

**CHAPTER 6 BUSINESS REGULATIONS**

(Amended by Ordinance No. 648; 04.12.06)

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**ARTICLE 1. BUSINESS LICENSES**

**Sec. 6.1.1. Purpose**

The purpose of this Chapter is to require licensing and limited regulation of all business activities and enterprises conducted within the corporate boundaries of the Town; and to provide the Town with necessary information concerning the business activities within the Town, including the nature of the business operation, the place of business and other information relating to businesses and professions operating within the Town, in order to protect the health, safety and welfare of the Town's citizens, inhabitants and visitors.

**Sec. 6.1.2. Definitions.**

As used in this Chapter, the following terms shall have meanings as indicated, unless the context otherwise requires:

- (1) **“Applicant”** means a person who has filed an application for a license or permit to be issued pursuant to this Chapter.
- (2) **“Application”** means an application for a license or permit to be issued pursuant to this Chapter.
- (3) **“Business”** means all kinds of vocations, occupations, professions, enterprises, establishments, home occupations, and all other kinds of business activities and matters (including sales of tangible personal property and furnishing of services) together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for private profit, gain, pecuniary benefit or advantage, either directly or indirectly within the Town. Mere delivery within the Town of any property purchased or acquired from a regular place of business outside the Town shall not be considered to be the conducting of business.
- (4) **“Employees”** means persons working for remuneration under the control and direction of an employer.
- (5) **“License”** or **“business license”** means an annual license issued or renewed pursuant to this Article, except that the term “license” as used in other Articles in this Chapter shall mean the specialty license issued pursuant to the Article.
  - (a) **“Initial business license”** means the initial license issued to a business.
  - (b) **“Renewal business license”** means an annual renewal license issued upon the expiration of an initial business license or a renewal business license.

- (c) **“Supplemental business license”** means a license issued prior to the expiration of an existing initial business license or a renewal business license based on a change in the application information supporting the existing license.
- (6) **“Licensing Officer”** is the Town Manager and any other officer of the Town of Pagosa Springs appointed by the Resolution of the Town Council to implement the duties provided by this Chapter.
- (7) **“Licensee”** means any person, individual, partnership, corporation, firm, estate, trust, association, joint venture or other entity issued a license pursuant to this Chapter.
- (8) **“Premises”** means all lands, structures, places, and also the equipment and appurtenances connected or used therewith in any business, and also any personal property which is either affixed to or is otherwise used in connection with any such business conducted on such premises.
- (9) **“Seasonal Business”** means a business operated on less than a year-round basis and generally associated with a specific period of time or season of the year associated with a certain activity or phenomenon such as the tourist season, hunting season, rafting season, growing season, skiing season.
- (10) **“Wholesaler”** means a person doing a regularly organized wholesale or jobbing business, and known to the trade as such and selling to retail merchants, jobbers, dealers, or other wholesalers, for the purpose of resale, as defined by the Emergency Retail Sales Tax Act of 1935, Article 26, Title 38, C.R.S.

**Sec. 6.1.3. Business License Required.**

It shall be unlawful for any person to operate and maintain or conduct any business within the Town, including the delivery of goods by wholesalers within the Town which are purchased or contracted for outside the corporate limits of the Town, without first obtaining a business license to conduct such business pursuant to this Article, unless otherwise provided by this Code. Business licenses shall expire one (1) year from their issuance. Specialty licenses and permits required under other provisions of this Chapter or Code to conduct specific businesses or activities shall be required in addition to business licenses, unless specifically noted to be in lieu of a business license under this Article, such as a peddler, solicitor, vendor and transit merchant specialty licenses issued under Article III.

**Sec. 6.1.4. Agents of Non-Resident Businesses.**

The agents or other representatives of non-resident businesses who are doing business in this Town are personally responsible for compliance with this Chapter.

**Sec. 6.1.5. Joint License.**

A person engaged in two or more businesses at the same location shall not be required to pay a fee for each business license, but shall obtain separate licenses for conducting each of such businesses.

