article, the licensee shall deliver the pledge to the person presenting the pawn ticket upon receipt of payment of principal and charges and upon surrender of the pawn ticket.

(c) The holder of any pawn ticket may transfer such ticket to the issuing licensee by writing upon the ticket "Transferred to (name of licensee)" and signing his or her name under such writing. The effect of transferring a pawn ticket to the issuing licensee shall be to vest in the licensee such ownership and title to the pawn ticket and the pledged property represented thereby as the holder had. The licensee may thereafter sell the pledged property in accordance with the provisions of Section 6-8-390 of this Article. (Ord. 12-02 §1, 2012)

**Sec. 6-8-350. Loss of pawn ticket.**

If a pawn ticket is lost, destroyed or stolen, the pledgor shall so notify the issuing licensee in writing. Before permitting the cancellation of the contract for purchase or issuing a duplicate pawn ticket, the licensee may, in addition to satisfying itself of the validity of the claim, require the pledgor to make an affidavit of the alleged loss, destruction or theft of the ticket. The form of affidavit shall be available through the City Clerk. Upon receipt of such affidavit or statement in writing, as the case may be, the licensee shall permit the pledgor to cancel the contract for purchase or the licensee

shall deliver to the pledgor a duplicate ticket, and the licensee shall incur no liability for doing so unless it had previously received written notice of an adverse claim to the pledge. (Ord. 12-02 §1, 2012)

**Sec. 6-8-360. Adverse claims.**

If more than one (1) person claims the right to cancel a contract for purchase, a licensee shall incur no liability for refusing to deliver the pledge until the respective rights of the claimants are adjudicated. If no party brings an action against the licensee prior to the expiration of the period for which the licensee is required to hold the pledge under Section 6-8-220 of this Article, the licensee may sell the pledge in accordance with this Article. (Ord. 12-02 §1, 2012)

**Sec. 6-8-370. Altered pawn ticket.**

The alteration of a pawn ticket shall not excuse the licensee that issued it from liability to deliver the pledge according to the terms of the ticket as originally issued, but shall relieve such licensee from any other liability to the pledgor of the ticket. (Ord. 12-02 §1, 2012)

**Sec. 6-8-380. Seizure of counterfeit or reportedly lost pawn ticket; seizure of counterfeit or fraudulent identification.**

(a) A licensee may, without any liability whatsoever to the holder thereof, seize and retain any pawn ticket presented that purports to be a pawn ticket issued by that licensee but that is found to be counterfeit or that has been reported to it as lost, stolen or destroyed. All licensees shall immediately notify the law enforcement agency upon such seizure.

(b) Upon notice of a seizure of a pawn ticket pursuant to this Section, the law enforcement agency shall place a hold order on the pawn ticket so seized, as required by Section 6-8-410. The licensee shall hold all pledged property that is identified in the seized pawn ticket until such time as the lawful disposition of the pledged property is either agreed upon, determined by a court action, directed by ordinance or statute or the hold order is either ordered released by the law enforcement agency or has expired.

(c) If a licensee has reason to believe a pledgor is exhibiting counterfeit or fraudulent identification, the licensee may seize such identification without incurring civil or criminal liability if such seizure is made in good faith and upon probable cause based upon reasonable grounds therefor, provided that the licensee immediately delivers such identification to the law enforcement agency. (Ord. 12-02 §1, 2012)

**Sec. 6-8-390. Sale of articles represented by pawn tickets transferred to licensee.**

A licensee may sell any tangible personal property deposited with it pursuant to a contract for purchase if the pawn ticket representing such property has been transferred to the licensee in accordance with Section 6-8-340 of this Article thirty (30) days after such transference. (Ord. 12-02 §1, 2012)

**Sec. 6-8-400. Investigation; right of entry.**

(a) For the purpose of investigating violations of this Article, any authorized agent of the law enforcement agency, any person, agency or entity authorized to enforce municipal law or any peace officer may at any reasonable time investigate the business and its inventory and examine the books, accounts, papers and records of any licensee or any person, partnership, limited liability corporation or corporation that engages in the business of pawnbrokering within the City.

(b) Application for or acceptance of a license by a pawnbroker under the terms and provisions of this Article shall constitute a continuing consent to entry by any authorized agent of the law enforcement agency, any person, agency or entity authorized to enforce municipal law, or any peace officer upon the licensee's premises for the purpose of investigating the business and its inventory and examining the books, accounts, papers and records used therein, at any time during the term of the license, during regular business hours or whenever the licensee, its employee or agent is upon the premises. Willful failure or refusal by a licensee, its agent or employee to permit entry upon the premises by any authorized individual as provided herein, after presentation of credentials and demand for entry, is a violation of this Article and shall be grounds for revocation of the licensee's license. (Ord. 12-02 §1, 2012)

**Sec. 6-8-410. Hold order.**

(a) Any authorized agent of the law enforcement agency may verbally order a licensee to hold any tangible personal property deposited with or in the custody of such licensee for purposes of further investigation by the law enforcement agency. A hold order shall be effective upon verbal notification to the licensee by an authorized agent of the law enforcement agency and shall be for a period of ninety (90) days. The law enforcement agency may extend the hold order for an additional period of ninety (90) days for good cause.

