

CHAPTER 6

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ARTICLE 1

Business Regulations

Sec. 6-1-10. Prohibited businesses; exceptions.

(a) No offensive or unwholesome business or establishment shall be permitted and no business or establishment shall be carried on in an offensive and unwholesome manner within or within one (1) mile beyond the outer limits of the City.

(b) Any business or establishment in violation of this Section shall be deemed a public nuisance and subject to abatement, including a permanent injunction prohibiting such activity.

(c) For purposes of this Section, *business* or *establishment* includes any business, occupation, operation, activity, building, land or premises.

(d) No person shall sell, dispose of or offer for sale in the City at auction, or cause or permit to be sold, disposed of or offered for sale at auction in the City, any goods, wares or merchandise, whether the same is the property of such person or whether such person is the agent or employee of others. This Section shall not interfere with the following sales at auction:

(1) Such sales by sheriffs, tax collectors, coroners, marshals, executors, guardians, assignees of insolvent debtors or bankrupts or any other person required by law to sell real or personal property at auction.

(2) Sales at auction of the stock on hand of any person who, for the period of one (1) year next preceding such sale, has been continuously in business in the City as a retail or wholesale merchant, handling the particular articles sold at such auction. Such sale at auction of the stock on hand of such merchant shall be held on successive days, Sundays and legal holidays excepted, and shall not continue for more than thirty (30) days in all within the period of any one (1) year, and shall consist solely of bona fide stock which has been on hand for at least ninety (90) days before such sale. In no instance shall the sale be allowed of merchandise especially imported for such sale.

(3) Sales of livestock at auction by regularly licensed livestock sales rings.

(4) Sales at auction of used household goods and effects and secondhand goods and chattel belonging to and the property of bona fide residents of the City, or the trade territory thereof.

(5) Sales at auction of the trade fixtures and equipment of any retail or wholesale establishment in the City. (Prior code §§7-1, 7-2; Ord. 774-06 §1)

Sec. 6-1-20. Obscene performances prohibited.

(a) No person shall participate in, encourage or permit in any public place, business, show, or amusement open to the public or a segment thereof, any act, exhibition, dance or show, which taken as a whole and applying contemporary community standards, appeals to the prurient interest of the average person, and which depicts or describes in a patently offensive way, sexual conduct, which,

when taken as a whole, lacks serious literary, artistic, political or scientific value. As used herein, *sexual conduct which appeals to prurient interest* shall include all hard-core sexual conduct, and shall include but not be limited to any patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, and patently offensive representations or descriptions of masturbation, excretory functions, lewd exhibition of the genitals, cunnilingus, fellatio, anilingus and bestiality.

(b) It shall be unlawful for any person to promote any act described in Subsection (a) above with knowledge that he or she is promoting such an act, or to operate an establishment, building, show, etc., of which said act is a part with knowledge of the substantial content of said act.

(c) As used herein, the acts, performances, shows and exhibitions forbidden are forbidden regardless of whether the participant is being paid or is a professional performer, it being the intent that any person who participates in such an act shall be guilty of an offense hereunder.

(d) Any person who violates any provisions of this Section shall be punished in accordance with the provisions of Section 1-4-20 of this Code. (Prior code §4-19; Ord. 774-06 §1)

Sec. 6-1-30. Penalty.

Failure to comply with the terms of this Article shall constitute a violation of this Code. Any person who is found guilty of, or pleads guilty or nolo contendere to the violation of any section of this Code shall be subject to a penalty as set forth in Section 1-4-20 of this Code. (Ord. 774-06 §1)

ARTICLE 2

Alcoholic Beverages

Sec. 6-2-10. Definitions.

The definitions of *alcohol beverage, fermented malt beverage, malt liquor, spirituous liquors, vinous liquor* and other words and phrases shall have the meaning affixed to them by the Colorado Beer Code or the Colorado Liquor Code, as amended from time to time. (Prior code §3-4)

Sec. 6-2-20. Classification of businesses.

The business of selling any malt, vinous or spirituous liquor, or 3.2 beer (fermented malt beverages) for beverage purposes is hereby separately classified for the purposes of this Article as follows:

(1) Class "A" Operators. All operators who hold hotel and restaurant licenses, tavern licenses or racetrack licenses to sell malt, vinous and spirituous liquors for consumption on the premises shall be Class "A" Operators.