**Sec. 6.1.6. Administration.**

The administration of the business license program established by this Article shall be through the office of the Licensing Officer who is authorized to do the following:

- (1) Collect license fees.
- (2) Adopt, and from time to time amend, all forms and papers necessary for implementing this Article.

- (3) Recommend and enforce all reasonable rules and regulations adopted by the Town Council as necessary to the operation and enforcement of this Article
- (4) Investigate and determine the eligibility, according to the standards of this Code and state and federal laws, of each applicant for a business license.
- (5) Submit all applications to interested Town officials for their review and comments when appropriate for determining eligibility for a license and compliance with Town regulations.
- (6) Issue the business license upon substantial compliance and notify applicants of the approval or denial of their applications.
- (7) Except as required by law, keep confidential all information provided by an applicant or licensee that is proprietary, reflects the amount of business' sales, or is otherwise confidential; such information shall not be subject to public inspection.

**Sec. 6.1.7. Qualifications of Applicants.**

The Licensing Officer shall approve an application and issue a license unless he or she determines that the business to be operated would violate the laws of the United States, the State of Colorado, or the Town, or the applicant is in default of an obligation in any manner to the Town.

**Sec. 6.1.8. Procedure for Issuance.**

Every person conducting or desiring to conduct a business shall annually submit an application for a business license or renewal to the Licensing Officer. The application shall be upon forms provided by the Licensing Officer. The application shall require the disclosure of all information necessary to determine compliance with Pagosa Springs' zoning requirements, any of the uniform codes adopted by Pagosa Springs, the requirements imposed by this Chapter, and any other information which the Licensing Officer shall find to be reasonably necessary to the fair administration of the proposed license.

**Sec. 6.1.9. Fees.**

- (1) License Fees. Each initial license, renewal license and supplemental license shall be subject to payment of a license fee prior to issuance. License fees, if paid in advance, are refundable upon denial or withdrawal of the application. License fees shall be based on business class determined by the number of employees employed by the applicant, as follows:
  - Class 1 - Businesses with 0-10 employees.
  - Class 2 - Businesses with 11-20 employees.
  - Class 3 - Businesses with 21+ employees.
  - Class 4 – Seasonal Business
- (2) Initial Application Fee. In addition to the license fee, each application for an initial license must be accompanied by a non-refundable, new applicant processing fee, to be used by the Town to pay the cost of reviewing the application and administering the license.
- (3) General Fund Revenues. All initial applicant processing fees and license fees received by the Licensing Officer shall be promptly deposited to the credit of the Town's general fund.
- (4) Fees shall be set by resolution of the Town Council.

**Sec. 6.1.10. Supplemental Information.**

A licensee shall file a written application for a supplemental license within 30 days of a change in any information contained in its last application, including changes in business location, changes in

business name and changes in the nature of the business or services provided. A supplemental license shall be issued unless grounds for denial or revocation of the business license exist.

**Sec. 6.1.11. Renewal of Business License.**

The license required by this Article is for the privilege of pursuing the business, profession, vocation or occupation designated thereon for one (1) year from the date of issue. For continuous business it shall be the duty of each licensee to obtain an annual renewal license. Applications for renewal licenses along with the annual renewal fee are due to the Licensing Officer on or before the expiration of the license year. Upon timely receipt of a renewal application, the business can continue operating pursuant to the expired license for no more than thirty (30) days while the renewal application is being considered, although any renewal license shall be issued as of the original expiration date of the previous license.

**Sec. 6.1.12. Denial of License.**

Unless otherwise limited by applicable state law, a business license application shall be denied based on any of the following grounds:

- (1) All applicable provisions of the Pagosa Springs Municipal Code and state law have not been met;
- (2) The required fees have not been paid;
- (3) The application is incomplete or contains false, misleading or fraudulent statements;
- (4) The person applying is not qualified or licensed to engage in such business under federal or Colorado law;
- (5) Previous revocation or suspension of a business license held by applicant within the Town;
- (6) Non conformance of the business, place of business, building or land use with the requirements of the Pagosa Springs Municipal Code; or
- (7) Prior or ongoing violations of law in connection with, on or about the place of business.