(b) The law enforcement agency shall provide the licensee with written notice of the hold order within seventy-two (72) hours of the verbal notification, unless the end of the seventy-two-hour period falls on a Saturday, Sunday or holiday, in which event the written notification of the hold order shall be provided to the licensee on the following Monday or the next business day following a holiday. A hold order shall supersede the provisions of Sections 6-8-220 and 6-8-390 of this Article, and no licensee may sell or dispose of any tangible personal property deposited with it or in its custody while the hold order remains in effect. Any sale or other disposition of the property after the pawnbroker has been notified by the law enforcement agency of a hold order shall be unlawful and a violation of this Article. (Ord. 12-02 §1, 2012)

**Sec. 6-8-420. Seized property held by law enforcement agency; administrative hearing to determine possession.**

(a) When the law enforcement agency no longer requires stolen property that was seized from a licensee without its written consent to serve as evidence and there is no court order that concerns the disposition of the stolen property, the law enforcement agency shall deliver the stolen property to the City. In conjunction with and simultaneous to delivering the stolen property to the City, the law enforcement agency shall provide written notice to the City of the following information:

(1) A thorough and accurate description of the stolen property in question, including serial numbers, if any;

(2) The date upon which the law enforcement agency seized the stolen property;

(3) The reason the property was seized and the reason that the law enforcement agency no longer requires the property; and

(4) The name and last known mailing address of the following persons:

a. The licensee from whom the stolen property was seized,

b. Any person claiming to be the lawful owner of the property,

c. Any person who has notified the law enforcement agency in writing of his or her claim of an interest in the property, and

d. Any other person who the law enforcement agency reasonably knows may have an interest in the stolen property.

(b) The City Manager shall send to all persons identified in the written notice specified in Subsection (a) above, written notice of the right to an administrative hearing to determine who is entitled to possession of the stolen property. Such notice shall be sent to such persons by certified mail, return receipt requested at their last mailing address known to and provided by the law enforcement agency.

(c) Any person seeking an administrative hearing to determine the lawful owner of stolen property shall file a written request for such hearing with the City Manager within fourteen (14) days after the date on which the City Manager mailed the notice of the right to an administrative hearing. The written request must include the current address and a daytime telephone number of the person seeking the hearing or, in the case of a licensee, its business address and telephone number.

(d) If the City Manager does not receive any request for a hearing regarding possession of the property in question within the time set forth in this Section, the City Manager shall return the property to the person claiming to be the lawful owner of such property, not to the licensee. (Ord. 12-02 §1, 2012)

**Sec. 6-8-430. Conduct of hearing regarding right to possession of seized property.**

(a) If the City Manager receives a timely request for a hearing regarding possession of the property in question, the City Manager shall provide written notice of the time and place fixed for such a hearing to all parties identified in the written notice specified in Subsection 6-8-420(a) above.

(b) A hearing to determine the right to possession shall be conducted before a hearing officer designated by the City Manager within seventy-two (72) hours of the City Manager's receipt of a written request for a hearing, unless the person requesting the hearing waives the right to a speedy hearing. Weekends and holidays are excluded from the calculation of the seventy-two-hour period.

(c) The hearing officer shall conduct the hearing in an informal manner and shall not be bound by formal rules of evidence. The hearing officer may receive all or any part of the evidence in written form. 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.

(d) At the conclusion of the hearing, the hearing officer shall prepare a written decision stating who is entitled to possession of the property. The hearing officer's decision does not constitute a warranty of title to the property in dispute. The hearing officer shall provide a copy of the written decision to all parties identified in the written notice specified in Subsection 6-8-420(a) of this Article. The decision of the hearing officer shall be final. The City Manager shall return the property to the person determined to have the right to possession within thirty (30) days after the date of the hearing officer's decision or, in the event that any party files an appeal of the hearing officer's decision, such property shall be returned at such time as any appeals have been exhausted.

(e) Any person who is aggrieved at the final decision of the hearing officer may seek review of such decision by the District Court in accordance with Rule 106 of the Colorado Rules of Civil Procedure. (Ord. 12-02 §1, 2012)

**Sec. 6-8-440. Enforcement and fines.**

(a) A licensee's noncompliance with any provision of this Article shall be cause for revocation of the licensee's pawnbroking license or shall be cause for suspension or other enforcement provisions as otherwise apply to the licensee's license.

(b) This Article may be enforced in the Municipal Court or any court of competent jurisdiction. Any person who violates the requirements of this Article may be punished in accordance with the general penalty provisions set forth in Section 1-4-20 of this Code. (Ord. 12-02 §1, 2012)

**Sec. 6-8-450. Exemptions from certain provisions of this Article.**

Internet pawnbrokers shall be exempt from Paragraph 6-8-320(a)(8) of this Article. (Ord. 12-02 §1, 2012)

**Sec. 6-8-460. Additional provisions applicable to internet pawnbrokers only.**

It shall be unlawful for any internet pawnbroker licensee, its employee, agent or any other person acting on its behalf to make a contract for purchase or make a purchase transaction with any person whose actions or documentation would give the licensee probable cause to believe that the person with whom the licensee is entering such transaction lacks legal capacity for such transaction. (Ord. 12-02 §1, 2012)

## ARTICLE IX

### Retail Marijuana Store Licenses

#### **Sec. 6-9-10. Findings and legislative intent.**

Section 16 of Article XVIII of the Colorado Constitution and Article 43.4 of Title 12, C.R.S., vests the City Council with the option to determine whether to license retail marijuana establishments within the boundaries of the City. The purpose of this Article is to authorize such licensing only for retail marijuana stores, to regulate such retail marijuana stores in the City pursuant to the requirements of this Article and to designate a local licensing authority to issue and process applications submitted for a license within the City. The operation of marijuana cultivation facilities, marijuana product manufacturing facilities and marijuana testing facilities is prohibited within City boundaries. In addition, all other forms of business or commerce involving the cultivation, processing, manufacturing, storage, sale, distribution or consumption of marijuana or marijuana products, whether or not conducted for profit, shall be strictly prohibited within the City's boundaries. This Article is intended to exercise the authority granted by Section 16 of Article XVIII of the Colorado Constitution and the Colorado Retail Marijuana Code for the City to adopt licensing requirements that are supplemental to and/or stricter than the requirements set forth in state law. The purpose of this Article is to license and regulate retail marijuana stores in the interest of public health, safety and general welfare of the community. (Ord. 13-09 §1, 2013; Ord. 14-07 §1, 2014)

#### **Sec. 6-9-20. Authority.**

The City Council hereby finds, determines and declares that it has the power to adopt this Article pursuant to:

- (1) The Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.;
- (2) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers);
- (3) Section 31-15-103, C.R.S. (concerning municipal police powers);
- (4) Section 31-15-401, C.R.S. (concerning municipal police powers);
- (5) Section 31-15-501, C.R.S. (concerning municipal authority to regulate businesses);
- (6) The authority granted to home rule municipalities by Article XX of the Colorado Constitution;
- (7) Section 16 of Article XVIII of the Colorado Constitution;
- (8) The Colorado Retail Marijuana Code, Article 43.4 of Title 12, C.R.S.; and
- (9) The powers contained in the Home Rule Charter. (Ord. 13-09 §1, 2013)

#### **Sec. 6-9-30. Definitions.**

- (a) As used in this Article, the following words shall have the following meanings:

*Amendment 64* means a voter-initiated amendment to the Colorado Constitution adopted November 6, 2012, codified as Section 16 of Article XVIII to the Colorado Constitution.