(2) Class "B" Operators. All operators holding beer and wine licenses to sell malt or vinous liquors in the place where such liquors are to be consumed if said place is a hotel or restaurant shall be Class "B" Operators.

(3) Class "C" Operators. All operators holding retail liquor store licenses to sell malt, vinous and spirituous liquors in sealed containers not to be consumed at the place where sold shall be Class "C" Operators.

(4) Class "D" Operators. All operators holding liquor licensed drug store licenses to sell malt, vinous or spirituous liquors in sealed containers not to be consumed at the place where sold shall be Class "D" Operators.

(5) Class "E" Operators. All operators holding club licenses or arts licenses to sell malt, vinous or spirituous liquors are Class "E" Operators.

(6) Class "F" Operators. All operators holding licenses for the sale of 3.2 beer (fermented malt beverage) either for consumption on or off the premises shall be Class "F" Operators. (Prior code §3-5)

Sec. 6-2-30. Tax levied.

There is hereby levied and assessed for each year an annual occupation tax upon the business of selling at retail any malt, vinous or spirituous liquors or 3.2 beer (fermented malt beverage), except medicinal liquors, in the City, as such occupation is classified in this Article, as follows:

- (1) For all Class "A" Operators, one thousand dollars (\$1,000.00);
- (2) For all Class "B" Operators, one thousand dollars (\$1,000.00);
- (3) For all Class "C" Operators, four hundred dollars (\$400.00);
- (4) For all Class "D" Operators, four hundred dollars (\$400.00);
- (5) For all Class "E" Operators, three hundred dollars (\$300.00);
- (6) For all Class "F" Operators, three hundred dollars (\$300.00). (Prior code §3-6)

Sec. 6-2-40. When tax payable.

The tax levied by this Article shall be due and payable to the City Clerk upon submission of an application for a new license or for a transfer of ownership and upon submission of the application for annual renewal of any license. No application for a license of any type shall be accepted for processing without payment of such tax at the time of filing of any such application. (Prior code §3-7)

Sec. 6-2-50. Revenue receipts; issuance, transferability.

Upon receipt of the tax levied by this Article, it shall be the duty of the City to execute and deliver to the operator paying the tax a revenue receipt showing the name of the operator paying the tax, the date of payment, the annual period for which the tax is paid and the place at which such operator conducts business. No revenue receipt shall be assignable. (Prior code §3-8)

Sec. 6-2-60. Display of revenue receipt required.

The operator shall, at all times during the year, keep the revenue receipt issued pursuant to this Article posted in a conspicuous place in his or her place of business. (Prior code §3-9)

Sec. 6-2-70. Dishonored or returned payment.

Any check, draft or order for the payment of money to the City upon any bank, depository, person, firm or corporation which is not paid to the City upon its presentment shall be grounds for the suspension or revocation of any license granted by any licensing authority pursuant to state law. In addition to the damages provided for in Section 13-21-109, C.R.S., interest shall accrue on all taxes which shall become delinquent by reason of an unpaid check, draft or order, or otherwise, from the day of delinquency until paid or collected, at the rate of one percent (1%) per month compounded monthly. (Prior code §3-11)

Sec. 6-2-80. Collection by court action.

The City may recover all sums due under this Article by judgment and execution thereon in a civil action in any court of competent jurisdiction. Such remedy shall be cumulative with all other remedies provided for the enforcement of this Article. (Prior code §3-12)

Sec. 6-2-90. Chapter not to impose obligations on City.

The adoption of the tax levied by this Article shall not imply any obligation on the City to issue licenses for any of the businesses taxed or to any applicant in any classification under this Article. (Prior code §3-13)

Sec. 6-2-100. Administrative procedures.

The City Clerk, on behalf of the Liquor Licensing Authority, shall process all routine renewal applications and any other transactions deemed administrative upon receipt of completed applications and such fees as are required by law. (Ord. 774-06 §1)

Sec. 6-2-110. License application fee.