No license shall be effective until the applicant has obtained all required specialty licenses and any other licenses required by applicable law.

The Licensing Officer shall approve or deny in writing an application for a business license within thirty (30) days of submission of a completed application and fee. If an application is denied, a written notice of denial and information outlining the appeals process shall be mailed to the applicant's address as specified in the application within ten (10) days of the denial. Upon denying any application, all fees paid in advance shall be refunded to the applicant, provided the applicant is not otherwise indebted to the Town.

**Sec. 6.1.13. Contents of Application.**

- (1) The applicant for a business license shall submit an application to the Licensing Officer on forms provided by the Licensing Officer. All initial license applications shall be reviewed by the Licensing Officer in order to determine whether the business is eligible for licensing. Prior to issuing a business license for a business whose place of business is located within the Town limits, the Licensing Officer shall forward the application information to the Building and Planning Department, the Sanitation Department, and the Fire Department to verify that the particular use for which the license is sought is allowed in the zone in which such use is proposed, and that everything meets building code regulations, fire code regulations and sanitation regulations. If no grounds for denial exist, the Licensing Officer shall issue the license.

- (2) All initial applications shall contain the following:
- (a) Name of the applicant and business trade name and business address of all the business location(s) in town.
  - (b) NAICS and SIC Codes relevant to the type of business accordingly.
  - (c) A statement of the kind or nature of each business or service to be provided at each location if applicable.
  - (d) Number of employees.
  - (e) Year business was established.
  - (f) State sales tax number assigned to the business
  - (g) A statement as to the dates and times the business is expected to operate.
  - (h) A certification that the business will comply with the regulations and laws of the Town.
  - (i) A statement itemizing what specialty licenses, if any, are required for the business, and evidence that such specialty licenses have been obtained or are pending.
  - (j) Each license issued shall state upon its face the following:
    - (i) The name of the licensee and any other name under which such business is to be conducted.
    - (ii) The kind and address of each business so licensed.
    - (iii) The amount of license fee paid.
    - (iv) The dates of issuance and expiration thereof.
    - (v) Such other information as the Licensing Officer shall determine as necessary.
- (3) Renewal applications shall require applicant's verification that information contained in the initial application is still current and accurate, or shall update such information.

**Sec. 6.1.14. Duties of the Licensee.**

Every licensee under this Article shall:

- (1) Permit reasonable inspections of their business as necessary for determining compliance with their business license.
- (2) Comply with all laws and regulations applicable to such licensed business.
- (3) Post and maintain such license upon the licensed premises in a conspicuous place where it may be seen at all times for the full term of the license. If a licensee has no business premises, the license shall be carried on the person of the individual engaging in the business activity. It shall be the duty of each licensee to exhibit the license upon the request of any, inspector, or other appointed officer of the Town.

**Sec. 6.1.15. Transferability.**

The transfer of a business to a new owner whether by sale, gift or operation of law, shall require a supplemental license to be filed with the Licensing Officer. The prior business license shall remain in effect no more than thirty (30) working days from the date of the transfer.

**Sec. 6.1.16. Inspections.**

The Licensing Officer or Town officials charged with enforcing the Municipal Code may conduct inspections and examine businesses to enforce compliance with this Article. Such persons may only enter premises of licensees and business during normal business hours to conduct inspections. The Licensing Officer may revoke the license for any business that denies access for inspection.

**Sec. 6.1.17. Compliance Orders.**

If an inspection report identifies a violation of the Municipal Code or of any law, the Licensing Officer shall serve the affected person with a written compliance order apprising the person affected of the specific violations and ordering them to comply. A copy of the compliance order shall be posted in a conspicuous manner on the premises and mailed first class U.S. certified mail to the licensee or business owner. The compliance order shall require compliance within thirty (30) days of the posting and mailing of the order.