*Applicant* means a person who has submitted an application for a license to operate a retail marijuana store pursuant to this Article.

*Application* means an application for a license submitted pursuant to this Article.

*Authority* or *Local Licensing Authority* means the Central City Retail Marijuana Store Licensing Authority.

*City Manager* means the City Manager of the City or his or her designee.

*Colorado Retail Marijuana Code* means Article 43.4 of Title 12 of the Colorado Revised Statutes, inclusive of rules and regulations promulgated thereunder, and as the same may be amended from time to time.

*Crime of violence* shall have the same meaning as set forth in Section 18-1.3-406, C.R.S., whether committed in Colorado or another state.

*Cultivation* means the process by which a person promotes the germination and growth of a seed to a mature marijuana plant. *Cultivation* does not include the storing or watering of mature marijuana plants without the aid of grow lighting.

*Day* means a calendar day, unless otherwise indicated.

*Good cause* means and includes: (1) the licensee has violated, does not meet or has failed to comply with any of the terms, conditions or provisions of this Article and any rule and regulation promulgated pursuant to this Article or the Colorado Retail Marijuana Code; (2) the licensee has failed to comply with any special terms or conditions that were placed on its license at the time the license was issued pursuant to an order of the Colorado Department of Revenue or Local Licensing Authority; or (3) the licensee's retail marijuana store has been operated in a manner that adversely affects the public health, welfare or safety of the immediate neighborhood in which the retail marijuana store is located.

*License* means a license to operate a retail marijuana store issued pursuant to this Article.

*Licensee* means a person licensed pursuant to this Article and the Colorado Retail Marijuana Code.

*Marijuana* shall have the same meaning as set forth in Amendment 64, or as may be more fully defined in the Colorado Retail Marijuana Code.

*Marijuana accessories* shall have the same meaning as set forth in Amendment 64, or as may be more fully defined in the Colorado Retail Marijuana Code.

*Marijuana cultivation facility* means an entity which prepares and packages marijuana and sells marijuana to retail marijuana stores, to marijuana product manufacturing facilities and to other

marijuana cultivation facilities in accordance with Amendment 64 and the Colorado Retail Marijuana Code, but not to consumers.

*Marijuana product manufacturing facility* means an entity which purchases marijuana; manufactures, prepares and packages marijuana products and sells marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores in accordance with Amendment 64 and the Colorado Retail Marijuana Code, but not to consumers.

*Marijuana products* shall have the same meaning as set forth in Amendment 64, or as may be more fully defined in the Colorado Retail Marijuana Code.

*Marijuana testing facility* means an entity which analyzes and certifies the safety and potency of marijuana in accordance with Amendment 64 and the Colorado Retail Marijuana Code.

*Operating fees* means fees that must be paid by a licensee for the costs of administering and enforcing this Article as set forth in Amendment 64, or as may be more fully defined in the Colorado Retail Marijuana Code.

*Retail marijuana establishment* means a retail marijuana store, a retail marijuana cultivation facility, a retail marijuana product manufacturing facility or a retail marijuana testing facility as set forth in Section 16 of Article XVIII of the Colorado Constitution or as may be more fully defined in the Colorado Retail Marijuana Code.

*Retail marijuana store* means an entity which is licensed in accordance with the Colorado Retail Marijuana Code and this Article to purchase marijuana from marijuana cultivation facilities, to purchase marijuana and marijuana products from marijuana product manufacturing facilities and to sell marijuana and marijuana products to consumers.

*School* means a public or private preschool or a public or private elementary, middle, junior high or high school.

*State licensing authority* means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution and sale of marijuana in Colorado, pursuant to Section 12-43.4-201, C.R.S.

(b) In addition to the definitions provided in Subsection (a) above, the other defined terms in Amendment 64 are incorporated into this Article by reference. (Ord. 13-09 §1, 2013; Ord. 14-07 §2, 2014)

**Sec. 6-9-40. Marijuana cultivation facilities, marijuana product manufacturing facilities and marijuana testing facilities prohibited; other unlawful acts.**

(a) The following uses shall be prohibited within the boundaries of the City:

- (1) Marijuana cultivation facilities;
- (2) Marijuana product manufacturing facilities; and
- (3) Marijuana testing facilities.

(b) No person shall operate a marijuana cultivation facility, marijuana product manufacturing facility or marijuana testing facility within the corporate boundaries of the City, as the same may be adjusted from time to time through annexation or otherwise.

(c) It shall be unlawful for any person to engage in any form of business or commerce involving the cultivation, processing, manufacturing, storage, sale, distribution or consumption of marijuana or marijuana products other than: (1) medical marijuana establishments properly licensed pursuant to Article VII of this Chapter; or (2) retail marijuana stores properly licensed pursuant to this Article. All other forms of business or commerce, whether or not conducted for profit, involving the cultivation, processing, manufacturing, storage, sale, distribution or consumption of marijuana or marijuana products are strictly prohibited within the corporate boundaries of the City. (Ord. 13-09 §1, 2013; Ord. 14-07 §2, 2014)

**Sec. 6-9-50. License required for retail marijuana stores.**

(a) No person shall operate a retail marijuana store within the City without a valid license issued in accordance with this Article.

(b) Any requirements set forth in this Article shall be in addition to, and not in lieu of, any other requirements imposed by any state or local law.