Each application for a new fermented malt beverage or a new liquor license filed with the Local Licensing Authority of the City shall be accompanied by an application fee, to cover actual and necessary expenses for such a license in an amount set by the State from time to time. (Prior code §3-14)

Sec. 6-2-120. Transfer fee.

Each application for a transfer of location or ownership of a fermented malt beverage or liquor license, filed with the Local Licensing Authority, shall be accompanied by an application fee to cover actual and necessary expenses in an amount set by the State from time to time. (Prior code §3-15)

Sec. 6-2-130. Renewal fee.

Each application for a renewal of a fermented malt beverage or liquor license, filed with the Local Licensing Authority, shall be accompanied by an application fee to cover actual and necessary expenses as set by the State from time to time. (Prior code §3-16)

Sec. 6-2-140. Nonpayment of application fee.

No application provided for in Sections 6-2-110 through 6-2-130 of this Article shall be processed without payment of the application fee provided therefor. The nonpayment of any check, draft or order for the payment of money upon any bank, depository, person, firm or corporation which is not paid upon its presentment shall be grounds for denial of any license for which such check, draft or order is given. In addition to the damages provided for in Section 13-21-109, C.R.S., interest shall accrue on all such application fees from the date of the unpaid check, draft or order until paid or collected at the rate of one percent (1%) per month, compounded monthly. In addition, the nonpayment of a check, draft or order shall be grounds for the suspension or revocation of any license granted to any applicant whose application fee is tendered by an unpaid check, draft or order. (Prior code §3-16.5)

Sec. 6-2-150. Reduction of distance requirements.

Any building in which malt, vinous or spirituous liquor is to be sold, located three hundred (300) feet or more from any school, shall be eligible for licensing. The application of this Section shall be controlled by Section 12-47-313, C.R.S. (Prior code §3-17; Ord. 774-06 §1)

Sec. 6-2-160. Measurement of distance.

When determining whether a premises is within the distance restrictions provided for in Section 6-2-150 above, said distance shall be computed by direct measurement from the nearest property line of the land used for school purposes to the nearest portion of the building in which liquor is to be sold, using a route of direct pedestrian access. (Prior code §3-18)

Sec. 6-2-170. Educational requirements.

Every hotel and restaurant licensee, registered manager and licensee's employee is encouraged to obtain a certificate of completion from an educational program of training for intervention procedures for servers of alcohol. Those registered managers obtaining a certificate of completion may file a copy of the certificate of completion with the Authority with an application of renewal of a liquor license. (Ord. 774-06 §1)

ARTICLE 3

Amusement and Music Machines

Sec. 6-3-10. Definitions.

For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

Coin-operated amusement and music machine means any machine which, upon the insertion of a coin, slug, token or other monetary symbol, may be operated by the public for use as a game, entertainment or amusement and includes such devices as juke boxes and similar music vending machines, pinball machines, skill ball machines, mechanical grab machines, foosball tables and video games which are not gambling devices.

Gain means the direct realization of winnings; and *profit* means any other realized or unrealized benefit, direct or indirect, including without limitation benefits from proprietorship, management or unequal advantage in a series of transactions.

Gambling means risking any money, credit, deposit or other thing of value for gain contingent in whole or in part upon lot, chance, the operation of a gambling device, or the happening or the outcome of an event, including a sporting event, over which the person taking a risk has no control; but does not include: (a) bona fide contests of skill, speed, strength or endurance in which awards are made only to entrants or the owners of entries; (b) bona fide business transactions which are valid under the law of contracts; (c) other acts or transactions now or hereafter expressly authorized by law; or (d) any game, wager or transaction which is incidental to a bona fide social relationship, is participated in by natural persons only, and in which no person is participating directly or indirectly in professional gambling.

Gambling device means any device, machine, paraphernalia or equipment that is used or usable in the playing phases of any professional gambling activity, whether the activity consists of gambling between persons or gambling by a person involving the playing of a machine.

Operator means any person owning, leasing or otherwise controlling one (1) or more coin-operated amusement or music machines which are rented out, operated, displayed or otherwise used in any place in the City.

Professional gambling means aiding or inducing another to engage in gambling with the intent to derive a profit therefrom, or participating in gambling and having, other than by virtue of skill or luck, a lesser chance of losing or a greater chance of winning than one (1) or more of the other participants. (Prior code §4-1)

Sec. 6-3-20. Prohibited machines.