**Sec. 6.1.18. Suspension or Revocation.**

(1) Suspension. The Licensing Officer may suspend a business license for a period not to exceed one hundred fifty (150) days upon determining that a licensee has:

- (a) Violated or is not in compliance with any applicable provision of the Pagosa Springs Municipal Code.
- (b) Operated the business in violation of a building, fire, health, or zoning code, ordinance or regulation, whether federal, state or local, said determination being based on investigation by the department, division, or agency charged with enforcing said rules or laws. In the event of such a statute, code, ordinance or regulation violation, the Licensing Officer shall promptly notify the licensee of the violation and shall allow the licensee a thirty (30) day period in which to correct the violation. If the licensee fails to correct the violation before the expiration of the thirty (30) day period, the licensing officer shall forthwith suspend the business license and shall notify the licensee of the suspension;
- (c) Failed to pay the annual license fee.

(2) Revocation. When the Licensing Officer revokes a business license, the revocation shall continue for one (1) year and the licensee shall not be issued a business license for one (1) year from the date the revocation became effective. The Licensing Officer shall revoke a business license upon determining that:

- (a) A cause for suspension in subsection (1) of this section occurred and the business license has been suspended more than once within the preceding twelve (12) months;
- (b) A licensee gave false or misleading information in the material submitted during the application process that tended to enhance the applicant's opportunity for obtaining a business license;
- (c) Any fact or condition exists that, if it had existed or had been known to exist at the time of the application for the license, would have warranted the denial of the license.

(3) Town Attorney's Complaint. If there is probable cause to believe that reason exists for suspension or revocation of a business license and the Licensing Officer has not suspended or

revoked such license, the Town Attorney may file a written complaint with the Licensing Officer setting forth the circumstances of the alleged violation. The Licensing Officer shall provide a copy of the complaint to the licensee, together with notice to appear before the Town Manager for the purpose of a hearing on a specified date to show cause why the licensee's business license shall not be suspended or revoked. The hearing shall be held in accordance with procedures for denial, revocation or suspension hearings set in Section 6.1.19 before the Town Manager.

**Sec. 6.1.19. Denial, Suspension, or Revocation Hearing.**

- (1) All decisions to deny, suspend or revoke a license shall become final unless timely appealed.
- (2) An applicant or licensee may appeal the Licensing Officer's denial, suspension, or revocation of his or her business license to the Town Manager and may be entitled to a hearing before the Town Council. Said appeal shall be made in writing, stating the grounds for appeal, within five (5) working days of the decision of the Licensing Officer. In the event of a suspension or revocation hearing, the business may continue to operate during the hearing process.
- (3) At the hearing, the Town Council shall hear such statements and consider such evidence as is offered that is relevant to the grounds alleged for denial or the violation alleged for suspension or revocation. The Town Council shall make findings of fact from the statements and evidence offered as to whether such grounds exist or such violation occurred, and enter an appropriate written order. If the Town Council determines that grounds for denial or a cause for suspension or revocation exists, an order shall be issued denying, suspending, or revoking the business license within thirty (30) days after the hearing is concluded, based on the finding of fact. A copy of the order shall be mailed to the licensee at the address on the license.
- (4) The order of the Town Council shall be a final decision, subject to judicial appeal. Failure of a licensee to appeal said order in a timely manner constitutes a waiver by him or her of any right he or she may otherwise have to contest the denial, suspension, or revocation of the business license.
- (5) The Town Manager shall have the power to administer oaths, issue subpoenas, and when necessary grant continuances. Subpoenas may be issued to require the presence of persons and production of papers, books and records necessary to the determination of any hearing that the Town Council conducts. It is unlawful for any person to fail to comply with any subpoena issued by the Town Manager. A subpoena shall be served in the same manner as a subpoena issued by the District Court of the State of Colorado.
- (6) All hearings held before the Town Council regarding denial, suspension, or revocation of a business license issued under this Code shall be recorded stenographically or by electronic recording device.
- (7) In the event of suspension revocation, or cessation of business, no portion of the business license fee shall be refunded.

**Sec. 6.1.20. Exemptions.**

The following are exempt from the fee requirements of this Article:

- (1) Operations under a current Town franchise, approved by ordinance of the Town Council.
- (2) Churches or established religious organizations.
- (3) Charitable corporations.