(c) The issuance of any license pursuant to this Article does not create an exception, defense or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution or possession of marijuana. (Ord. 13-09 §1, 2013)

**Sec. 6-9-60. Local Licensing Authority.**

(a) There shall be and is hereby created the Central City Retail Marijuana Store Licensing Authority, hereafter referred to in this Article as the "Authority" or the "Local Licensing Authority."

(b) The Authority shall be the City Council. The City Council may, by resolution, delegate its authority set forth in this Article to the City Manager.

(c) The Authority shall have the duty and authority pursuant to the Colorado Retail Marijuana Code and this Article to grant or refuse licenses in the manner provided by law.

(d) The Authority shall have all the powers of a Local Licensing Authority as set forth in the Colorado Retail Marijuana Code.

(e) The Authority shall have the power to promulgate rules and regulations concerning the procedures for hearings before the Authority.

(f) The Authority shall have the power to require any applicant or licensee to furnish any relevant information required by the Authority.

(g) The Authority shall have the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books and records at any hearing which the Authority is authorized to conduct.

(h) The Local Licensing Authority shall possess all powers given to local licensing authorities by the provisions of the Colorado Retail Marijuana Code and rules and regulations promulgated thereunder. Any decision made by the Authority to grant or deny a license, to revoke or suspend a license, to conditionally grant a license or to renew or not renew a license shall be a final decision which may be appealed to the District Court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. No defense or objection may be presented for judicial review unless it is first presented to the Authority prior to the effective date of the Authority's decision. (Ord. 13-09 §1, 2013)

**Sec. 6-9-70. General licensing procedures.**

(a) For the purpose of regulating the sale of retail marijuana, the Authority, in its discretion, upon application in the prescribed form, may issue and grant to the applicant a local license for a retail marijuana store, subject to the provisions and restrictions provided in this Article, Section 16 of Article XVIII of the Colorado Constitution and the Colorado Retail Marijuana Code. In accordance with Section 6-9-40 of this Article, the operation of marijuana cultivation facilities, marijuana product manufacturing facilities or marijuana testing facilities within the corporate boundaries of the City is prohibited.

(b) The Authority shall issue a license under this Article when, after thorough consideration of the application, and from review of such other information as required by this Article or the Colorado Retail Marijuana Code, the Authority determines that the applicant complies with all of the requirements of this Article and the Colorado Retail Marijuana Code, including the following:

- (1) The application, including any required attachments and submissions, is complete and signed by the applicant;
- (2) The applicant has paid the application fee and any other fees required by this Article;
- (3) The application does not contain a material falsehood or misrepresentation;
- (4) The location of the retail marijuana store is proposed to be located in a location permitted by this Article and other applicable provisions of this Code;
- (5) The criminal history of the applicant, and the applicant's owners, officers and managers, does not disqualify the applicant from holding a license; and
- (6) The applicant meets or otherwise will meet all the requirements of this Article and the Colorado Retail Marijuana Code.

(c) The Authority shall approve, conditionally approve or deny a license application, and shall promptly forward its decision to the state licensing authority.

(d) Prior to the issuance of any license, the Authority shall make a finding and determination as to the good moral character of the applicant in accordance with the standards and procedures set forth in the Colorado Retail Marijuana Code. In so doing, the Authority may incorporate any findings as to good moral character previously made by the state licensing authority. The Authority shall not be required to perform a criminal background check: (i) if the state licensing authority has performed a

criminal background check on the applicant to the satisfaction of the Authority; or (ii) if the Authority issues a license conditioned on the completion and successful review of the criminal background check prior to the approval of the license.

(e) Upon receipt of the application for a retail marijuana store license, the Authority may circulate the application to the Planning Department, the Police Department, the Fire Department or any other City department the Authority deems necessary in order to determine whether the proposed facility is or will be in compliance with any and all applicable local laws, rules and regulations.

(f) After approval of an application and prior to the issuance of a license, the premises proposed to be licensed may be inspected by the Building Official to determine compliance with the City's building and other life, health and safety codes. No license shall be issued if the proposed licensed premises does not comply with the City's building and technical codes as identified by the Building Official in writing provided to the applicant. Throughout the term of the license, the Building Official may inspect the licensed premises to determine continuing compliance with the City's building and technical codes.

(g) The Authority shall deny any application for a license that is not in compliance with this Article, the Colorado Retail Marijuana Code or any other applicable state or local law or regulation. Notwithstanding the foregoing, the Authority may issue a conditional license.

(h) In the event the City incurs costs in the inspection, clean-up or any other requirements to remove marijuana of any retail marijuana store, the business and responsible persons shall reimburse the City all actual costs incurred by the City for such inspection or clean-up.

(i) In the event that a retail marijuana store does not commence operations within sixty (60) days of issuance of a license from the City, the license shall be deemed forfeited and the business may not commence operations. (Ord. 13-09 §1, 2013)

#### **Sec. 6-9-80. Application for license.**

(a) An applicant seeking to obtain a license pursuant to this Article shall file an application with the City Manager. The form of the application shall be provided by the City and shall include all information required by this Article and any additional information requested by the City Manager if such information, in his or her opinion, is reasonably necessary to complete the investigation and review of the application.

(b) The application must include the following:

(1) Proof of ownership or legal possession of the proposed licensed premises.

(2) Consent from the landowner if the proposed premises will be leased. If the owner of the proposed retail marijuana store is not the owner of the proposed licensed premises, the applicant shall provide written authorization to the City from the owner to enter the property for inspection of the proposed licensed premises on a form approved by the City.

(3) Names and addresses of the owners of the proposed retail marijuana store.

(4) If the owner is a corporation, partnership, limited liability company or other business entity, the name, social security number and address of any officer or director of the entity and of any person holding one percent (1%) or more of the issued and outstanding capital stock or other ownership interest of the entity.

(5) A completed set of the applicant fingerprints of each person specified in Paragraph (4) above.

(6) Names and addresses of any manager or managers of the proposed retail marijuana store.

