

CHAPTER 6 Business Licenses and Regulations

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ARTICLE 1 Business Licenses

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Sec. 6-1-10. Purpose.

The purpose of this Article is the regulation and registration of businesses operating within the Town for the health, safety and welfare of the citizens of the Town and to enable the Town to enforce the obligation of businesses to remit sales, use and additional taxes to support the Town.

(Ord. 2011-18 §1)

Sec. 6-1-20. License required.

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

(Ord. 2011-18 §1)

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

If a business is transacted at more than one (1) location, a separate license for each place of business shall be required.

(Ord. 2008-9 §2; Ord. 2011-18 §1)

Sec. 6-1-40. License application.

Business licenses shall be granted only when the application contains the name and address of the person desiring such license, the name of such business and the character thereof and the location, including the street number, of such business. Applications for such licenses shall be made to the Town Clerk. The Town Clerk shall issue and renew such licenses.

(Ord. 2008-9 §1; Ord. 2011-18 §1)

Sec. 6-1-50. Form of license.

Each license shall be numbered and shall show the name, residence, mailing address, place and character of business of the licensee.

(Ord. 2008-9 §2; Ord. 2011-18 §1)

Sec. 6-1-60. License fees.

- (a) Each application for and renewal of a license shall be accompanied by payment of an annual fee as set forth in the Annual Fee Resolution adopted by the Board of Trustees.
- (b) Before granting the license, the fee required for the license must be paid at the office of the Town Clerk.

(Ord. 2008-9 §3; Ord. 2011-18 §1)

Sec. 6-1-70. Issuance.

Upon receipt of the required fee and compliance with Section 6-1-60 above, the Town Clerk will issue a license that indicates that the license fee has been paid for the specified year.

(Ord. 2011-18 §1)

Sec. 6-1-80. Carrying or posting license required.

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

(Ord. 2008-9 §2; Ord. 2011-18 §1)

Sec. 6-1-90. License nontransferable.

No license issued under the provisions of this Article shall be transferable from person to person or place to place.

(Ord. 2008-9 §2; Ord. 2011-18 §1)

Sec. 6-1-100. Term of license.

All licenses issued shall expire on December 31 of each calendar year.

(Ord. 2008-9 §4; Ord. 2011-18 §1)

Sec. 6-1-110. Renewal.

On or before December 31, the holder of a license may apply for a renewal license to the Town Clerk for the following calendar year. All applications for renewal of licenses shall be made on forms provided by the Town Clerk. Failure to obtain a renewal of a license by the expiration date shall result in payment of a penalty in an amount equal to twenty-five percent (25%) of the license fee for each month the fee is overdue.

(Ord. 2008-9 §4; Ord. 2011-18 §1)

Sec. 6-1-120. Suspension.

The Town Clerk may, upon reasonable notice and after full hearing before the Board of Trustees, suspend a license of any person:

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

(Ord. 2011-18 §1)

Sec. 6-1-130. Revocation of license.

The Town Clerk may, upon reasonable notice and after full hearing before the Board of Trustees, revoke a license of any person:

- (1) When it appears that the license was obtained by fraud, misrepresentation or false statements within the application.
- (2) When it appears that the activity conducted pursuant to such license is a public nuisance as defined by this Code or statute or violates any federal, state or local rule, regulation or law.
- (3) Upon failure to comply with the terms and conditions of the license.
- (4) When such person is found to have failed or refused to pay, collect or remit any Town tax.
- (5) Upon any grounds of revocation provided by this Code.

(Ord. 2008-9 §6; Ord. 2011-18 §1)

Sec. 6-1-140. Notice and hearing prior to suspension or revocation; judicial review.

- (a) All hearings to revoke, suspend or cancel a license shall be before the Board of Trustees. The suspension or revocation of any license shall not release or discharge anyone from his or her civil liability for the payment of the taxes, penalty and interest or from the prosecution of the offense.
- (b) Any findings and order of the Board of Trustees revoking the license of any person shall be subject to review by the District Court upon application of the aggrieved party, in accordance with Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

(Ord. 2008-9 §6; Ord. 2011-18 §1)

Sec. 6-1-150. Cease and desist.

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

(Ord. 2011-18 §1)

Sec. 6-1-160. Refund of fees.

Upon refusal by the Town of any license or permit, the fee therefor paid in advance shall be returned to the applicant. In the event that any license or permit is revoked by the Town, all monies paid therefor shall be and remain the monies of the Town and no refund shall be made to any licensee or holder of a permit.

(Ord. 2011-18 §1)

Sec. 6-1-170. Violation; penalty.

- (a) Any person engaged in business within the Town limits without having obtained a license therefor, unless exempt therefrom, shall be guilty of violating this Article. For purposes of this Article, the term *business* is defined as any trade, occupation, calling, enterprise or profession carried on for profit by a person or business entity on his or her own behalf and not as the employee of another. Exempted from the definition of *business* shall be home occupations, as that term is defined in Chapter 16 of this Code, and isolated instances of sales for profit such as yard sales or garage sales, not exceeding three (3) such instances per year.
- (b) 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 Article shall be punished in accordance with the provisions of Section 1-4-20 of this Code.

(Ord. 2008-9 §5; Ord. 2011-18 §1)

ARTICLE 2 Alcoholic Beverages

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Sec. 6-2-10. Definitions.

- (a) As used in this Article, unless the context otherwise requires:

Retail license means a grant to a licensee to sell fermented malt beverages pursuant to the Colorado Beer Code (Article 46 of Title 12, C.R.S.) or a grant to a licensee to sell malt, vinous or spirituous liquors pursuant to the Colorado Liquor Code (Article 47 of Title 12, C.R.S.).

Retail licensee or *licensee* means the holder of a license to sell fermented malt beverages pursuant to the Colorado Beer Code or the holder of a license to sell malt, vinous or spirituous liquors pursuant to the Colorado Liquor Code.

- (b) All other terms shall be defined as set forth in the provisions of the Colorado Beer Code, the Colorado Liquor Code and Special Event Permits, as the definitions presently exist or may hereafter be amended.

(Ord. 2011-18 §1)

Sec. 6-2-20. Application of state statutes.

The Colorado Beer Code, Section 12-46-101 et seq., C.R.S., the Colorado Liquor Code, Section 12-47-101 et seq., C.R.S., and Special Event Permits, Section 12-48-101 et seq., C.R.S., as they presently

exist or may hereafter be amended, shall apply to the sale of fermented malt beverages, alcoholic beverages, special malt liquors, spirituous liquors and vinous liquors in the Town.

(Ord. 2011-18 §1)

Sec. 6-2-30. Power and purpose.

The Board of Trustees finds and determines that it is empowered by Section 12-47-505, C.R.S., to fix and collect certain fees in connection with the application for issuance, transfer and renewal of certain types of beer, wine and liquor licenses. The Board of Trustees further finds that the fees established in the Annual Fee Resolution are reasonable and are in amounts sufficient to cover actual and necessary expenses incurred by the Town in connection with the handling of such licenses and applications therefor.

(Ord. 2011-18 §1)

Sec. 6-2-40. Licensing fees.

The license fees as set forth in the Annual Fee Resolution adopted by the Board of Trustees shall be paid to the Town Clerk by the applicant at the time of the filing of the application or request.

(Ord. 2011-18 §1)

Sec. 6-2-50. Suspension or revocation; fine.

- (a) Whenever a decision of the Board of Trustees, acting as the Local Licensing Authority (hereinafter "Authority"), suspending a retail license for fourteen (14) days or less becomes final, whether by failure of the retail licensee to appeal the decision or by exhaustion of all appeals and judicial review, the retail licensee may, before the operative date of the suspension, petition the Authority for permission to pay a fine in lieu of having his or her retail license suspended for all or part of the suspension period. Upon the receipt of the petition, the Authority may, in its sole discretion, stay the proposed suspension and cause any investigation to be made which it deems desirable and may, in its sole discretion, grant the petition if it is satisfied:
- (1) That the public welfare and morals would not be impaired by permitting the retail licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purposes;
 - (2) That the books and records of the retail licensee are kept in such a manner that the loss of sales of alcoholic beverages which the retail licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy therefrom; and
 - (3) That the retail licensee has not had his or her license suspended or revoked, nor had any suspension stayed by payment of a fine, during the two (2) years immediately preceding the date of the motion or complaint which has resulted in a final decision to suspend the retail license.
- (b) The fine accepted shall be equivalent to twenty percent (20%) of the retail licensee's estimated gross revenues from sales of alcoholic beverages during the period of the proposed suspension; except that the fine shall be not less than two hundred dollars (\$200.00) nor more than five thousand dollars (\$5,000.00).
- (c) Payment of any fine pursuant to the provisions of this Section shall be in the form of cash, certified check or cashier's check made payable to the Town Clerk and shall be deposited in the general fund of the Town.

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- (d) Upon payment of the fine pursuant to this Section, the Authority shall enter its further order permanently staying the imposition of the suspension.
- (e) In connection with any petition pursuant to this Section, the authority of the Authority is limited to the granting of such stays as are necessary for it to complete its investigation and make its findings and, if it makes such findings, to the granting of an order permanently staying the imposition of the entire suspension or that portion of the suspension not otherwise conditionally stayed.
- (f) If the Authority does not make the findings required in Subsection (a) above and does not order the suspension permanently stayed, the suspension shall go into effect on the operative date finally set by the Authority.

(Ord. 2011-18 §1)

Sec. 6-2-60. Optional premises.

- (a) An optional premises license and optional premises for a hotel and restaurant license may be issued by the Authority.
- (b) The following standards shall be applicable to the issuance of a license under this Section, in addition to all other applicable standards set forth in the Colorado Liquor Code for optional premises license and optional premises for a hotel and restaurant license.
 - (1) Eligible facilities. Outdoor sports and recreational facilities as defined in Section 12-47-103(13.5), C.R.S., are eligible for licensing as an optional premises or an optional premises for a hotel and restaurant.
 - (2) Number of optional premises. There are no restrictions on the number of optional premises which any one (1) licensee may have on an outdoor sports or recreational facility.
 - (3) Minimum size of facility. There is no restriction on the minimum size of an outdoor sports or recreational facility which would be eligible for issuance of an optional premises license or optional premises for a hotel and restaurant license.
- (c) The application for an optional premises license or optional premises for a hotel or restaurant license shall be accompanied by the following:
 - (1) A map or other drawing illustrating the outdoor sports or recreational facility boundaries and the approximate location of each optional premises requested;
 - (2) A description of the method which shall be used to identify the boundaries of the optional premises when it is in use; and
 - (3) A description of the provisions which have been made for storing malt, vinous and spirituous liquors in a secured area on or off the optional premises for the future use on the optional premises.

(Ord. 2011-18 §1)

Sec. 6-2-70. Alcohol beverage tastings authorized.

Authority shall have and is vested with the authority to allow tastings, as that term is defined in Section 12-47-103(37.5), C.R.S., at licensed retail liquor stores and liquor-licensed drug stores, subject to the requirements and limitations contained in Section 12-47-301(10), C.R.S. The Town shall not require a further application prior to allowing retail liquor licensees to conduct alcohol beverage tastings, and elects not to impose additional limitations on such tastings beyond those limitations set forth in Chapter 47 of Title 12, C.R.S.