Gambling devices and video games, whether coin-operated or not, which are normally used for the purpose of gambling or which may be used for the purpose of gambling (except those devices in a lawful simulcast racing establishment with pari-mutuel wagering which are used directly in the operation of such a facility), are prohibited in the City, to include without limitation slot machines, video poker machines, video blackjack machines or any variation of these games, or any other type of machine, device, paraphernalia or equipment that is used or capable of being used in any gambling activity. (Prior code §4-1A)

Sec. 6-3-30. Operator's license required.

(a) No operator shall use, operate, rent out, lease, display or cause to be displayed in any place within the City any coin-operated amusement, pool table or music machine without an operator's license, and the presence of any such amusement, pool table or music machine in any place

in the City shall be conclusive evidence that an operator's license is required. No person shall permit to be used, operated or displayed in any place in the City owned, leased, operated or controlled by such person any coin-operated amusement, pool table or music machine unless an operator's license issued by the City Clerk in accordance with the provisions of this Article has been issued permitting the maintenance of one (1) or more such machines at such place. In the event that the person displaying any coin-operated amusement, pool table or music machine in any place in the City is also the owner of the machine, then he or she shall obtain an operator's license under this Article.

(b) Upon the discovery of any coin-operated amusement, pool table and music machine which is not lawfully licensed or which is prohibited, the Police Department may, at the officer's discretion, seize the unlicensed or prohibited machine or device as evidence of violation of this Article. (Prior code §4-2)

Sec. 6-3-40. Application; fee; issuance; terms and conditions.

(a) An application for a license shall contain a description of the machine or machines to be covered by the license, specifically including the name of the manufacturer, the trade name of the machine, the serial number of the machine and a description of the mechanical features of the machine.

(b) All applications for a license shall be forwarded to the Chief of Police for investigation. The Chief of Police shall investigate the location wherein it is proposed to operate such machine or machines, determine if each machine is in compliance with Section 6-3-20 above, and recommend either approval or disapproval of the application. No license shall be issued by the City Clerk to any licensee unless the Chief of Police recommends approval thereof.

(c) On application to the City, an operator's license under this Article may be issued to any operator, which license shall entitle such operator to place one (1) or more machines in use in the place designated in such license, but not elsewhere. Substitutions or changes of machines may be made from time to time; provided however, that the number of machines at any one (1) place shall not be increased without obtaining prior thereto an amendment of the operator's license for such increased number of machines. No machines shall be used for any gambling purpose or for any other purpose contrary to the laws of the State, this Code or any other ordinance of the City. Each license shall run from August 1 of each year until July 31 of the following year. Licenses issued after August 1 of any year shall be charged a prorated fee for the year from the first day of the month on which the license is issued until July 31 of the following year. No refunds of license fees shall be made under any circumstances. The license fee therefor shall be established by resolution of the City Council and be amended from time to time as the City Council deems appropriate.

(d) The failure of an operator or his or her agent to permit an inspection of any and all coin-operated amusement or music machines present on the premises at reasonable times shall be cause for denial or revocation of the operator's license. (Prior code §4-3)

Sec. 6-3-50. License contents; display.

Each operator's license issued by the City Clerk pursuant to this Article shall specifically state the place for which it is issued and the number of machines which may be maintained at such place. Such license shall be prominently displayed at such licensed premises. (Prior code §4-4)

Sec. 6-3-60. Revocation of license.

The license under this Article of any person convicted of a violation of any of the provisions of this Article shall be subject to immediate revocation, in addition to the other penalties provided for such violations. (Prior code §4-5)

Sec. 6-3-70. Gambling prohibited.

No person shall engage in any type of gambling based on the operation of any coin-operated amusement or music machine. (Prior code §4-6)

Sec. 6-3-80. Disturbing or annoying machines prohibited.