(7) An operating plan for the proposed retail marijuana store, including the following information:

a. A description of the products and services to be provided by the retail marijuana store.

b. A floor plan showing all interior dimensions of the proposed licensed premises and the layout of the retail marijuana store, including all limited access areas, areas of ingress and egress and locations of all security cameras. Such floor plan shall also show the principal uses of the floor area depicted therein.

c. A security plan indicating how the applicant intends to comply with the requirements of this Article, the Colorado Retail Marijuana Code and any other applicable law, rule or regulation. The security plan includes specialized details of security arrangements and will be protected from disclosure as provided under the Colorado Open Records Act, Section 24-72-203(2)(a)(VIII), C.R.S. If the City determines that such security plan and related documents are subject to inspection, it will attempt to provide at least twenty-four (24) hours' advance notice to the applicant prior to such disclosure.

d. An area map, drawn to scale, indicating, within a radius of one-quarter ( $\frac{1}{4}$ ) mile from the boundaries of the property upon which the retail marijuana store is proposed to be located, the proximity of the property to any school or to any residential zone district within the City.

(8) A statement of whether or not any person holding any ownership interest in the proposed retail marijuana store has:

a. Been denied an application for a medical marijuana establishment license or retail marijuana establishment license by the State or any other local jurisdiction in the State or has had such a license suspended or revoked; and

b. Been convicted of a felony or has completed any portion of a sentence due to a felony charge within the preceding five (5) years.

(9) Proof that the proposed retail marijuana store will be located in a location that permits such land use under this Article and other applicable provisions of this Code.

(10) Proof that all initial application, licensing, operational, background and other fees due and payable to properly license and operate a retail marijuana store, and as determined by the Authority, have been paid.

(11) Any additional documents or information requested by the Authority.

(c) A license issued pursuant to this Article does not eliminate the need for the licensee to obtain other required City licenses and licenses related to the operation of the approved retail marijuana store, including, without limitation:

(1) Any required land use approval, if applicable;

(2) A City business and sales tax license; and

(3) Any building permits, including mechanical, plumbing or electrical permits. (Ord. 13-09 §1, 2013)

**Sec. 6-9-90. Denial of license.**

The Authority shall deny an application for a license under this Article when the applicant fails to cooperate with the City during the application phase, when the applicant fails to meet all of the standards set forth in Section 6-9-70 above, when the applicant fails to provide any application materials to the City in accordance with Section 6-9-80 above, when the applicant provides inaccurate or false information to the City during the application phase or when the applicant fails to obtain any other required City license, including but not limited to those required by Subsection 6-9-80(d) above. (Ord. 13-09 §1, 2013)

**Sec. 6-9-100. Authority authorized to impose conditions on license.**

The Authority is authorized to impose terms and conditions on a license as may be necessary to protect the public health, safety and welfare, or to ensure compliance with the requirements of this Article, the Colorado Retail Marijuana Code or other applicable law. (Ord. 13-09 §1, 2013)

**Sec. 6-9-110. Decision on application.**

The Authority shall approve, deny or conditionally approve an application within thirty (30) days of the receipt of the completed application. The decision and the reasons for the decision, as well as any conditions of approval, shall be in writing. (Ord. 13-09 §1, 2013)

**Sec. 6-9-120. Notice of decision.**

The City Manager shall notify the applicant of the decision on the application within three (3) business days of rendering the decision. A copy of the decision shall be sent by certified mail to the applicant at the address shown in the application. (Ord. 13-09 §1, 2013)

**Sec. 6-9-130. Contents of license.**

(a) A license shall contain the following information:

(1) The name of the licensee;

(2) The date of issuance of the license;

(3) The address at which the licensee is authorized to operate the retail marijuana store;

(4) Any special conditions of approval imposed upon the license by the Authority, pursuant to the notice of decision, as set forth below; and

(5) The date of expiration of the license.

(b) A license must be signed by both the applicant and the City Manager to be valid. (Ord. 13-09 §1, 2013)

**Sec. 6-9-140. License nontransferable; exceptions.**

(a) A retail marijuana store license is not transferable or assignable, including, without limitation, not transferable or assignable to different premises, or to a different owner or licensee, except in accordance with this Section. A retail marijuana store license is valid only for the owner specifically identified on the license and the specific location for which the license is issued.

(b) A licensee may transfer or assign all ownership, rights and interests in a license subject to prior application to, and approval by, the City Manager and compliance with Section 12-43.4-308, C.R.S. The City Manager may refer the transfer application to the City Council for a public hearing, provided that notice of the public hearing is posted on the licensed premises in conformance with Section 12-43.4-302(2), C.R.S., and the applicant has been provided with at least ten (10) days' advance notice of the hearing. The application for any transfer of a retail marijuana store license shall contain, at a minimum, all of the information required by Section 6-9-80 of this Article and any supplemental information requested in writing by the Authority. Any attempt to transfer or assign a license in violation of this Section voids the license. (Ord. 13-09 §1, 2013)

**Sec. 6-9-150. Duration of license; renewals.**

(a) Each license issued pursuant to this Article shall be valid for one (1) year from the date of issuance and may be renewed as provided in this Section. The license shall expire on the last day of the month in which the license is issued of the year following issuance or renewal of the license.

(b) A licensee shall renew their license issued pursuant to this Article annually. Any renewal of the license shall be governed by the standards and procedures set forth in the Colorado Retail Marijuana Code, subject to any additional restrictions on renewal as provided in this Article or promulgated by the Authority.

(c) The licensee shall apply for renewal of the retail marijuana store license at least forty-five (45) days before the expiration of the license. The licensee shall apply for renewal using forms provided by the City. If the applicant fails to apply for renewal at least forty-five (45) days before the expiration of the license, but does apply for renewal prior to expiration of the license, the City may process the renewal application if the applicant submits the late filing fee established pursuant to Section 6-9-240 of this Article at the time of submittal of the renewal application.

(1) The renewal license fee, and late filing fee if applicable, shall accompany the application. Such fee is nonrefundable.