(Ord. 2006-5; Ord. 2011-18 §1)

Sec. 6-2-80. 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. 2011-18 §1)

ARTICLE 3 Medical Marijuana Dispensaries

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Sec. 6-3-10. Findings.

- (a) On November 7, 2000, the voters of the State of Colorado approved Amendment 20. Amendment 20 added §14 of Article 18 to the Colorado Constitution, and created a limited exception from criminal liability under Colorado 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.
- (b) The intent of Amendment 20 was 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 Colorado (as opposed to federal) law.
- (c) Despite the adoption of Amendment 20, marijuana is still a controlled substance under Colorado 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 best extent possible.
- (d) 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 Town affecting the health, safety, order, comfort, convenience and general welfare of the residents of the Town.
- (e) If medical marijuana dispensaries operating pursuant to Amendment 20 were allowed to be established and to operate without appropriate local regulation of their location, medical marijuana dispensaries might be established in areas that would be inconsistent with surrounding uses; or otherwise be detrimental to the public health, safety and welfare.
- (f) Nothing in this Article allows a person to:
 - (1) Engage in conduct that endangers others or causes a public nuisance;
 - (2) 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;
 - (3) Possess, cultivate, grow, use or distribute marijuana that is otherwise illegal under applicable law; or

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- (4) 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 Town or the State.
- (g) 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 Town and the inhabitants thereof.
- (h) No person, business, activity or use that distributed or involved the distribution of marijuana within the Town prior to the enactment of this Article shall be deemed to have been legally established under the ordinances of the Town, and no such person, business, activity or use shall be entitled to claim legal, nonconforming status under any provision of the ordinances of the Town or applicable law.

(Ord. 2009-5 §2; Ord. 2011-18 §1)

Sec. 6-3-20. Purpose.

Recognizing that there is a potential conflict between federal and state law with respect to the operation of medical marijuana dispensaries, it is the purpose of this Article to:

- (1) Impose specific requirements and limitations for those individuals registering with the State of Colorado as a "patient" or "primary caregiver," as those terms are defined in Amendment 20, and the statutes and administrative regulations implementing Amendment 20.
- (2) Require that a medical marijuana dispensary (as defined in this Article) be operated in a safe manner that does not endanger the public welfare.
- (3) Mitigate potential negative impacts that a medical marijuana dispensary might cause on surrounding properties and persons.
- (4) Regulate the conduct of persons owning, operating and using a medical marijuana dispensary in order to protect the public health, safety and welfare.
- (5) Establish a nondiscriminatory mechanism by which the Town can control, through appropriate regulation, the location and operation of medical marijuana dispensaries within the Town.

(Ord. 2009-5 §3; Ord. 2011-18 §1)

Sec. 6-3-30. Authority.

The Board of Trustees 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).

(Ord. 2009-5 §4; Ord. 2011-18 §1)

Sec. 6-3-40. Definitions.

- (a) As used in this Article, the following words shall have the following meanings, unless the context clearly requires otherwise:

Amendment 20 means a voter-initiated amendment to the Colorado Constitution adopted November 7, 2000. Amendment 20 added §14 of Article 18 to the Colorado Constitution.

Applicant means a person eighteen (18) years of age or older who has submitted an application for a permit pursuant to this Article.

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

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 (for the purpose of refusing or denying a permit renewal under this Article) means:

- a. The permittee 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;
- b. The permittee has failed to comply with any special terms or conditions that were placed on his or her permit at the time the permit was issued, or that were placed on his or her permit in prior disciplinary proceedings or that arose in the context of potential disciplinary proceedings; or
- c. The permittee's medical marijuana dispensary has been operated in a manner that adversely affects the public health, welfare or safety of the immediate neighborhood in which the medical marijuana dispensary is located. Evidence to support such a finding can include:
 1. A continuing pattern of drug-related criminal conduct within the premises of the medical marijuana dispensary or in the immediate area surrounding the medical marijuana dispensary; or
 2. A continuing pattern of criminal conduct directly related to or arising from the operation of the medical marijuana dispensary.

Medical marijuana dispensary or *dispensary* means the use of any property or structure within the Town to distribute, transmit, give, dispense or otherwise provide marijuana in any manner to patients or primary caregivers in accordance with Amendment 20, and the implementing state statutes and administrative regulations.

Patient has the meaning provided in Amendment 20.

Permit means a permit to operate a medical marijuana dispensary issued by the Town pursuant to this Article.

Permittee means the person to whom a permit has been issued pursuant to this Article.

Primary caregiver has the meaning provided in Amendment 20.

Town means the Town of Alma, Colorado.

Town Administrator means the Town Administrator of the Town or his or her designee.

- (b) In addition to the definitions provided in Subsection (a) of this Section, the other defined terms in Amendment 20 are incorporated into this Article by reference.

(Ord. 2009-5 §5; Ord. 2011-18 §1)

Sec. 6-3-50. Permit required.

No person shall operate a medical marijuana dispensary within the Town without a valid permit issued in accordance with this Article.

(Ord. 2009-5 §6; Ord. 2011-18 §1)

Sec. 6-3-60. Application for permit.

- (a) A person seeking to obtain a permit pursuant to this Article shall file an application with the Town Administrator. The form of the application shall be provided by the Town Administrator.
- (b) A permit issued pursuant to this Article does not eliminate the need for the permittee to obtain other required Town licenses and permits related to the operation of the approved medical marijuana dispensary, including, without limitation:
 - (1) Any required land use approval, if applicable;
 - (2) A Town business and sales tax license; and
 - (3) A building permit, mechanical permit, plumbing permit or electrical permit.
- (c) An application for a permit under this Article shall contain the following information:
 - (1) The applicant's name, address, telephone number and social security number.
 - (2) The street address and unit number, if applicable, of the proposed medical marijuana dispensary, and a complete description of the site for which the permit is being obtained.
 - (3) If the applicant is not the owner of the proposed location of the medical marijuana dispensary, a notarized statement from the owner of such property authorizing the submission of the application.
 - (4) A completed set of the applicant's fingerprints.
 - (5) A statement to be initialed by the applicant that the applicant and the employees of the medical marijuana dispensary may be subject to prosecution under federal marijuana laws.
 - (6) A statement to be initialed by the applicant that the Town accepts no legal liability in connection with the approval and subsequent operation of the medical marijuana dispensary.
 - (7) An acknowledgement that the Town will conduct a background investigation as specified in Section 6-3-80 of this Article.
 - (8) Any additional information that the Town Administrator reasonably determines to be necessary in connection with the investigation and review of the application.
- (d) Applications shall be processed by the Town Administrator in order of receipt.

(Ord. 2009-5 §7; Ord. 2011-18 §1)

Sec. 6-3-70. Application fee.

An applicant shall pay to the Town 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 set forth in the Annual Fee Resolution adopted by the Board of Trustees.

(Ord. 2009-5 §8; Ord. 2011-18 §1)

Sec. 6-3-80. Investigation of application.

- (a) 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 6-3-70 above, the Town Administrator shall transmit copies of the application to:
 - (1) The Police Department;
 - (2) The Department of Planning and Development; and
 - (3) Any other person or agency which the Town Administrator 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 Town departments and other referral agencies described in Subsection (a) above shall provide the Town Administrator with comments concerning the application.

(Ord. 2009-5 §9; Ord. 2011-18 §1)

Sec. 6-3-90. Standards for issuance of permit.

The Town Administrator shall issue a permit under this Article when, from a consideration of the application and from such other information as may otherwise be obtained, the Town Administrator determines that:

- (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 Section 6-3-70 above.
- (3) The application does not contain a material falsehood or misrepresentation.
- (4) The application complies with all of the requirements of this Article.
- (5) The applicant has not previously been convicted of a felony violation related to the sale, possession or use of a scheduled control substance. In making this determination, the Town Administrator shall be governed by the provisions of Section 24-5-101, C.R.S.
- (6) The proposed location of the medical marijuana dispensary is permitted under Section 6-3-230 of this Article.

(Ord. 2009-5 §10; Ord. 2011-18 §1)

Sec. 6-3-100. Denial of permit.

- (a) The Town Administrator shall deny an application for a permit under this Article if the Town Administrator determines that:

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- (1) Information contained in the application or supplemental information requested from the applicant is found to be false in any material respect; or
 - (2) The application fails to meet any of the standards sets forth in Section 6-3-90 above.
- (b) If an application is denied, the application fee shall not be refunded.

(Ord. 2009-5 §11; Ord. 2011-18 §1)

Sec. 6-3-110. Authority to impose conditions on permit.

The Town Administrator shall have the authority to impose such reasonable terms and conditions on a permit 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. 2009-5 §12; Ord. 2011-18 §1)

Sec. 6-3-120. Decision by Town Administrator.

- (a) The Town Administrator shall approve, deny or conditionally approve an application within thirty (30) days of the receipt of the completed application, unless, by written notice to the applicant, the decision period is extended for an additional ten (10) days if necessary for the Town Administrator to complete the review of the application.
- (b) If an application is denied, the Town Administrator shall clearly set forth in writing the grounds for denial.
- (c) In the event an application is conditionally approved, the Town Administrator shall clearly set forth in writing the conditions of approval.

(Ord. 2009-5 §13; Ord. 2011-18 §1)

Sec. 6-3-130. Notice of decision.

The Town Administrator shall notify the applicant of the decision on the application within three (3) business days of rendering the decision. Notice shall be given by mailing a copy of the Town Administrator's decision to the applicant by regular mail, postage prepaid, at the address shown in the application. Notice is deemed to have been properly given upon mailing.

(Ord. 2009-5 §14; Ord. 2011-18 §1)

Sec. 6-3-140. Appeal of denial or condition approval of permit.

- (a) An applicant has the right to appeal the Town Administrator's denial or conditional approval of an application to the Board of Trustees by filing a written request with the Town Administrator within twenty (20) days of the date of the notice of the decision described in Section 6-3-130 of this Article.
- (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 Board of Trustees.
- (c) The burden of proof in an appeal filed under this Section shall be on the applicant.
- (d) If the Board of Trustees finds by a preponderance of the evidence that the decision of the Town Administrator was correct, the Board of Trustees shall uphold the decision of the Town Administrator. If the Board of Trustees finds by a preponderance of the evidence that the decision of the Town

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Administrator was incorrect, the Town Administrator's decision shall be set aside and the permit issued (if it was previously denied) or the conditions of approval stricken or modified.

- (e) Any decision made by the Board of Trustees pursuant to this Section 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 the applicant's right to contest the denial or conditional approval of the application.

(Ord. 2009-5 §15; Ord. 2011-18 §1)

Sec. 6-3-150. Contents of permit.

- (a) A permit shall contain the following information:
 - (1) The name of the permittee;
 - (2) The date of the issuance of the permit;
 - (3) The address at which the permittee is authorized to operate the medical marijuana dispensary;
 - (4) Any special conditions of approval imposed upon the permit by the Town Administrator, pursuant to Section 6-3-110 of this Article; and
 - (5) The date of the expiration of the license.
- (b) A permit must be signed by both the applicant and the Town Administrator to be valid.