Every operator or other person licensed under this Article shall be responsible for the use of all coin-operated amusement and music machines on his or her premises and shall so use and control the same so as not to create a public annoyance or disturb other places of business or residents of the locality. Upon complaint that any such machine is a public annoyance, upon notice thereof by the Chief of Police to the person owning, leasing or otherwise controlling the premises upon which such machine is operated, and upon such hearing thereon being held before the City Council as it may prescribe, the use of any machine may be limited or prohibited. (Prior code §4-7; Ord. 774-06 §1)

ARTICLE 4

Pawnbrokers

Sec. 6-4-10. License required.

No person shall pursue the vocation of pawnbroker in the City without first obtaining a license therefor pursuant to this Article. As used herein, the term *pawnbroker* includes any person whose business is to lend money, usually in small sums, on security of personal property deposited with him or her or left in pawn, or any person in the business of purchasing personal property such as articles containing gold, silver, platinum or other precious metals or jewels for the purpose of reducing or smelting them into a different form and reselling the product. (Prior code §7-22)

Sec. 6-4-20. Issuance of license.

All licenses required by this Article shall be issued and signed by the City Clerk, pursuant to the order of the Mayor, upon payment to the City Clerk of the sum assessed therefor. (Prior code §7-23)

Sec. 6-4-30. License fee, term.

The license fee shall be the sum of one hundred dollars (\$100.00) and the license term shall not exceed two (2) months. (Prior code §7-24)

Sec. 6-4-40. Transferability.

No license issued under this Article shall be assignable or transferable. (Prior code §7-25)

Sec. 6-4-50. Records to be kept.

The City Clerk shall keep a license register in which shall be entered the name of each person licensed pursuant to this Article, the date of the license, the purpose for which granted, the amount paid therefor and the time the same will expire or continue in force. (Prior code §7-26)

ARTICLE 5

Peddlers, Vendors and Transient Merchants

Sec. 6-5-10. Certain practices prohibited.

(a) The following practices are hereby declared to be commercial speech proposing a commercial transaction, are hereby declared to be nuisances and are prohibited if and when conducted or engaged in within the City:

(1) The practice of going in and upon private residences, streets, public buildings and offices in the City by solicitors, peddlers, hawkers, itinerant merchants and transient vendors of goods, wares and merchandise, services, books, pictures and periodicals, not having been requested or invited to do so by the owner or occupant of such private residences, streets, public buildings or offices, for the purpose of soliciting orders for the sale of goods, wares and merchandise, services or books, pictures or periodicals, or for the purpose of disposing of, peddling or hawking such items, except as provided in Subsections (b) and (c) below; and

(2) The practice by vagrants, beggars or merchants of soliciting aid or money indiscriminately in the streets, alleys, sidewalks, parks or property owned or controlled by the public or by the City, or going in or upon private residences or businesses, not having been invited to do so by the owner or occupant thereof, for the purpose of asking or soliciting gratuitous aid, money or assistance.

Any attempt to obtain an invitation to visit private residences, public buildings and offices by personal solicitations or promise of any demonstrations, pecuniary benefit, advantage or gift shall be deemed a violation of the terms and provisions of this Section.

(b) The selling or offering for sale of any goods or wares of any nature on a temporary or seasonal basis from or upon any property owned or controlled by the public or by the City may be done upon the issuance of a permit therefor by the Chief of Police upon the showing by the person requesting such permit that the standards for issuance thereof are satisfied. Such standards shall be promulgated by the City Council by resolution from time to time, including a schedule of fees payable by the applicant upon submission of the application for any such permit.

(c) The selling or offering for sale of any goods or wares of any nature on a temporary or seasonal basis upon private property or from or upon any vacant lot on the City (except home and garage sales and church fundraising activities) may be done upon the issuance of a permit therefor by the Chief of Police upon the showing by the person requesting such permit that the standards for issuance thereof are satisfied. Such standards shall be promulgated by the City Council by resolution

from time to time, including a schedule of fees payable by the applicant upon submission of the application for any such permit.

(d) The provisions of this Section shall not be construed to ban charitable or noncommercial door-to-door solicitation nor to ban other forms of commercial solicitation such as telephone solicitation, handbill solicitation, mail solicitation and in-person solicitation in places other than residential or office doorsteps.