(2) In the event there has been a change to any of the plans identified in the license application, including but not limited to the operating plan or security plan, the renewal application shall include specifics of the changes or proposed changes in any of such plans.

(3) The renewal application shall include verification that the retail marijuana store has a valid state license issued by the state licensing authority, and that such license is in good standing.

(4) The City shall not accept renewal applications after the expiration of a license, but instead shall require the applicant to file a new license application.

(d) Failure of the licensee to renew and keep its state or local license current and valid or to make timely payment of the local licensing or operating fees shall be grounds for revocation of any license issued pursuant to this Article. (Ord. 13-09 §1, 2013)

**Sec. 6-9-160. Duties of licensee; records to be maintained.**

(a) It is the duty and obligation of each licensee to do the following:

(1) Comply with all of the terms and conditions of the license;

(2) Comply with all of the requirements of this Article;

(3) Comply with all other applicable City ordinances;

(4) Comply with the Colorado Retail Marijuana Code;

(5) Comply with all state laws and administrative regulations pertaining to the use of marijuana;

(6) Comply with all applicable federal laws, rules or regulations, other than a federal law, rule or regulation concerning the possession, sale or distribution of marijuana which conflicts with Amendment 64;

(7) Permit inspection of its records and the licensed premises by the City Manager for the purpose of determining the licensee's compliance with the terms and conditions of the license; and

(8) Post the license in a conspicuous location at the retail marijuana store.

(b) Each licensee shall keep a complete set of books of account, invoices, copies of orders and sales, correspondence, bank statements and all other records necessary to show fully the business transactions of such licensee. The records of the licensee shall clearly track inventory purchased and sales and disposal thereof to clearly track revenue from sales of any marijuana, paraphernalia and marijuana accessories offered by the retail marijuana store. All such books and records shall be open at all times during business hours for the inspection and examination of the City or its duly authorized representatives, including any auditor selected by the City pursuant to Subsection (c) below. The City may require any licensee to furnish such information as the City deems necessary for the proper administration of this Article. The records shall clearly show the source, amount, price and dates of all marijuana received or purchased, and the amount, price and dates for all marijuana sold.

(c) The City may require an audit to be made of the books and records of a retail marijuana store on such occasions as it may consider necessary. Such audit may be made by an auditor selected by the City. The expense of any audit determined necessary by the City shall be paid by the retail marijuana store. (Ord. 13-09 §1, 2013)

**Sec. 6-9-170. Suspension or revocation of license.**

(a) A license issued pursuant to this Article may be suspended or revoked by the Authority for the following reasons:

(1) Fraud, misrepresentation or a false statement of material fact contained in the license application;

(2) A violation of any City, state or federal law or regulation, other than a federal law or regulation concerning the possession, sale or distribution of marijuana that conflicts with Amendment 64;

(3) A violation of any of the terms and conditions of the license;

(4) A violation of any law which, if occurring prior to the submittal of the application, could have been cause for denial of the license application;

(5) Failure to timely correct any violation of any law, or comply with any order to correct a violation of any law within the time stated in the notice or order;

(6) A violation of any of the provisions of this Article, including but not limited to any violation of the duties set forth in Section 6-9-160 above; or

(7) Good cause.

(b) Hearing, burden of proof.

(1) The City Manager or the Police Chief may request in writing that a license issued under this Article be suspended or revoked. The written request to suspend or revoke must include the allegations upon which the suspension or revocation is based and must be provided to the licensee.

(2) The City Council, sitting in its official capacity of the Authority, shall preside over the hearing on the suspension or revocation.

(3) The date and time of the hearing must be set, written notice of which must be sent by regular mail, postage prepaid, to the licensee at least ten (10) days prior to the hearing date.

(4) Notice of the public hearing shall comply with any other applicable provisions of the Colorado Retail Marijuana Code.

(5) The hearing must be conducted based on the allegations provided in the written request. The burden shall be on the City to prove by a preponderance of the evidence that the licensee has violated the provisions of Subsection (a) above.

(6) A written decision must be provided to the licensee within ten (10) business days of the conclusion of the hearing. Notice shall be given by mailing a copy of the decision to the licensee by regular mail, postage prepaid, at the address shown in the license. Notice is deemed to have been properly given upon mailing.

(c) In connection with the suspension of a license, the Authority may impose reasonable conditions. The Authority shall be authorized to enter into stipulations with any licensee at or following the public hearing.

(d) In the event a retail marijuana store or licensee is charged with violation of any law, upon which a final judgment would be grounds for suspension or revocation of the license, the Authority may suspend the license pending the resolution of the alleged violation.

(e) If the Authority revokes or suspends a license, the retail marijuana store may not move or remove any marijuana from the premises except under the supervision of the Police Department.

(f) Any decision made by the Authority shall be a final decision and may be appealed to the District Court, pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. The licensee's failure to timely appeal the decision is a waiver of the licensee's right to contest the suspension or revocation of the license. (Ord. 13-09 §1, 2013)

**Sec. 6-9-180. Prohibited locations; permanent location required.**

Prior to the issuance of a license for a retail marijuana store, the City Manager shall determine whether the proposed location of the retail marijuana store complies with the requirements of this Section and Chapter 16 of this Code. Failure to comply with the requirements of this Section shall preclude issuance of a license.

(1) No retail marijuana store shall be located within an area zoned for single-family residential use.

(2) Each retail marijuana store shall be operated from a permanent location. No retail marijuana store shall be permitted to operate from a moveable, mobile or transitory location.

(3) No retail marijuana store shall be located within one thousand (1,000) feet of a school, an alcohol or drug treatment facility, the principal campus of a college, university or seminary or a residential child care facility. (Ord. 13-09 §1, 2013)

**Sec. 6-9-190. On-site cultivation prohibited.**

The cultivation of marijuana on or within a retail marijuana store is prohibited. (Ord. 13-09 §1, 2013)

**Sec. 6-9-200. Retail marijuana store requirements and restrictions.**

(a) No retail marijuana store approved pursuant to this Article may sell marijuana at any time except between the hours of 10:00 a.m. and 10:00 p.m.