(Ord. 2009-5 §16; Ord. 2011-18 §1)

Sec. 6-3-160. Permit not transferable.

A permit is nontransferable and nonassignable. Any attempt to transfer or assign a permit voids the permit.

(Ord. 2009-5 §17; Ord. 2011-18 §1)

Sec. 6-3-170. Notice of issuance of permit.

Immediately upon the issuance of a permit, the Town Administrator shall send a copy of the permit to:

- (1) The Board of Trustees, and verbal notification shall also be made by the Town Administrator to the Board of Trustees at a regular Board of Trustees meeting.
- (2) The Police Department.
- (3) Any other person or agency as determined by the Town Administrator.

(Ord. 2009-5 §18; Ord. 2011-18 §1)

Sec. 6-3-180. Duration of permit; renewal.

- (a) Each permit 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 permit shall be made to the Town Administrator not less than forty-five (45) days prior to the date of expiration. No application for renewal shall be accepted by

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the Town Administrator after the date of expiration. The Town Administrator may waive the forty-five-day time requirement set forth in this Subsection if the applicant demonstrates an adequate reason.

- (c) The provisions of Sections 6-3-80 through 6-3-140, inclusive, shall apply to the processing of an application to renew a permit. The timely filing of a renewal application shall extend the current permit until a final decision is made on the renewal application, including any appeal of the Town Administrator's decision to the Board of Trustees.
- (d) At the time of the filing of an application for the renewal of an existing permit, the applicant shall pay a renewal fee as set forth in the Annual Fee Resolution adopted by the Board of Trustees.
- (e) The Town Administrator may refuse to renew a permit for good cause.

(Ord. 2009-5 §19; Ord. 2011-18 §1)

Sec. 6-3-190. Duties of permittee.

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

- (1) Comply with all of the terms and conditions of the permit, and any special conditions on the permit imposed by the Town Administrator, pursuant to Section 6-3-110 of this Article.
- (2) Comply with all of the requirements of this Article.
- (3) Comply with all other applicable Town ordinances.
- (4) Comply with all state laws and administrative regulations pertaining to the medical use of marijuana, including but not limited to Amendment 20; Section 18-18-406.3, C.R.S.; and the administrative regulations issued by the Colorado Department of Public Health and Environment found at 5 C.C.R. § 1006-2, all as amended from time to time.
- (5) 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 that conflicts with Amendment 20.
- (6) Permit inspection of its records and operation by the Town Administrator for the purpose of determining the permittee's compliance with the terms and conditions of the permit.

(Ord. 2009-5 §20; Ord. 2011-18 §1)

Sec. 6-3-200. Posting of permit.

A permit shall be continuously posted in a conspicuous location at the medical marijuana dispensary.

(Ord. 2009-5 §21; Ord. 2011-18 §1)

Sec. 6-3-210. Suspension or revocation of permit.

- (a) A permit issued pursuant to this Article may be suspended or revoked by the Town Administrator for the following reasons:
 - (1) Fraud, misrepresentation or a false statement of material fact contained in the permit application.
 - (2) A violation of any Town, 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.

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- (3) A violation of any of the terms and conditions of the permit, including any special conditions of approval imposed upon the permit by the Town Administrator pursuant to Section 6-3-110 of this Article.
 - (4) A violation of any of the provisions of this Article.
 - (5) Operations have ceased at the medical marijuana dispensary for more than thirty (30) days, including during a change of ownership of the dispensary.
 - (6) Ownership of the medical marijuana dispensary has been transferred without the new owner obtaining a permit pursuant to this Article.
- (b) In connection with the suspension of a permit, the Town Administrator may impose reasonable conditions.
- (c) The Town Administrator shall notify the permittee of the decision to suspend or revoke the permit within three (3) business days of rendering the decision. Notice shall be given by mailing a copy of the Town Administrator's decision to the permittee by regular mail, postage prepaid, at the address shown in the permit. Notice is deemed to have been properly given upon mailing.
- (d) No suspension or revocation shall be final until the permittee has been given the opportunity for a hearing to address the suspension or revocation. The permittee has the right to appeal the Town Administrator's suspension or revocation to the Board of Trustees by filing a written request with the Town Administrator within twenty (20) days of the date of the notice of decision issued by the Town Administrator, as described in Subsection (c) above.
- (1) The burden of proof in an appeal filed under this Section shall be on the permittee.
 - (2) If the Board of Trustees finds by a preponderance of the evidence that the decision of the Town Administrator was correct, the Board of Trustees shall uphold the decision of the Town Administrator. If the Board of Trustees finds by a preponderance of the evidence that the decision of the Town Administrator was incorrect, the Town Administrator's decision shall be set aside or modified and any conditions imposed by the Town Administrator related thereto shall be stricken or modified.
 - (3) Any decision made by the Board of Trustees 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 permittee's failure to timely appeal the decision is a waiver of the permittee's right to contest the suspension or revocation of the permit.

(Ord. 2009-5 §22; Ord. 2011-18 §1)

Sec. 6-3-220. Limitation on sale of marijuana.

No marijuana may be sold, given away or transferred at a medical marijuana dispensary, except to patients and to primary caregivers.

(Ord. 2009-5 §23; Ord. 2011-18 §1)

Sec. 6-3-230. Prohibited locations; permanent location required.

Prior to the issuance of a permit or license for a medical marijuana center, optional premises cultivation operation or medical marijuana-infused products manufacturing facility, the Town Administrator shall determine whether the proposed location of the business complies with the requirements of this Section. Failure to comply with the requirements of this Section shall preclude issuance of a permit or license.

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- (1) Medical marijuana centers, optional premises cultivation operations and medical marijuana-infused products manufacturing facilities shall be located only in the Commercial, Mixed Use and Light Industrial Zone Districts.
- (2) No medical marijuana center shall be located at the following locations:
 - a. Within four hundred twenty (420) feet of a licensed child care facility or children's playground.
 - b. Within four hundred twenty (420) feet of any educational institution or school, college or university, either public or private.
 - c. Within four hundred twenty (420) feet of any other medical marijuana center.
- (3) No optional premises cultivation operation shall be located at the following locations:
 - a. Within four hundred twenty (420) feet of a licensed child care facility or children's playground.
 - b. Within four hundred twenty (420) feet of any educational institution or school, college or university, either public or private.
- (4) No medical marijuana-infused products manufacturing facility shall be located at the following locations:
 - a. Within four hundred twenty (420) feet of a licensed child care facility or children's playground.
 - b. Within four hundred twenty (420) feet of any educational institution or school, college or university, either public or private.
- (5) The distances described in Paragraph (1) above shall be computed by direct measurement from the nearest property line of the land used for the above purposes to the nearest portion of the building housing the medical marijuana business using a straight line.
- (6) Each medical marijuana business shall be operated from a permanent location. No medical marijuana business shall be permitted to operate from a moveable, mobile or transitory location. This requirement shall not be construed to prohibit delivery or transport of medical marijuana by permittees and licensees.
- (7) The suitability of a location for a medical marijuana business shall be determined at the time of the issuance of the first permit or license for such business. The fact that changes in the neighborhood that occur after the issuance of the first permit or license might render the site unsuitable for a medical marijuana business under this Section shall not be grounds to suspend, revoke or refuse to renew the permit or license for such business so long as the permit or license for the dispensary remains in effect.

(Ord. 2009-5 §24; Ord. 2010-1 §1; Ord. 2010-5; Ord. 2011-18 §1)

Sec. 6-3-240. Hours of operation.

A medical marijuana dispensary may open no earlier than 7:00 a.m. and shall close no later than 9:00 p.m. the same day. A medical marijuana dispensary may be open seven (7) days a week.

(Ord. 2009-5 §25; Ord. 2011-18 §1)

Sec. 6-3-250. Signage.

All signage for a medical marijuana dispensary shall comply with the requirements of Chapter 16, Article 15 of this Code. In addition, no permittee shall display a sign for the medical marijuana dispensary that contains the word "marijuana" or "cannabis," or a graphic/image of any portion of a marijuana plant.

(Ord. 2009-5 §26; Ord. 2011-18 §1)

Sec. 6-3-260. Required warnings to be posted.

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

- (1) That the diversion of marijuana for nonmedical purposes is a violation of state law.
- (2) 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) That loitering in or around the medical marijuana dispensary is prohibited by state law.
- (4) That possession and distribution of marijuana is a violation of federal law.

(Ord. 2009-5 §27; Ord. 2011-18 §1)

Sec. 6-3-270. 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 dispensary. Such items may be sold or provided only to patients or primary caregivers.

(Ord. 2009-5 §28; Ord. 2011-18 §1)

Sec. 6-3-280. Alcohol prohibited.

The sale or consumption of an alcoholic beverage, as that term is defined in the Colorado Liquor Code, Section 12-47-103(2), C.R.S., within a medical marijuana dispensary is prohibited.

(Ord. 2009-5 §29; Ord. 2011-18 §1)

Sec. 6-3-290. Age restrictions.

No person under the age of eighteen (18) shall be allowed in any portion of a medical marijuana dispensary; provided, however, that persons under the age of eighteen (18) may be allowed in portions of a building in which a medical marijuana dispensary is located for care or treatment so long as the portion of the medical marijuana facility in which marijuana is stored or dispensed is inaccessible to such person.

(Ord. 2009-5 §30; Ord. 2011-18 §1)

Sec. 6-3-300. Ledger required.

A permittee shall keep a ledger which shall record the following information, and which shall be made available to the Town upon demand:

- (1) The quantity of medical marijuana dispensed in each transaction.
- (2) The type and source of medical marijuana dispensed.
- (3) The total amount paid by the patient for the transaction for all goods and services provided.

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- (4) The patient's medical marijuana Identification Card Number, and any other identifying information permitted by law.
- (5) Confirmation that the permittee confirmed the identity of the patient receiving the medical marijuana with a valid photo identification.
- (6) The date and time dispensed.

(Ord. 2009-5 §31; Ord. 2011-18 §1)

Sec. 6-3-310. Limitations on quantity dispensed.

A permittee may not dispense more than two (2) ounces of a usable form of medical marijuana or, in the alternative, six (6) marijuana plants, three (3) or fewer of which may be mature flowering plants, per patient, per day.

(Ord. 2009-5 §32; Ord. 2011-18 §1)

Sec. 6-3-320. Security requirements.

A permittee shall provide adequate security on the premises of a medical marijuana dispensary, including but not limited to the following:

- (1) Security surveillance cameras installed to monitor the main entrance, along with the interior and exterior of the premises, to discourage and to facilitate the reporting and investigation of criminal acts and nuisance activities occurring at the premises. Security video shall be preserved for at least seventy-two (72) hours by the permittee, and be made available to law enforcement officers upon demand.
- (2) A locking safe or secure vault permanently affixed to or built into the premises that is suitable for storage of all of the saleable inventory of marijuana.
- (3) Exterior windows (without shades, except as reasonably necessary to assure the privacy of persons during medical examination or treatment) of sufficient size to permit observation of the inside of the dispensary premises by a law enforcement officer standing outside of the dispensary.
- (4) Exterior lighting that illuminates the exterior walls of the business.