- (4) Public schools.
- (5) A federal, state, or local government agency that is exempted by state law from collecting municipal taxes.
- (6) An individual conducting **an occasional** yard or garage sale is exempt from both the licensing and the fee requirements.
- (7) Businesses which are properly licensed pursuant to Article III of this Chapter 6 are exempt from both the licensing and fee requirements.

## **ARTICLE 2. PAWNBROKERS**

### **Sec. 6.2.1. Definitions.**

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

- (1) **“Contract for purchase”** means a contract entered into between a pawnbroker and a customer pursuant to which money is advanced to the customer by the pawnbroker on the delivery of tangible personal property by the customer on the condition that the customer, for a fixed price and within a fixed period of time, not to exceed ninety (90) days, has the option to cancel said contract.
- (2) **“Fixed price”** means the amount agreed upon to cancel a contract for purchase during the option period. The fixed price shall not exceed:
  - (a) One-tenth (1/10) of the original purchase price for each month, plus the original purchase price, on amounts fifty dollars (\$50.00) or over; or
  - (b) One-fifth (1/5) of the original purchase price for each month, plus the original purchase price, on amounts under fifty dollars (\$50.00).
- (3) **“Fixed time”** means that period of time, not to exceed ninety (90) days, as set forth in a contract for purchase, for an option to cancel said contract.
- (4) **“Option”** means the fixed time and the fixed price agreed upon by the customer and the pawnbroker in which a contract for purchase may be, but does not have to be, rescinded by the customer.
- (5) **“Pawnbroker”** means a person regularly engaged in the business of making contracts for purchase or purchase transactions in the course of business.
- (6) **“Purchase transaction”** means the purchase by a pawnbroker in the course of business of tangible personal property for resale, other than newly manufactured tangible personal property that has not previously been sold at retail, when such purchase does not constitute a contract for purchase.
- (7) **“Tangible personal property”** means all personal property other than choses in action, securities, or printed evidences of indebtedness, which property is deposited with or otherwise actually delivered into the possession of a pawnbroker in the course of business in connection with a contract for purchase or a purchase transaction.

### **Sec. 6.2.2. Licenses and Bond Required.**

No corporation, company, person, or other legal entity shall establish or conduct the business of pawnbroker within the Town unless such corporation, company, person, or legal entity has first procured from the Licensing Officer a business license pursuant to Article 1 of this Chapter 6, and procured a specialty license and executed a bond pursuant to this Article.

**Sec. 6.2.3. License Application Procedures.**

The Licensing Officer shall have the authority and responsibility of administering the pawnbroker license program. The application for a license to be issued under the provisions of this Article shall be made to the Licensing Officer, on forms supplied by the Licensing Officer and containing the following information:

- (1) The amount of capital proposed by the applicant to be used in the pawnbroker business.
- (2) The place, street and number where the pawnbroker business is to be conducted.
- (3) Evidence of good character of the pawnbroker applicant satisfactory to the Licensing Officer.

**Sec. 6.2.4. Fee Required.**

The applicant shall deliver a properly completed application, together with the payment to the Licensing Officer of fees as set by resolution of the Town Council. If the Licensing Officer determines that the requirements of this Article have been met for a pawnbroker license, the Licensing Officer shall issue a license for pawnbroker.

**Sec. 6.2.5. Bond Required.**

At the time an applicant receives a pawnbroker license from the Licensing Officer, the applicant shall provide a surety bond in the sum of five-thousand dollars (\$5,000.00) with a surety in good standing and licensed to conduct business in the State of Colorado. Such bond shall guarantee the pawnbroker's observance of this Article or such ordinances as may be passed or enforced hereafter respecting pawnbrokers, and guarantee the safekeeping and return of all articles held in pawn by the pawnbroker in accordance with this Article. Such bond shall continue in full force and effect so long as the license remains in effect.