(b) All retail marijuana store licenses shall be issued for a specific fixed location, which shall be considered the licensed premises.

(c) All retail marijuana stores shall post a sign in a conspicuous location stating:

"IT IS ILLEGAL TO TRANSFER MARIJUANA TO ANYONE UNDER THE AGE OF TWENTY-ONE. IT IS ILLEGAL TO SEND OR TRANSPORT MARIJUANA TO ANOTHER STATE. THE POSSESSION OF MARIJUANA REMAINS A CRIME UNDER FEDERAL LAW."

(d) It shall be unlawful for any retail marijuana store to employ any person at any licensed premises who is younger than twenty-one (21) years of age.

(e) The name and contact information for the owner or owners and any manager of the retail marijuana store shall be conspicuously posted in the facility, together with the name and contact information of any person designated by the owner to be contacted in the event of an emergency.

(f) The retail marijuana store license, the business license and the sales tax license shall be conspicuously posted in the facility.

(g) No change shall be made to the floor plan of the interior of any licensed premises unless such modification is approved by the Authority and all other appropriate City departments prior to the time the change is made. The Authority may charge a processing and inspection fee to cover any processing or inspection costs.

(h) No marijuana shall be smoked, eaten or otherwise consumed or ingested on the licensed premises.

(i) A retail marijuana store shall be ventilated so that the odor of marijuana cannot be detected by a person with a normal sense of smell at the exterior of the retail marijuana store or at any adjoining use or property.

(j) The licensed premises shall be monitored and secured twenty-four (24) hours a day including, at a minimum, the following security measures:

(1) Installation and use of security cameras to monitor all areas of the licensed premises where persons may gain or attempt to gain access to marijuana, marijuana products or monies maintained by the facility.

(2) Recordings from security cameras shall be maintained for a minimum of seventy-two (72) hours in a secure off-site location.

(3) Installation and use of a safe for overnight storage of any marijuana or marijuana products, and/or monies on the licensed premises, with the safe being incorporated into the building structure or securely attached thereto.

(4) Installation of a monitored user alarm system compliant with the Colorado Retail Marijuana Code and any other applicable state or local regulations.

(5) Robbery and burglary alarm systems that are professionally installed, monitored and maintained in good working condition. (Ord. 13-09 §1, 2013)

**Sec. 6-9-210. Persons prohibited as licensees and managers.**

(a) It shall be unlawful for any of the following persons to have an ownership or a financial interest in a retail marijuana store, and no license provided by this Article shall be issued to or held by, and no retail marijuana store shall be managed by:

(1) Any person until all applicable fees for the license have been paid.

(2) Any person not of good moral character.

(3) Any corporation, partnership, limited liability company or other entity whose officers, members, partners, directors or stockholders are not of good moral character.

(4) Any natural person who is under twenty-one (21) years of age.

(5) Any person who, in the immediately preceding twelve (12) months, had a medical marijuana facility license or retail marijuana establishment license revoked or suspended by the State or by a Local Licensing Authority in the City or any other jurisdiction.

(6) Any person who has been convicted of a felony that is deemed a crime of violence or has completed any portion of a felony sentence within the preceding five (5) years.

(7) A person licensed pursuant to this Article who, during a period of licensure, or who, at the time of application, has failed to remedy an outstanding delinquency for taxes owed or an outstanding delinquency for judgments owed to a government.

(8) A sheriff, deputy, police officer or prosecuting officer or an officer or employee of the state licensing authority, the Authority or the City.

(9) Any person of bad moral character as defined by the Colorado Retail Marijuana Code.

(b) In making the evaluation of the good moral character of the individual identified on an application or amendment thereof, the Authority shall consider the following:

(1) Laws, rules and regulations applicable to evaluation of other types of licenses issued by governments that consider the good moral character of the applicants.

(2) Any additional information the Authority may request of the individual if the individual has a violation of any laws or items disclosed by the individual which require additional information in order for the Authority to make a determination regarding issuance of the license. (Ord. 13-09 §1, 2013)

**Sec. 6-9-220. Provisions applicable to existing medical marijuana businesses.**

(a) Pursuant to Section 12-43.4-104, C.R.S., certain medical marijuana licensees or applicants qualified to receive a state license may, on or after October 1 2013, either apply for a retail marijuana

establishment license in addition to their medical marijuana license, convert their medical marijuana license to a retail marijuana establishment license, or apply for a retail marijuana establishment license and surrender their medical marijuana license when the retail marijuana establishment license is issued.

(b) A person who holds both a license pursuant to Article 43.3 of Title 12, C.R.S., and a license for a retail marijuana store may operate both licenses in the same premises ("dual operation") provided that they meet the requirements of the Colorado Retail Marijuana Code and this Article. (Ord. 13-09 §1, 2013)

**Sec. 6-9-230. Signage and advertising.**

(a) All signage for a retail marijuana store shall comply with the requirements of Chapter 14 of this Code.

(b) Any person or his or her agent licensed pursuant to this Article, may not cause advertisements, signs, displays or other promotional material depicting marijuana use or symbols to be shown or exhibited off the premises or in any manner which is visible to the public from roadways, pedestrian sidewalks or walkways, other public places, including advertising utilizing any of the following media: any billboard or other outdoor general advertising device as defined by this Code; any sign mounted on a vehicle, any hand-held or other portable sign; or any handbill, leaflet or flier directly handed to any person in a public place, left upon a motor vehicle, or posted upon any public or private property without the consent of the property owner. The prohibition set forth in this Subsection shall not apply to:

(1) Any sign located on the same zone lot as the retail marijuana store which exists solely for the purpose of identifying the location of the retail marijuana store and which otherwise complies with the requirements of Chapter 14 of this Code;

(2) Any advertisement contained within a newspaper, magazine or other periodical; or

(3) Advertising which is purely incidental to sponsorship of a charitable or community event by the retail marijuana store.