(Ord. 2009-5 §33; Ord. 2011-18 §1)

Sec. 6-3-330. Sales and business license required.

At all times while a permit is in effect, the permittee shall possess a valid license.

(Ord. 2009-5 §34; Ord. 2011-18 §1)

Sec. 6-3-340. Limitation and restrictions related to optional premises cultivation operations.

An optional premises cultivation license may be issued only to a person licensed by the State pursuant to Section 12-43.3-402 or Section 12-43.3-403, C.R.S., and by the Town pursuant to this Code, to operate a medical marijuana center or medical marijuana-infused products manufacturing facility in the Town. No more than one (1) operation premises cultivation license shall be issued to any medical marijuana center or medical marijuana-infused products manufacturing licensee.

(Ord. 2010-4 §1; Ord. 2011-18 §1)

Sec. 6-3-350. Taxes.

Each permittee shall pay sales tax on all medical marijuana, paraphernalia and other tangible personal property sold by the permittee at the medical marijuana dispensary.

(Ord. 2009-5 §35; Ord. 2011-18 §1)

Sec. 6-3-360. Penalties; injunctive relief.

- (a) It is a misdemeanor 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 in accordance with the provisions of Section 1-4-20 of this Code.
- (b) The operation of a medical marijuana dispensary without a valid permit issued pursuant to this Article may be enjoined by the Town in an action brought in a court of competent jurisdiction, including the Municipal Court.

(Ord. 2009-5 §36; Ord. 2011-18 §1)

Sec. 6-3-370. No waiver of governmental immunity.

The Board of Trustees shall rely on and shall not waive or intend to waive, by any provision of this Article, the monetary limitations 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 Town, its officers or its employees.

(Ord. 2009-5 §37; Ord. 2011-18 §1)

Sec. 6-3-380. No Town liability.

By accepting a permit issued pursuant to this Article, a permittee shall release the Town, 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 dispensary owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations. The Town Administrator may require a permittee to execute a written instrument confirming the provisions of this Section.

(Ord. 2009-5 §38; Ord. 2011-18 §1)

Sec. 6-3-390. Indemnification of Town.

By accepting a permit issued pursuant to this Article a permittee, jointly and severally if more than one (1), agrees to indemnify and defend the Town, 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 dispensary that is the subject of the permit. The permittee further agrees to investigate, handle, respond to, 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 Town Administrator may require a permittee to execute a written instrument confirming the provisions of this Section.

(Ord. 2009-5 §39; Ord. 2011-18 §1)

Sec. 6-3-400. Other laws remain applicable.

The provisions of this Article do not protect permittees, operators, employees, customers and clients of a permitted medical marijuana dispensary 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 the initial ordinance codified herein, 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. Permittees, operators, employees, customers and clients of a permitted medical marijuana dispensary assume any and all risk and any and all liability arising or resulting from the operation of the dispensary under any state or federal law. Further, to the greatest extent permitted by law, any actions taken under the provisions of this Article by any public officer or officers, elected or appointed officials, employees, attorneys and agents of the Town shall not become a personal liability of such person or of the Town.

(Ord. 2009-5 §40; Ord. 2011-18 §1)

Sec. 6-3-410. Rules and regulations.

The Town Administrator shall have the authority from time to time to adopt, amend, alter and repeal administrative rules and regulations as may be necessary for the proper administration of this Article.

(Ord. 2009-5 §41; Ord. 2011-18 §1)

ARTICLE 4 Peddlers and Solicitors

[Sec. 6-4-10. Definition.](#)

[Sec. 6-4-20. Refusing to leave.](#)

[Sec. 6-4-30. Hours of operation.](#)

[Sec. 6-4-40. Permit required.](#)

[Sec. 6-4-50. Application.](#)

[Sec. 6-4-60. Driver's license.](#)

[Sec. 6-4-70. False information.](#)

[Sec. 6-4-80. Fees.](#)

[Sec. 6-4-90. Exemptions from fees.](#)

Sec. 6-4-10. Definition.

The word *peddler*, as used in this Article, shall mean any person, whether or not a resident of the Town, traveling from house to house or from street to street, for the purpose of selling or soliciting for sale goods, wares, merchandise or services; and shall also mean and include any person transacting a

temporary business within the Town at an established place of business. The word *peddler* shall include the terms *solicitor* or *transient* or *itinerant merchant* or *vendor* .

(Ord. 2011-18 §1)

Sec. 6-4-20. Refusing to leave.

Any peddler who enters upon premises owned, leased or rented by another and refuses to leave such premises, after having been notified by the owner or occupant of such premises or his or her agent to leave the same and not return to such premises, shall be deemed guilty of a misdemeanor.

(Ord. 2011-18 §1)

Sec. 6-4-30. Hours of operation.

It is unlawful for any peddler to engage in the business of peddling within the Town between the hours of 5:00 p.m. and 10:00 a.m. the following morning or at any time on Sundays, except by specific appointment with or invitation from the prospective customer.

(Ord. 2011-18 §1)

Sec. 6-4-40. Permit required.

It is unlawful for any person to engage in or carry on the business of peddler within the limits of the Town without first obtaining a permit under this Article.

(Ord. 2011-18 §1)

Sec. 6-4-50. Application.

The application for a permit required by the provisions of this Article shall state or contain the following:

- (1) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any state or federal law or municipal ordinance or code; the nature of the offense; the punishment or penalty assessed therefor, if previously convicted; and the place of conviction.
- (2) Whether the applicant, upon any sale or order, shall demand, accept or receive payment or deposit of money in advance of final delivery.
- (3) The period of time the applicant wishes to engage in business within this Town.
- (4) The local and permanent address of the applicant.
- (5) The local and permanent address and the name of the person, if any, that the applicant represents.
- (6) The kind of goods, wares, merchandise or services for which the applicant wishes to engage in such business within the Town.
- (7) The last three (3) cities or towns wherein the applicant has worked before coming to the Town.
- (8) Such other relevant information as may be required for the investigation of the applicant.

(Ord. 2011-18 §1)

Sec. 6-4-60. Driver's license.

At the time of filing his or her application for a permit required by this Article, the applicant shall present his or her driver's license, or other state-approved identification card containing a his or her photograph, to the Chief of Police.

(Ord. 2011-18 §1)

Sec. 6-4-70. False information.

It is unlawful for any person to give any false or misleading information in connection with his or her application for a permit required by this Article.

(Ord. 2011-18 §1)

Sec. 6-4-80. Fees.

Before any permit is issued under the provisions of this Article, the applicant therefor shall pay a fee, based upon the duration he or she desires to engage in business in the Town, as set forth in the Annual Fee Resolution adopted by the Board of Trustees.

(Ord. 2011-18 §1)

Sec. 6-4-90. Exemptions from fees.

- (a) No person shall be subject to the fee requirements of Section 6-4-80 above if he or she is bringing food products to the Town for sale, either in bulk or by retail, from house to house, provided that such food products were grown or raised by the person so having them for sale and are products of the State.
- (b) A person exempt from federal income taxation under the provisions of the Internal Revenue Code shall be exempt from the fees required in Section 6-4-80.

(Ord. 2011-18 §1)

ARTICLE 5 Recreational Marijuana

[Sec. 6-5-10. Findings.](#)

[Sec. 6-5-20. Purpose.](#)

[Sec. 6-5-30. Incorporation of state law.](#)

[Sec. 6-5-40. Authority.](#)

[Sec. 6-5-50. Definitions.](#)

[Sec. 6-5-60. License required for operation of a retail marijuana establishment.](#)

[Sec. 6-5-70. Requirements of application for license; payment of application fee; denial of license.](#)

[Sec. 6-5-80. Retail marijuana stores.](#)

[Sec. 6-5-90. Retail marijuana products manufacturer facilities.](#)

[Sec. 6-5-100. Retail marijuana cultivation facilities.](#)

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- [Sec. 6-5-110. Retail marijuana testing facilities.](#)
- [Sec. 6-5-120. Dual operations.](#)
- [Sec. 6-5-130. Location criteria.](#)
- [Sec. 6-5-140. Persons prohibited as licensees and employees.](#)
- [Sec. 6-5-150. Issuance of license; duration; renewal.](#)
- [Sec. 6-5-160. Authority to impose conditions on license.](#)
- [Sec. 6-5-170. Annual operations fee.](#)
- [Sec. 6-5-180. Display of license.](#)
- [Sec. 6-5-190. Management of licensed premises.](#)
- [Sec. 6-5-200. Change in manager; change in financial interest.](#)
- [Sec. 6-5-210. Transfer of ownership; change of location.](#)
- [Sec. 6-5-220. Hours of operation.](#)
- [Sec. 6-5-230. Signage and advertising.](#)
- [Sec. 6-5-240. Security requirements.](#)
- [Sec. 6-5-250. Required notices.](#)
- [Sec. 6-5-260. Cultivation, growing and processing by licensees.](#)
- [Sec. 6-5-270. On-site consumption of marijuana.](#)
- [Sec. 6-5-280. Prohibited acts.](#)
- [Sec. 6-5-290. Visibility of activities; paraphernalia; control of emissions.](#)
- [Sec. 6-5-300. Disposal of marijuana byproducts.](#)
- [Sec. 6-5-310. Sales and business license required.](#)
- [Sec. 6-5-320. Sales and property tax.](#)
- [Sec. 6-5-330. Required books and records.](#)
- [Sec. 6-5-340. Inspection of licensed premises.](#)
- [Sec. 6-5-350. Nonrenewal, suspension or revocation of license.](#)
- [Sec. 6-5-360. Violations and penalties.](#)
- [Sec. 6-5-370. No town liability; indemnification.](#)
- [Sec. 6-5-380. No waiver of governmental immunity.](#)
- [Sec. 6-5-390. Other laws remain applicable.](#)
- [Sec. 6-5-400. Rules and regulations.](#)

Sec. 6-5-10. Findings.

- (a) On November 6, 2012, the voters of the State of Colorado approved Amendment 64. Amendment 64 added § 16 of Article 18 to the Colorado Constitution, and legalized the possession, use, display, purchase, transport, transfer, and consumption of marijuana accessories or one ounce or less of

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marijuana by persons twenty-one years of age or older ("Adult Use Marijuana") within the State of Colorado (as opposed to federal law).

- (b) The enactment by the Colorado Legislature of the Colorado Retail Marijuana Code, C.R.S. § 12-43.4-101, et seq., clarifies Colorado law regarding the scope and extent of Amendment 64 to the Colorado Constitution.
- (c) The Colorado Retail Marijuana Code now provides a statutory framework for the regulation of retail marijuana establishments.
- (d) By requiring that retail marijuana businesses be operated in a manner that minimizes potential health and safety risks, it mitigates the negative impacts that retail marijuana establishments might have on surrounding properties and persons.
- (e) This Article intends to establish a nondiscriminatory mechanism by which the Town can control, through appropriate regulation, the location and operation of retail marijuana establishments within the Town similar to the manner in which liquor licensed establishments are currently regulated at the state and local level.

(Ord. No. 2014-03, § 1)

Sec. 6-5-20. Purpose.