(e) It is hereby declared to be the legislative intent of the City Council that the governmental interests to be advanced by the prohibition of the activities specified in Subsection (a) above shall be to protect the citizens and residents of the City from crime, to preserve the public peace, order and dignity, and to protect an individual's right to privacy and undue annoyance by door-to-door commercial solicitation. The City Council further declares the governmental interests asserted above satisfy the following standards:

(1) Commercial solicitation is limited to and proposes a commercial transaction which is lawful and is not misleading as to the intended beneficiary of the transaction or the quality of thing involved in the transaction;

(2) The governmental interests of safety and privacy are substantial governmental interests;

(3) The prohibition of door-to-door commercial solicitation directly advances the substantial governmental interests in privacy and safety;

(4) The value of door-to-door commercial solicitation is greatly exceeded by the value of the substantial governmental interests of safety and privacy directly advanced by the prohibition of such door-to-door commercial solicitation; and

(5) The prohibition of door-to-door commercial solicitation is not more extensive than necessary to serve the substantial governmental interests to be advanced. (Prior code §7-20; Ord. 774-06 §1)

Sec. 6-5-20. Duty of police officers.

It is the duty of the Chief of Police and all other police officers to abate every nuisance listed in the preceding Section and to suppress the same. (Prior code §7-21)

ARTICLE 6

Public Dances

Sec. 6-6-10. License required.

No person shall promote, hold or conduct any Class A dance as defined in Section 6-6-20 below without first having obtained a license therefor as provided in this Article. (Prior code §4-8)

Sec. 6-6-20. Classifications of dances.

(a) Class A Public Dances. A public dance or public dance hall shall be construed to mean any place or space open to the public patronage in which dancing, wherein the public may participate, is carried on for the personal gain or profit of the person conducting, maintaining or operating such public dance or public dance hall. All dances given for profit, except as otherwise provided in this Article, shall be deemed public dances.

(b) Class B Club, Lodge or Organization Dances. A dance conducted by a club, lodge or organization which has not been organized for the purpose of giving dances for profit and to which not only members of such club, lodge or organization, but also other persons or friends in general with special invitation are admitted, whether an admission fee is charge or not, shall be included in Class B, and shall be deemed a private dance.

(c) Class C Private Dances. All dances not included in Classes A and B shall be held to be private dances. (Prior code §4-9)

Sec. 6-6-30. License application.

(a) Any person desiring to conduct or carry on, maintain or operate any public dance or public dance hall in the City shall make application to the City Clerk for a license therefor.

(b) Each application for a license required under this Article shall be made no less than forty-eight (48) hours prior to when such dance is to be held and shall state the location of the room, place or hall to be used, the name of the person intending to operate the same and, if a corporation, the names of the officers of the corporation. No such license shall be issued to a person who is not a person of good moral character nor to a corporation or organization which is not represented by a person of good moral character. (Prior code §4-10)

Sec. 6-6-40. License fees.

(a) The fees for license required by this Article shall be as follows:

- (1) Fifty dollars (\$50.00) per year; or
- (2) Ten dollars (\$10.00) for each dance.

(b) Such fee shall be paid to the City Clerk, who shall then issue to the applicant a license of the type indicated by the fee paid. (Prior code §4-10.1)

Sec. 6-6-50. Exceptions to license issuance.

No person under the age of twenty-one (21) years or who has been convicted of a felony or is not of good character shall be issued a license under this Article. (Prior code §4-10.2)

Sec. 6-6-60. Adequate policing required.

It shall be the duty of the person or manager in charge of any Class A or B dance or dance hall to suffer, permit and allow any member of the Police Department to enter such dance or dance hall

within the City at any or all times during the progress of the dance and to remove from such dance hall any person found to be in any intoxicated condition, offending against morality or decency or offending against the provisions of any section of this Article. Adequate policing shall be furnished on the premises by the owner, manager or operator of any Class A or B dance at all times when dancing is conducted. (Prior code §4-10.4)

Sec. 6-6-70. When dances prohibited.

It shall be unlawful for any person owning, controlling or conducting a public dance or dance hall in the City to suffer, permit or allow the same to be open or dances participated in therein between the hours of 1:00 a.m. and 7:00 a.m. and on Sunday. However, if a Sunday falls on New Year's Eve, a dance may be held on that day until 2:00 a.m. of the following Monday. (Prior code §4-10.5)