(c) No licensed retail marijuana store shall use any advertising material that is misleading, deceptive or false or that, as evidenced either by the content of the advertising material or by the medium or the manner in which the advertising is disseminated, is designed to appeal to minors.

(d) Any person licensed as a retail marijuana store shall include in any advertisement for marijuana the following language: "FOR ADULTS 21 AND OVER ONLY." Provided, however, that this language shall not be required to be displayed upon any sign identifying a retail marijuana store. (Ord. 13-09 §1, 2013)

**Sec. 6-9-240. Fees.**

(a) Licensing fees, operating fees, including but not limited to building inspection and re-inspection fees, renewal fees, late filing fees and all other fees necessary for the administration, regulation and implementation of this Article shall be set by the City Council by resolution.

(b) At least annually, the amount of fees charged pursuant to this Section shall be reviewed and, if necessary, adjusted to reflect the direct and indirect costs incurred by the Authority and the City in connection with the administration and enforcement of this Article, including costs of unannounced compliance checks. (Ord. 13-09 §1, 2013)

**Sec. 6-9-250. Paraphernalia.**

Devices, contrivances, instruments and paraphernalia for inhaling or otherwise consuming marijuana, including but not limited to rolling papers and related tools, water pipes and vaporizers, may lawfully be sold at a licensed retail marijuana store. (Ord. 13-09 §1, 2013)

**Sec. 6-9-260. Alcohol.**

The sale or consumption of an alcoholic beverage within a retail marijuana store is prohibited. (Ord. 13-09 §1, 2013)

**Sec. 6-9-270. Taxes.**

Each licensee shall pay sales tax on all marijuana, marijuana accessories, paraphernalia and other tangible personal property sold by the licensee at the retail marijuana store. (Ord. 13-09 §1, 2013)

**Sec. 6-9-280. Penalties; injunctive relief.**

(a) It is a municipal offense for any person to violate any provision of this Article. Any person convicted of having violated any provision of this Article shall be punished as set forth in Section 1-4-20 of this Code.

(b) In addition to all other remedies available to the City under this Code and by law, the operation of a retail marijuana store without a valid license issued pursuant to this Article may be enjoined by the City in an action brought in a court of competent jurisdiction. (Ord. 13-09 §1, 2013)

**Sec. 6-9-290. No waiver of governmental immunity.**

In adopting this Article, the City Council is relying on and does not waive or intend to waive by any provision of this Article the monetary limitations (presently one hundred fifty thousand dollars [\$150,000.00] per person and six hundred thousand dollars [\$600,000.00] per occurrence) or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S., or any other limitation, right, immunity or protection otherwise available to the City, its officers or its employees. (Ord. 13-09 §1, 2013)

**Sec. 6-9-300. No City liability.**

By accepting a license issued pursuant to this Article, a licensee releases the City, its officers, elected officials, employees, attorneys and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of retail marijuana store owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations. The City Manager may require a licensee to execute a written instrument confirming the provisions of this Section. (Ord. 13-09 §1, 2013)

**Sec. 6-9-310. Indemnification of City.**

By accepting a license issued pursuant to this Article, a licensee, jointly and severally if more than one (1), agrees to indemnify and defend the City, its officers, elected officials, employees, attorneys, agents, insurers and self-insurance pool against all liability, claims and demands on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other loss of any kind whatsoever, which are in any manner connected with the operation of the retail marijuana store that is the subject of the license. The licensee further agrees to investigate, handle, respond to and provide defense for and defend against any such liability, claims or demands at its expense and to bear all other costs and expenses related thereto, including court costs and attorney fees. The City Manager may require a licensee to execute a written instrument confirming the provisions of this Section. (Ord. 13-09 §1, 2013)

**Sec. 6-9-320. Other laws remain applicable.**

The provisions of this Article do not protect licensees, operators, employees, customers and clients of a licensed retail marijuana store from prosecution pursuant to any laws that may prohibit the cultivation, sale, use or possession of controlled substances. In addition, as of the date of the adoption of this Article, the cultivation, sale, possession, distribution and use of marijuana remain violations of federal and state law (except for conduct covered by Amendment 64), and this Article affords no protection against prosecution under such federal and state laws. Licensees, operators, employees, customers and clients of a licensed retail marijuana store assume any and all risk and any and all liability arising or resulting from the operation of the retail marijuana store under any state or federal law. Further, to the greatest extent licensed by law, any actions taken under the provisions of this Article by any public officers, elected or appointed officials, employees, attorneys and agents of the City shall not become a personal liability of such person or of the City. (Ord. 13-09 §1, 2013)

**Sec. 6-9-330. Compliance with state law.**

(a) To the extent the State has adopted or adopts in the future any additional or stricter laws or regulations governing the sale or distribution of marijuana, the additional or stricter regulations shall control the establishment or operation of any retail marijuana store in the City. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this Article, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any license issued hereunder.

(b) Any retail marijuana store licensed pursuant to this Article may be required to demonstrate, upon demand by the Authority or by law enforcement officers, that the source and quantity of any marijuana found upon the licensed premises is in full compliance with any applicable state laws or regulations.

(c) Except as otherwise provided herein, the Authority shall be governed by the Colorado Retail Marijuana Code now in effect or subsequently amended. In the event of any conflict between the provisions of this Article and those in the Colorado Retail Marijuana Code, the more restrictive provision shall control.

(d) If the State prohibits the cultivation, production, possession or other distribution of marijuana through retail marijuana stores, or if a retail marijuana store is denied a retail marijuana store license through the state licensing authority or has such license revoked pursuant to the Colorado Retail Marijuana Code, or if a court of competent jurisdiction determines that the federal government's prohibition of the cultivation, production, possession or other distribution of marijuana through retail marijuana stores supersedes state law, any license issued pursuant to this Article shall be deemed to be immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.

(e) A license for a retail marijuana store is a revocable privilege and no applicant therefor or holder thereof shall be deemed to have acquired any property interest therein. (Ord. 13-09 §1, 2013)