The purpose of this Article is to implement the provisions of the Colorado Retail Marijuana Code, C.R.S. § 12-43.4-101, et seq., which authorizes the licensing and regulation of retail marijuana businesses and affords local government the option to determine whether or not to allow retail marijuana businesses within their respective jurisdictions and to adopt licensing requirements that are supplemental to or more restrictive than the requirements set forth in state law. This Article is further intended to supplement the Town's existing ordinances governing medical marijuana found at Article 3 of this Chapter 6.

(Ord. No. 2014-03, § 1)

Sec. 6-5-30. Incorporation of state law.

The provisions of the Colorado Retail Marijuana Code, and any rules and regulations promulgated thereunder, are incorporated herein by reference except to the extent that more restrictive or additional regulations are set forth in this Article.

(Ord. No. 2014-03, § 1)

Sec. 6-5-40. Authority.

The Board of Trustees hereby finds, determines and declares that it has the power to adopt this Article pursuant to:

- (a) Article XVIII, Section 16 of the Colorado Constitution;
- (b) The Colorado Retail Marijuana Code, C.R.S. § 12-43.4-101, et seq.;
- (c) The Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.;
- (d) Article 15 of Title 31, C.R.S. (concerning municipal powers and functions);
- (e) Article 16 of Title 31, C.R.S. (concerning municipal ordinances);
- (f) Article 23 of Title 31, C.R.S. (concerning municipal planning and zoning).

(Ord. No. 2014-03, § 1)

Sec. 6-5-50. Definitions.

(a) For purposes of this Article, the following terms shall have the following meanings:

Applicant means a person twenty-one (21) years of age or older who has submitted an application for a license or renewal of a license issued pursuant to this Article. If the applicant is an entity and not a natural person, applicant shall include all persons who are the members, managers, officers and directors of such entity.

Colorado Medical Marijuana Code means Article 43.3 of Title 12, Colorado Revised Statutes.

Consumer means a person twenty-one (21) years of age or older who purchases marijuana or marijuana products for personal use by a person twenty-one (21) years of age or older, but not for resale to others.

Cultivation or cultivate means the process by which a person grows a marijuana plant.

Dual operation means a business that operates as both a licensed medical marijuana business and a licensed retail marijuana establishment in accordance with Section 6-5-120 of this Article.

Industrial Hemp means the plant of the genus cannabis and any part of such plant, whether growing or not, with a Delta-9 tetrahydrocannabinol concentration that does not exceed three-tenths percent on a dry weight basis.

Good cause (for the purpose of refusing or denying a license renewal under this Article) means: (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; (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, or that were placed on its license in prior disciplinary proceedings or that arose in the context of potential disciplinary proceedings; or (3) the licensee's retail marijuana store, retail marijuana products manufacturing operation, or retail marijuana cultivation facility 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, retail marijuana products manufacturing operation, or retail marijuana cultivation facility is located. Evidence to support such a finding can include: (i) a continuing pattern of offenses against the public peace; (ii) a continuing pattern of drug-related criminal conduct within the premises of the retail marijuana store, retail marijuana products manufacturing operation, or retail marijuana cultivation facility or in the immediate area surrounding the retail marijuana store, retail marijuana product manufacturing operation, or retail marijuana cultivation facility; or (iii) a continuing pattern of criminal conduct directly related to or arising from the operation of the retail marijuana store, retail marijuana products manufacturing operation, or retail marijuana cultivation facility.

License means a document issued by the Town officially authorizing an applicant to operate a retail marijuana store, retail marijuana products manufacturing operation, or retail marijuana cultivation facility pursuant to this Article.

Licensee means the person to whom a license has been issued pursuant to this Article.

Licensed premises means the premises specified in an application for a license under this Article, which is owned or in possession of the licensee and within which the licensee is authorized to cultivate, manufacture, distribute, or sell retail marijuana or retail marijuana products in accordance with state and local law.

Local licensing authority means the Board of Trustees of the Town.

Marijuana means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. Marijuana does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds

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of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

Marijuana accessories means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

Medical marijuana business means a medical marijuana center, optional premises cultivation operation, or medical marijuana-infused products manufacturer as defined in the Colorado Medical Marijuana Code.

Person means a natural person, partnership, association, company, corporation, limited liability company or organization.

Retail marijuana means marijuana that is cultivated, manufactured, distributed or sold by a licensed retail marijuana establishment.

Retail marijuana products means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients that are intended for use or consumption, such as but not limited to, edible products, ointments and tinctures.

Retail marijuana cultivation facility means an entity licensed to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

Retail marijuana establishment means a retail marijuana store, a retail marijuana cultivation facility, a retail marijuana products manufacturing operation or a retail marijuana testing facility.

Retail marijuana product manufacturing facility means an entity licensed to purchase marijuana; manufacture, prepare, and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

Retail marijuana store means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and to sell marijuana and marijuana products to consumers.

Retail marijuana testing facility means an entity licensed by the Town and State of Colorado to analyze and certify the safety and potency of marijuana.

State licensing authority means the authority created by the Colorado Department of Revenue for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, sale and testing of retail marijuana in the State of Colorado pursuant to C.R.S. § 12-43.4-201.

(b) In addition to the definitions provided in Subsection (a) hereof, other terms used in this Article shall have the meaning ascribed to them in Article XVIII, § 16 of the Colorado Constitution, or the Colorado Retail Marijuana Code, and such definitions are hereby incorporated into this Article by reference.

Town means the Town of Alma, Colorado.

(Ord. No. 2014-03, § 1)

Sec. 6-5-60. License required for operation of a retail marijuana establishment.

The Town hereby authorizes the operation of retail marijuana establishments in the Town as set forth in this Article. It shall be unlawful for any person to establish or operate a retail marijuana establishment in the Town without first having obtained a license for such business from the local licensing authority. Such license shall be kept current at all times, and the failure to maintain a current license shall constitute a violation of this Article.

(Ord. No. 2014-03, § 1)

Sec. 6-5-70. Requirements of application for license; payment of application fee; denial of license.

- (a) A person seeking a license or renewal of a license issued pursuant to this Article shall submit an application to the local licensing authority on forms provided by the Town Clerk. At the time of application, each applicant shall pay a nonrefundable operating fee to the Town in an amount to be determined by the Town by separate Resolution to defray the costs incurred by the Town for costs including but not limited to inspection, administration, and enforcement of retail marijuana establishments. In addition, the applicant shall present one (1) of the following forms of identification:
- (1) An operator's, chauffer's or similar type of driver's license issued by any state within the United States or a U.S. Territory;
 - (2) An identification card, issued by any state for purpose of proving age using requirements similar to those in C.R.S. §§ 42-2-302 and 42-2-303;
 - (3) A United States military identification card;
 - (4) A valid passport; or
 - (5) An enrollment card issued by the government authority of a federally recognized tribe located in the state of Colorado.
- (b) The applicant shall also provide the following information on a form approved by, or acceptable to the Town, which information shall be required for the applicant, all employees, including the proposed manager of the retail marijuana establishment, and all persons having a ten percent (10%) or more financial interest in the retail marijuana establishment that is the subject of the application or, if the applicant is an entity, having a ten percent (10%) or more financial interest in the entity:
- (1) Name, address, date of birth;
 - (2) A complete set of fingerprints;
 - (3) Suitable evidence of proof of lawful presence, residence, if applicable, and good character and reputation that the Town may request;
 - (4) An acknowledgment and consent that the Town will conduct a background investigation, including a criminal history check, and that the Town will be entitled to full and complete disclosure of all financial records of the retail marijuana establishment, including records of deposit, withdrawals, balances and loans;
 - (5) If the applicant is a business entity, information regarding the entity, including, without limitation, the name and address of the entity, its legal status, and proof of registration with, or a certificate of good standing from, the Colorado Secretary of State, as applicable;
 - (6) The name and complete address of the proposed retail marijuana establishment, including the facilities to be used in furtherance of such business, whether or not such facilities are, or are planned to be, within the territorial limits of the Town;
 - (7) If the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property authorizing the use of the property for a retail marijuana establishment;
 - (8) A copy of any deed, lease, contract or other document reflecting the right of the applicant to possess the proposed licensed premises along with the conditions of occupancy of the premises;
 - (9) Evidence of a valid sales tax license for the business if such a license is required by state or local law;

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- (10) If the retail marijuana establishment will be providing retail marijuana products in edible form, evidence of at a minimum a pending application for any food establishment license or permit that may be required by the State;
 - (11) A "to scale" diagram of the premises, showing, without limitation, a site plan, building layout, all entry ways and exits to the marijuana store and cultivation facility, loading zones and all areas in which retail marijuana will be stored, grown or dispensed;
 - (12) A comprehensive business operation plan for the retail marijuana establishment which shall contain, without limitation, the following:
 - a. A security plan meeting the requirements of Section 6-5-240 of this Article,
 - b. A description by category of all products to be sold,
 - c. A signage plan that is in compliance with all applicable requirements of this Article and other applicable provisions of the Town's Building Codes and Zoning Regulations, as well as the Colorado Retail Marijuana Code and all rules and regulations promulgated thereunder; and
 - d. A plan for the disposal of marijuana and related byproducts meeting the requirements of Section 6-5-300 of this Article.
 - (13) For retail marijuana products manufacturing operation license applications, a copy of any and all contracts between the applicant and any retail marijuana cultivation operation from which it will be purchasing retail marijuana for use in the production of retail marijuana products; and
 - (14) Any additional information that the local licensing authority reasonably determines to be necessary in connection with the investigation and review of the application.
- (c) The applicant shall verify the truthfulness of the information required by this Section by the applicant's signature on the application.
 - (d) A license issued pursuant to this Article does not eliminate the need for the licensee to obtain other required permits or licenses related to the operation of the retail marijuana establishment, including, without limitation, a license from the state licensing authority and any development approvals or building permits required by this Article and any other Articles, resolutions, laws and regulations of the Town.
 - (e) Upon receipt of a completed application, the local licensing authority shall circulate the application to all affected departments of the Town and, in the Town's discretion, other governmental entities having jurisdiction, to determine whether the application is in full compliance with all applicable laws, rules and regulations.
 - (f) Upon receipt of an application for a new license, the local licensing authority shall schedule a public hearing on the application to be held not less than thirty (30) days after the date of the completed application. The applicant shall cause a notice of such hearing to be posted in a conspicuous place upon the proposed licensed premises and published in a newspaper of general circulation within the Town not less than ten (10) days prior to the hearing in a form specified by the Town. Such posted notice shall include a sign of suitable material, not less than twenty-two (22) inches wide and twenty-six (26) inches high, composed of letters of not less than one (1) inch in height. Both the posted and the published notice shall state the type of license applied for, the date of the hearing, the name and address of the applicant, and such other information as may be required to fully apprise the public of the nature of the application.
 - (g) Not less than five (5) days prior to the date of the public hearing for a new license, the local licensing authority may cause its preliminary findings based on its investigation to be known in writing to the applicant and other parties in interest. The local licensing authority shall deny any application that does not meet the requirements of this Article. The local licensing authority shall also deny any application that contains any false, misleading or incomplete information. The local licensing authority shall also deny or refuse to issue a license for good cause. Denial of an application for a license shall not be subject to further administrative review but only to review by a court of competent jurisdiction.

- (h) Before entering a decision approving or denying the application for a local license, the local licensing authority may consider, except where this Article specifically provides otherwise, the facts and evidence adduced as a result of its investigation, as well as any other facts, the reasonable requirements of the neighborhood for the type of license for which application has been made, the desires of the adult inhabitants of the neighborhood under consideration, the number, type and availability of retail marijuana establishments located in or near the premises under consideration, and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed. The local licensing authority shall issue its decision within one hundred eighty (180) days of the receipt of the complete license application. Such decision shall be by Resolution, and shall state the reasons for the decision. The Resolution shall be sent via regular mail to the state licensing authority and the applicant at the address shown in the application.
- (i) The Town shall, prior to issuance of the license, perform an inspection of the proposed licensed premises, including, without limitation, any associated dual operation facility, if applicable, to determine compliance with any applicable requirements of this Article or other applicable requirements of the Town.

(Ord. No. 2014-03, § 1)

Sec. 6-5-80. Retail marijuana stores.

- (a) A licensed retail marijuana store may sell retail marijuana or retail marijuana products to persons twenty-one (21) years of age or older in the following quantities:
 - (1) Up to one (1) ounce of retail marijuana or its equivalent in retail marijuana products during a single sales transaction to Colorado residents; or
 - (2) Up to one-quarter (1/4) ounce of retail marijuana or its equivalent in retail marijuana products during a single sales transaction to a non-Colorado resident.
- (b) The following forms of identification may be accepted for purposes of determining Colorado residency: a valid state of Colorado Driver's license; a valid state of Colorado identification card; or any other valid government-issued picture identification that demonstrates that the holder of the identification is a Colorado resident.
- (c) The retail marijuana offered for sale and distribution must be packaged and labeled in accordance with state law.
- (d) From January 1, 2014 to September 30, 2014, a retail marijuana store licensee shall only sell retail marijuana that was grown in its commonly-owned retail marijuana cultivation facility and subsequently purchased or transferred from the cultivation facility, with the following exceptions:
 - (1) A retail marijuana store licensee may purchase not more than thirty percent (30%) of its total on-hand retail marijuana inventory, in aggregate, from other retail marijuana establishments with which it does not share common ownership.
 - (2) A retail marijuana store licensee may sell not more than thirty percent (30%) of its total on-hand retail marijuana inventory, in aggregate, to other retail marijuana establishments with which it does not share common ownership.
 - (3) For purposes of calculating the percentage limitations detailed in this subpart (d), the licensee shall use the total weight of its on-hand inventory at the end of the month preceding the purchase.
- (e) Retail marijuana store licensees are prohibited from selling, soliciting or receiving orders for retail marijuana or retail marijuana products over the internet.
- (f) Retail marijuana store licensees are prohibited from selling or giving away any consumable product that is not a retail marijuana product, including but not limited to cigarettes or tobacco products, alcohol beverages, and food products or non-alcohol beverages that are not retail marijuana products.

(Ord. No. 2014-03, § 1)

Sec. 6-5-90. Retail marijuana products manufacturer facilities.

- (a) Licensed retail marijuana products manufacturers may manufacture, prepare, package and label retail marijuana products, whether in concentrated form or that are comprised of marijuana and other ingredients intended for use or consumption. Licensed retail marijuana products manufacturers may sell retail marijuana products of its own manufacture to persons holding a retail marijuana store license or other licensed retail marijuana products manufacturers. Licensed retail marijuana products manufacturers are prohibited from selling retail marijuana or retail marijuana products to any consumer.
- (b) From January 1, 2014 to September 30, 2014, licensed retail products manufacturers are prohibited from selling any retail marijuana that was cultivated in a commonly-owned retail marijuana cultivation facility to any other retail marijuana establishment; rather, such retail marijuana must be used solely in retail marijuana products produced by the licensed retail marijuana products manufacturer.
- (c) Licensed retail marijuana products manufacturers are prohibited from manufacturing, preparing, packaging or labeling retail marijuana products in a location that is operated as a retail food establishment or a wholesale food registrant.
- (d) All retail marijuana products shall be sealed and conspicuously labeled in compliance with state law.

(Ord. No. 2014-03, § 1)

Sec. 6-5-100. Retail marijuana cultivation facilities.

- (a) Licensed retail marijuana cultivation facilities may propagate, cultivate, harvest, prepare, cure, package and label retail marijuana, whether in concentrated form or otherwise. Subject to the limitations set forth in subpart (b) of this Section, licensed retail marijuana cultivation facilities may sell retail marijuana that they cultivate to a person licensed to operate a retail marijuana store, retail marijuana products manufacturing facility or another retail marijuana cultivation facility. Licensed retail marijuana cultivation facilities are prohibited from selling retail marijuana to any consumer.
- (b) Until September 30, 2014 a retail marijuana cultivation facility license shall only be issued to a person who has also been issued a retail marijuana store license or retail marijuana products manufacturing facility license by the Town of Alma. Any retail marijuana that is grown in a licensed retail marijuana cultivation facility must be sold or transferred to its commonly-owned retail marijuana store or retail marijuana products manufacturing facility, except that a retail marijuana cultivation facility may sell up to thirty percent (30%) of its processed and finished retail marijuana inventory to other retail marijuana establishments not in common-ownership.
- (c) All retail marijuana products shall be sealed and conspicuously labeled in compliance with state law.

(Ord. No. 2014-03, § 1)

Sec. 6-5-110. Retail marijuana testing facilities.

- (a) Licensed retail marijuana testing facilities may accept samples of retail marijuana or retail marijuana products from retail marijuana establishments for testing and research purposes only. Licensed retail marijuana testing facilities are permitted to develop retail marijuana products; however, retail marijuana testing facilities may not engage in the manufacturing of retail marijuana. Licensed retail marijuana testing facility licensees are further prohibited from selling, distributing or transferring retail marijuana or retail marijuana products.

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- (b) A person who has an interest in a retail marijuana testing facility is prohibited from holding any interest in a medical marijuana business licensed pursuant to the Colorado Medical Marijuana Code or an interest in any other retail marijuana establishment.
- (c) Marijuana testing facilities may be located within any commercial or light industrial zone district within the Town.

(Ord. No. 2014-03, § 1)

Sec. 6-5-120. Dual operations.

- (a) A licensed medical marijuana business may share its existing licensed premises with a retail marijuana establishment as follows:
 - (1) An optional premises cultivation operation and a retail marijuana cultivation facility may share their licensed premises in order to operate a dual cultivation business operation.
 - (2) A medical marijuana-infused products manufacturing business licensee may apply to hold a retail marijuana product manufacturing facility license and operate a dual manufacturing business at a shared licensed premises.
 - (3) A medical marijuana center that does not authorize patients under the age of twenty-one (21) years to be on the premises may hold a retail marijuana store license and operate a dual operation retail business at a shared licensed premises.
- (b) Licensees operating dual cultivation operations must maintain either physical or virtual separation of the facilities, marijuana plants and marijuana inventory. Record keeping for the business operations and labeling of products must allow the Town to clearly distinguish the inventories and business transactions of medical marijuana from retail marijuana.
- (c) Licensees operating dual product manufacturing operations shall maintain either physical or virtual separation of the facilities, product ingredients, product manufacturing and final product inventory. Record keeping for the business operations and labeling of products must allow the Town to clearly distinguish the inventories and business transactions of medical marijuana-infused products from retail marijuana products.
- (d) Provided that a medical marijuana center licensee posts signage that clearly conveys that persons under the age of twenty-one (21) years may not enter, such licensee may share the same entrances and exits to the shared premises with the retail marijuana store and medical and retail marijuana may be separately displayed on the same floor. Record keeping for the business operations of both businesses must allow the Town to clearly distinguish the inventories and business transactions of medical marijuana and medical marijuana-infused products from retail marijuana and retail marijuana products.
- (e) Licensees who operate a medical marijuana business and a retail marijuana establishment dual operation shall maintain separate and distinct inventory tracking processes for medical and retail marijuana inventories. The inventories must be clearly tagged or labeled so that the products can be reconciled to a particular medical or retail business.

(Ord. No. 2014-03, § 1)

Sec. 6-5-130. Location criteria.

Prior to the issuance of a license for a retail marijuana establishment, the local licensing authority shall determine whether the proposed location of the retail marijuana establishment complies with the requirements of this Section. Failure to comply with the requirements of this Section shall preclude issuance of a license.

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- (a) No retail marijuana establishment shall be located at the following locations:
 - (1) within 450 feet of a licensed child care facility;
 - (2) within 450 feet of any educational institution or school, college or university, either public or private;
 - (3) within 450 feet of any public park, public pool, or public or private recreational facility;
 - (4) within 450 feet of any halfway house or correctional facility;
 - (5) within 450 feet of any other retail marijuana business;
 - (6) within 450 feet of any medical marijuana business;
 - (7) within 450 feet of any dual operation marijuana business;
 - (8) within any building or structure that contains a residential unit; or
 - (9) upon any Town owned property.
- (b) The distances described in subsection (a) shall be computed by direct measurement from the nearest property line of the land used for the above purposes to the unit within a building or structure housing the retail marijuana establishment using a route of direct pedestrian access.
- (c) Each retail marijuana establishment shall be operated from a permanent location. No retail marijuana establishment shall be permitted to operate from a moveable, mobile or transitory location.
- (d) The suitability of a location for a retail marijuana establishment shall be determined at the time of the issuance of the first license for such business. The fact that changes in the neighborhood that occur after the issuance of the first license might render the site unsuitable for a retail marijuana establishment under this Section shall not be grounds to suspend, revoke or refuse to renew the license for such business so long as the license for the business remains in effect.

(Ord. No. 2014-03, § 1)

Sec. 6-5-140. Persons prohibited as licensees and employees.

- (a) No license shall be issued to, held by, or renewed by any of the following:
 - (1) Any person until all applicable fees have been paid;
 - (2) Any person who is not of good moral character satisfactory to the local licensing authority;
 - (3) Any corporation, any of whose officers, directors or stockholders is not of good moral character satisfactory to the local licensing authority;
 - (4) Any partnership, association or company, any of whose officers is not of good moral character satisfactory to the local licensing authority;
 - (5) Any person employing, assisted by, or financed in whole or in part by any other person who is not of good character and reputation satisfactory to the local licensing authority;
 - (6) Any sheriff, deputy sheriff, police officer, prosecuting officer, and state or local licensing authority or any of its members, inspectors or employees;
 - (7) Any natural person under twenty-one (21) years of age;
 - (8) Any person who fails to file any tax return with a taxing agency, stay out of default on a government-issued student loan, pay child support, or remedy outstanding delinquent taxes;
 - (9) Any person for a licensed location that is also a retail food establishment or wholesale food registrant;

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- (10) Any person who has not been a resident of Colorado for at least two (2) years prior to the date of the application;
 - (11) Any person who has discharged a sentence for a felony conviction within the past five (5) years;
 - (12) Any person who, at any time, has been convicted of a felony for drug possession, distribution or use, unless such felony drug charge was based on possession or use of marijuana or marijuana concentrate that would not be a felony if the person were convicted of the offense on the date he or she applied for the license;
 - (13) Any person whose license for a medical or retail marijuana business in another town, city, county, city and county or state has been revoked;
 - (14) Any entity whose directors, shareholders, partners or other persons having a financial interest in said entity do not meet the criteria set forth above;
 - (15) Any person who employs another person at a retail marijuana establishment who has not submitted fingerprints for a criminal record history check or whose criminal record history check reveals the employee is ineligible;
 - (16) Any person who has made a false, misleading or fraudulent statement on his or her application; or
 - (17) Any person who is not in compliance with any Town ordinance or regulation specifically including, but not limited to, the Town's sales tax ordinances.
- (b) No licensee shall employ or contract with any person to perform work functions directly related to the possession, cultivation, dispensing, selling, serving or delivering of marijuana for a licensed retail marijuana establishment, any of the following:
- (1) Any person who is not of good moral character satisfactory to the local licensing authority;
 - (2) Any person who is under twenty-one (21) years of age;
 - (3) Any person who is not currently a resident of Colorado;
 - (4) Any person who has discharged a sentence for a felony conviction within the past five (5) years;
 - (5) Any person who, at any time, has been convicted of a felony for drug possession, distribution or use, unless such felony drug charge was based on possession or use of marijuana or marijuana concentrate that would not be a felony if the person were convicted of the offense on the date he or she applied for the license; or
 - (6) Any sheriff, deputy sheriff, police officer, prosecuting officer, and state or local licensing authority or any of its members, inspectors or employees.
- (c) Jurisdiction.
- (1) In investigating the qualifications described herein, the local licensing authority may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the local licensing authority takes into consideration information concerning the applicant's criminal history record, the local licensing authority shall also consider any information provided by the applicant regarding such criminal history record, including but not limited to evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of the application for a license.
 - (2) As used in Subsection (c)(1) of this Section, "criminal justice agency" means any federal, state, or municipal court or any governmental agency or sub-unit of such agency that performs the administration of criminal justice pursuant to a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice.

(Ord. No. 2014-03, § 1)

Sec. 6-5-150. Issuance of license; duration; renewal.

- (a) Upon issuance of a license, the Town shall provide the licensee with one (1) original of such license for each retail marijuana establishment to be operated by the licensee in the Town. Each such copy shall show the name and address of the licensee, the type of facility or establishment for which it is issued, and the address of the facility at which it is to be displayed.
- (b) Each license issued pursuant to this Article shall be valid for one (1) year from the date of issuance and may be renewed only as provided in this Article. All renewals of a license shall be for no more than one (1) year. An application for the renewal of an existing license shall be made to the local licensing authority not more than sixty (60) days and not less than thirty (30) days prior to the date of expiration of the license. A licensee may submit to the local licensing authority a late renewal application on the prescribed forms and pay a non-refundable late application fee in an amount of five hundred dollars (\$500.00) for a renewal application made less than thirty (30) days prior to the date of the expiration of the license. All other provisions concerning renewal applications apply to a late renewal application. The timely filing of a completed renewal application or a late renewal application shall extend the current license until a decision is made on the renewal.
- (c) Notwithstanding state law to the contrary, a licensee whose license expires and for which a renewal application has not been received by the expiration date shall be deemed to have forfeited its license under this Article. The Town shall not accept renewal applications after the expiration date of such license.
- (d) A licensee whose license expires shall not cultivate, process, manufacture, distribute or sell retail marijuana or retail marijuana products until all necessary new licenses have been obtained.

(Ord. No. 2014-03, § 1)

Sec. 6-5-160. Authority to impose conditions on license.

The local licensing authority shall have the authority 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. No. 2014-03, § 1)

Sec. 6-5-170. Annual operations fee.

Upon issuance of a license or any renewal of a license, the licensee shall pay to the Town a fee in an amount determined by the Town by separate Resolution to be sufficient to cover the annual cost of inspections conducted pursuant to Section 6-5-340 of this Article by the Town's police department, and such other departments of the Town as may be designated by the local licensing authority, for the purpose of determining compliance with the provisions of this Article and any other applicable state or local laws or regulations.

(Ord. No. 2014-03, § 1)

Sec. 6-5-180. Display of license.

- (a) Each license shall be limited to use at the premises specified in the application for such license.
- (b) Each license shall be continuously posted in a conspicuous location at the retail marijuana establishment.

(Ord. No. 2014-03, § 1)

Sec. 6-5-190. Management of licensed premises.

Licensees who are natural persons shall either manage the licensed premises themselves or employ a separate and distinct manager on the premises and report the name of such manager to the local licensing authority. Licensees that are entities shall employ a manager on the premises and report the name of the manager to the local licensing authority. All managers must be natural persons who are at least twenty-one (21) years of age. No manager shall be a person having a criminal history as described in Subsections 6-5-140(a)(11) and (12) of this Article.

(Ord. No. 2014-03, § 1)

Sec. 6-5-200. Change in manager; change in financial interest.

- (a) Each licensee shall report any change in managers to the local licensing authority within thirty (30) days after the change. Such report shall include all information required for managers under Section 6-5-190 of this Article.
- (b) Each licensee shall report in writing to the local licensing authority any transfer or change of financial interest in the license holder or in the retail marijuana establishment that is the subject of the license. Such report must be filed with the local licensing authority within thirty (30) days after any such transfer or change. A report shall be required for any transfer of the capital stock of a public corporation totaling more than ten percent (10%) of the stock in any one (1) year, as well as any transfer of a controlling interest in the corporation whenever a sufficient number of shares have been transferred to effectuate the transfer of a controlling interest. No person having or acquiring a financial interest in the retail marijuana establishment that is the subject of a license shall be a person having a criminal history as described in Subsections 6-5-140(a)(11) and (12) of this Article.
- (c) Whenever any licensee causes a change in its officers, directors or manager, and a license addendum is required to be filed with the State, an application fee in the amount of one hundred dollars (\$100.00) shall be paid to the Town at the time of filing the addendum with the Town.

(Ord. No. 2014-03, § 1)

Sec. 6-5-210. Transfer of ownership; change of location.

- (a) Transfer of ownership. For a transfer of ownership, a license holder shall apply to the state and local licensing authority on forms provided by the state licensing authority. In considering whether to permit a transfer of ownership, the local licensing authority shall consider only the requirements of this Article, the Colorado Retail Marijuana Code, and the regulations promulgated in conformance therewith. The local licensing authority may hold a hearing on the application for a transfer of ownership, but such hearing shall not be held until a notice of such hearing has been posted on the licensed retail marijuana establishment premises for a period of at least ten (10) days prior to such hearing, and the applicant has been provided at least ten (10) days prior notice of such hearing.
- (b) Change of location. A licensee from another jurisdiction that has previously obtained a license from the state and any other local licensing authority as applicable may move his or her permanent location to the Town so long as the applicant and the new location conform to the requirements of this Article.

(Ord. No. 2014-03, § 1)

Sec. 6-5-220. Hours of operation.

A retail marijuana business may open no earlier than 9:00 a.m. and shall close no later than 7:00 p.m. the same day. A retail marijuana business may be open seven (7) days a week.

(Ord. No. 2014-03, § 1)

Sec. 6-5-230. Signage and advertising.

All signage and advertising for a retail marijuana establishment shall comply with all applicable state laws as well as the provisions of this Article and other applicable provisions of the Town's Municipal Code.

(Ord. No. 2014-03, § 1)

Sec. 6-5-240. Security requirements.

(a) Security measures at retail marijuana establishments shall include at a minimum the following:

- (1) security surveillance cameras installed to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises;
- (2) robbery and burglary alarm systems which are professionally monitored and maintained in good working condition;
- (3) a locking safe permanently affixed to the premises that is suitable for storage of all marijuana and cash stored overnight on the licensed premises;
- (4) exterior lighting that illuminates the exterior walls of the licensed premises and complies with applicable provisions of this Article and other applicable provisions of the Park Municipal Code; and
- (5) deadbolt locks on all exterior doors.

(b) All security recordings shall be preserved for at least seventy-two (72) hours by the licensee and be made available to the Alma Police Department upon request for inspection.

(Ord. No. 2014-03, § 1)

Sec. 6-5-250. Required notices.

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

- (a) that the use of marijuana or marijuana products 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;
- (b) that loitering in or around a retail marijuana establishment is prohibited by law;
- (c) that possession and distribution of marijuana is a violation of federal law; and
- (d) that no one under the age of twenty-one (21) years is permitted on the premises.

(Ord. No. 2014-03, § 1)

Sec. 6-5-260. Cultivation, growing and processing by licensees.

- (a) Subject to the limitations set forth in Section 6-5-280 and C.R.S. § 12-43.3-403 and other applicable laws, the growing, cultivation or processing of marijuana shall be allowed contiguous or not contiguous to the licensed premises of a retail marijuana business that submitted an application to the Town pursuant to Section 6-5-80 of this Article. Provided, however, such growing, cultivation or processing shall be limited to commercial and light industrial zoned land.
- (b) The cultivation, growing, processing, display or storage of marijuana plants by a licensee shall be conducted only at the cultivation facility shown on the licensee's application.
- (c) Access to any cultivation facility that is located in the same building as a retail marijuana store or a retail marijuana products manufacturing operation shall be secured so as to render the cultivation facility inaccessible to any unauthorized persons during all hours of operation of the business facility. All such cultivation facilities shall be independently ventilated so as to prevent odors, debris and dust from entering the retail marijuana store.
- (d) To the extent permitted by law, the Town shall keep confidential the location of all cultivation facilities.

(Ord. No. 2014-03, § 1)

Sec. 6-5-270. On-site consumption of marijuana.

The use, consumption, ingestion or inhalation of retail marijuana or retail marijuana products on or within the premises of a retail marijuana establishment is prohibited.

(Ord. No. 2014-03, § 1)

Sec. 6-5-280. Prohibited acts.

It shall be unlawful for any licensee to:

- (a) employ any person at a retail marijuana establishment who is not at least twenty-one (21) years of age or who has a criminal history as described in Subsections 6-5-140 (a)(11) and (12);
- (b) purchase or otherwise obtain retail marijuana from any source that is not properly authorized under state and local law to sell or dispense retail marijuana;
- (c) dispense retail marijuana in or upon its cultivation facility;
- (d) permit the sale or consumption of alcohol beverages on the licensed premises;
- (e) post or allow to be posted signs or other advertising materials identifying cultivation facilities as being associated with the use or cultivation of marijuana; or
- (f) dispense marijuana to a person that is or appears to be under the influence of alcohol or under the influence of any controlled substance, including marijuana.

(Ord. No. 2014-03, § 1)

Sec. 6-5-290. Visibility of activities; paraphernalia; control of emissions.

- (a) All activities of retail marijuana establishments, including, without limitation, cultivating, growing, processing, displaying, selling and storage, shall be conducted indoors. For purposes of this section, greenhouse cultivation shall be deemed to occur indoors.

- (b) 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 retail marijuana store. No retail marijuana or paraphernalia shall be displayed or kept in a retail marijuana establishment so as to be visible from outside the licensed premises.
- (c) Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a retail marijuana establishment must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a retail marijuana establishment, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

(Ord. No. 2014-03, § 1)

Sec. 6-5-300. Disposal of marijuana byproducts.

The disposal of marijuana, marijuana products, byproducts and paraphernalia shall be done in accordance with plans and procedures approved in advance by the local licensing authority.

(Ord. No. 2014-03, § 1)

Sec. 6-5-310. Sales and business license required.

At all times while a permit is in effect the licensee shall possess all required state and local sales tax and/or business licenses.

(Ord. No. 2014-03, § 1)

Sec. 6-5-320. Sales and property tax.

Each licensee shall collect and remit all applicable sales tax on all retail marijuana, retail marijuana products, paraphernalia and other tangible personal property sold by the licensee and shall at all times be current on all real and personal property taxes.

(Ord. No. 2014-03, § 1)

Sec. 6-5-330. Required books and records.

- (a) Every licensee shall maintain an accurate and complete record of all retail marijuana purchased, sold or dispensed by the retail marijuana store in any usable form. Such record shall include the following:
 - (1) the identity of the seller and purchaser involved in each transaction;
 - (2) the total quantity of, and amount paid for, the retail marijuana and/or the retail marijuana product(s); and
 - (3) the date, time and location of each transaction.
- (b) All transactions shall be kept in a numerical register in the order in which they occur.
- (c) All records required to be kept under this Article must be kept in the English language in a legible manner and must be preserved and made available for inspection for a period of three (3) years after

the date of the transaction. Information inspected by the Town pursuant to this Article shall be used for regulatory and law enforcement purposes only and shall not be a matter of public record.

(Ord. No. 2014-03, § 1)

Sec. 6-5-340. Inspection of licensed premises.

During all business hours and other times of apparent activity, all licensed premises shall be subject to inspection by the Town's police department and all other Town departments designated by the local licensing authority for the purpose of investigating and determining compliance with the provisions of this Article and any other applicable state and local laws or regulations. Said inspection may include, but need not be limited to, the inspection of books, records and inventory. Where any part of the licensed premises consists of a locked area, such area shall be made available for inspection, without delay, upon request.

(Ord. No. 2014-03, § 1)

Sec. 6-5-350. Nonrenewal, suspension or revocation of license.

- (a) The local licensing authority may, after notice and hearing, suspend, revoke or refuse to renew a license for good cause, including suspension or revocation of the licensee's state license. The local licensing authority is authorized to adopt rules and procedures governing the conduct of such hearings.
- (b) The local licensing authority may, in its discretion, revoke or elect not to renew any license if it determines that the licensed premises has been inactive for at least six months.

(Ord. No. 2014-03, § 1)

Sec. 6-5-360. Violations and penalties.

In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this Article, any person, including, but not limited to, any licensee, manager or employee of a retail marijuana establishment, or any customer of such business, who violates any of the provisions of this Article, shall be subject to the following penalties:

- (a) It shall be unlawful 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 provided in Chapter 1, Article 4 of this Municipal Code.
- (b) The operation of a retail marijuana establishment without a valid license issued pursuant to this Article may be enjoined by the Town in an action brought in a court of competent jurisdiction.
- (c) The operation of a retail marijuana establishment without a valid license issued pursuant to this Article is also specifically determined to be a public nuisance.

(Ord. No. 2014-03, § 1)

Sec. 6-5-370. No town liability; indemnification.

- (a) By accepting a license issued pursuant to this Article, the licensee waives and releases the Town, 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 establishment owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations.

- (b) By accepting a license issued pursuant to this Article, all licensees, jointly and severally if more than one (1), agree to indemnify, defend and hold harmless the Town, its officers, elected officials, employees, attorneys, agents, insurers and self-insurance pool against all liability, claims and demands on account of any 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 arising out of or in any manner connected with the operation of the retail marijuana establishment that is the subject of the license.

(Ord. No. 2014-03, § 1)

Sec. 6-5-380. No waiver of governmental immunity.

In adopting this Article, the Board of Trustees is relying on and does not waive or intend to waive by any provision of this Article, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S., as from time to time amended, or any other limitation, right, immunity, or protection otherwise available to the Town, its officers or its employees.

(Ord. No. 2014-03, § 1)

Sec. 6-5-390. Other laws remain applicable.

- (a) To the extent the State has adopted or adopts in the future any additional or stricter law or regulation governing the sale or distribution of retail marijuana or retail marijuana products, the additional or stricter regulation shall control the establishment or operation of any retail marijuana establishment in the Town. 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 licensee may be required to demonstrate, upon demand by the local licensing authority or by law enforcement officers that the source and quantity of any marijuana found upon the licensed premises are in full compliance with any applicable state law or regulation.
- (c) If the State prohibits the sale or other distribution of marijuana through retail marijuana stores, any license issued hereunder shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.
- (d) The issuance of any license pursuant to this Article shall not be deemed to create an exception, defense or immunity to any person in regard to any potential criminal liability the person may have for the cultivation, possession, sale, distribution or use of marijuana.

(Ord. No. 2014-03, § 1)

Sec. 6-5-400. Rules and regulations.

The Town Administrator shall have the authority from time to time to adopt, amend, alter and repeal administrative rules and regulations, and file the same with the Town Clerk, as may be necessary for the proper administration of this Article.

(Ord. No. 2014-03, § 1)

Article 6 Vendor Carts

[Sec. 6-6-10. Definition.](#)

[Sec. 6-6-20. Vendor cart locations.](#)

[Sec. 6-6-30. Vendor cart design standards.](#)

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[Sec. 6-6-80. Violations and penalty.](#)

Sec. 6-6-10. Definition.

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

Vendor cart shall mean a temporary structure in the form of a wagon, cart, booth, kiosk, or similar structure designed and intended for the sale of goods, food, beverages or services. The term "vendor cart" includes: (i) a large vendor cart; (ii) a small vendor cart; and (iii) a special event vendor cart.

Vendor cart, large shall mean a vendor cart that is either: (i) larger than forty (40) square feet in size; or (ii) is not removed from its site and properly stored out of public view each day.

Vendor cart, small shall mean a vendor cart that is both: (i) forty (40) feet square or smaller in size; and (ii) removed and properly stored out of public view each day.

Vendor cart, special event shall mean a wagon, booth, kiosk, or similar structure designed and used for the sale of goods, food, beverages or services at a special event for which the Town has issued a special event permit or similar permission.

(Ord. No. 2015-06, 12-1-15)

Sec. 6-6-20. Vendor cart locations.

Large vendor carts and small vendor carts are permitted only in those zone districts where commercial uses are allowed. Special event vendor carts are permitted anywhere within the Town if authorized by the Town staff or Board of Trustees as part of a recognized special event.

(Ord. No. 2015-06, 12-1-15)

Sec. 6-6-30. Vendor cart design standards.

(a) All large vendor carts and small vendor carts must be constructed or professional quality and must be maintained in good working condition. All exterior material shall be kept clean with a neat appearance. No rusty or broken metal, chipped paint or broken wood is allowed.

(b) Metal and wood may be used as exterior finishes. The gauge, detailing, and finish of all metal surfaces shall be suitable for long term use in an outside location. All exposed edges shall be finished and all metal used in carts shall have concealed seams and overlapping joints. All wood details and finishes must be suitable for long wear in an outside location. All detailing, construction and finishing, including

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paint and stain, shall be performed in a craftsmanlike manner and maintained in good condition and repair.

- (c) All large and small vendor carts shall be designed and constructed to be compatible with the Town's historic character. This shall be accomplished through the proper use of design, materials, and site planning.
- (d) Large vendor carts shall compliment the character of surrounding buildings in material and detailing.
- (e) Siding and other similar materials used on a large or small vendor cart must wrap all sides of the cart.
- (f) All signs on a large or small vendor cart must comply with the Town's sign regulations. One permanent freestanding sign is allowed for a vendor cart unless otherwise prohibited by the Town's sign regulations. Otherwise, all signage must be attached to the cart.

(Ord. No. 2015-06, 12-1-15)

Sec. 6-6-40. Additional requirements for all vendor carts.

- (a) All large and small vendor carts must be located on private property. The operation of a [all] vendor carts on any public right-of-way or in such a manner as to impede traffic or pedestrian flows on any public property or right-of-way is prohibited.
- (b) Vendor carts selling food and beverages shall only sell food and beverages suited for immediate consumption. This shall include hot or cold prepared foods and beverages, and prepackaged food and snacks, whether eaten on the site of sale or "carry out/to go". Fresh fruits and vegetables may be sold in limited amounts if they are normally and customarily eaten in raw form.
- (c) Large vendor carts shall improve the immediate area around their business through the installation of pavers, landscaping, awnings, and/or small decks to help the large vendor cart look less temporary, and to blend in with the surrounding businesses.
- (d) The maximum size of a large vendor cart is one hundred (100) square feet provided, however, that a greater size may be allowed upon issuance of a special use permit pursuant to section 16-17-30 authorizing such greater size.
- (e) The maximum height of a large vending cart is ten (10) feet. The height of the cart shall be measured vertically from the ground to the highest point of the cart, including signage and equipment.
- (f) If a vending cart is connected to the Town's municipal water and/or sewer system the owner the owner must pay the appropriate connection fees.
- (g) All food and beverage preparation and services shall at all times comply with state, county and municipal requirements.
- (h) Owners of all vendor carts must maintain all required Town business and sales tax licenses in addition to the permit required by this Article.
- (i) All storage boxes, cartons, and coolers used in conjunction with a vendor cart shall be hidden from public view.
- (j) Extension cords may be used only if the cord is not located in an area where the public walks, and the placement of the extension cord does not create a safety hazard.
- (k) Small vendor carts must be removed from the site and stored out of public view each day.
- (l) Noise from electrical generators used in conjunction with a vendor cart shall not be audible at a residential property line.
- (m) Operators and owners of all vendor carts shall arrange for commercial trash pick-up and removal and shall keep the area surrounding the vendor cart neat, clean and free of trash.

- (n) All vendor carts shall either be totally self-contained or connected to the Town's water and sewer systems.

(Ord. No. 2015-06, 12-1-15; Ord. No. 2017-01, § 1, 8-15-17)

Sec. 6-6-50. Permit required.

It is unlawful for any person to operate a vendor cart within the boundaries of the Town without first obtaining a vendor cart permit.

(Ord. No. 2015-06, 12-1-15)

Sec. 6-6-60. Fees.

Before any permit is issued under the provisions of this Article, the applicant therefor shall pay a fee as set forth in the Annual Fee Resolution adopted by the Board of Trustees.

(Ord. No. 2015-06, 12-1-15)

Sec. 6-6-70. Limitation on number of permits.

The Board of Trustees, by resolution or motion, may limit the number of vendor card permits available for issuance at any time.

(Ord. No. 2015-06, 12-1-15)

Sec. 6-6-80. Violations and penalty.

Failure to comply with the provisions of this Article is unlawful and a violation of this Code. Any person who is found guilty of, or who pleads guilty or nolo contendere to the violation of any section of this Article shall be punished in accordance with the provisions of Section 1-4-20 of this Code.

(Ord. No. 2015-06, 12-1-15)