**Sec. 6.2.6. Records Required.**

- (1) Every pawnbroker shall keep a register in which he or she records the following information:
  - (a) The name, address, and date of birth of the customer, and his or her driver's license number or other identification number from any other form of identification which is allowed for the sale of valuable articles pursuant to Section 18-16-103, C.R.S., or secondhand property pursuant to Section 18-13-114, C.R.S.;
  - (b) The date, time, and place of the contract for purchase or purchase transaction, and an accurate account and description of each item of tangible personal property, including but not limited to, any trademark, identification, serial or model number, brand name, or other identifying marks.
- (2) The pawnbroker shall also obtain a written declaration of the customer's ownership, stating that the tangible personal property is totally owned by the customer, or shall have attached to such declaration a power of sale from the partial owner to the customer, how long the customer has owned the property, whether the owner or someone else found the property, and if the property was found, the details of the finding.
- (3) The customer shall sign his or her name in the register and on the declaration of ownership and receive a copy of the contract for purchase or a receipt from a purchase transaction.
- (4) The pawnbroker shall maintain such register for a period of no less than three (3) years from the date the last entry was made in such register.

**Sec. 6.2.7. Records Open to Authorized Persons.**

The register shall be open for inspection by the Mayor, Licensing Officer, Chief of Police, or any authorized Town official at any reasonable time.

**Sec. 6.2.8. Submission of Records to Police.**

Every pawnbroker shall provide the police department, on a weekly basis, with two (2) records, on a form to be provided or approved by the police department, of all tangible personal property accepted during the preceding week and one (1) copy of the customer's declaration of ownership. The form shall contain the same information required to be recorded in the pawnbroker's register pursuant to this Article. The police department shall designate the day of the week on which the records and declarations shall be submitted.

**Sec. 6.2.9. Insurance and Safekeeping.**

Any pawnbroker licensed and operating under the provisions of this Article shall provide a safe place for the keeping of the tangible personal property received by him or her and shall have sufficient insurance on the property held for the benefit of the pledgor of the property, to pay one-half (1/2) the real value thereof in case of damage, destruction, or loss due to fire or otherwise. A copy of the insurance policy shall be filed with the Licensing Officer. Neither the pawnbroker nor the bondsman shall be relieved from responsibility for complying with this article by reason of fire or other cause.

**Sec. 6.2.10. Holding Period.**

A pawnbroker shall hold:

- (1) All contracted property within his or her possession for a period of ten (10) days following the maturity date of the contract for purchase, separate and apart from any other tangible personal property.
- (2) All property purchased by him or her through a purchase transaction for thirty (30) days following the date of purchase, separate and apart from any other tangible personal property.
- (3) All contracted or purchased tangible personal property for the time periods described above without changing the form of the property or altering it in any way.

**Sec. 6.2.11. Transactions with Minors.**

No pawnbroker shall enter into a contract for purchase or purchase transaction with any person under the age of eighteen (18) years of age.

**Sec. 6.2.12. Prohibited Acts.**

- (1) With respect to a contract for purchase, no pawnbroker may permit any customer to become obligated on the same day in any way under more than one contract for purchase agreement with the pawnbroker which would result in the pawnbroker obtaining a greater amount of money than would be permitted if the pawnbroker and customer had entered into only one contract for purchase covering the same tangible personal property.
- (2) No pawnbroker shall violate the terms of the contract for purchase.
- (3) No customer shall knowingly give false information with respect to the information required to be kept by a pawnbroker in the register of information.
- (4) No person shall violate the terms or fail to comply with the terms of this article.

**ARTICLE 3. VENDORS, PEDDLERS AND SOLICITORS**

**Sec. 6.3.1. Definitions.**

The following terms shall have meanings as indicated, unless the context otherwise requires:

- (1) **“Peddler or solicitor”** means any person, whether or not a resident of the Town, who travels from place to place within the Town for the purpose of soliciting orders, peddling, hawking or offering for sale at retail, any goods, wares, merchandise, food items or products.
- (2) **“Special Event”** means a non-routine happening or social activity bringing a large number of people together in a defined area on Town facilities, right of way, or private property which requires Town services to ensure safety and coordination. Special events include activities such as festivals, theatrical performances not conducted at a licensed business establishment, concerts, sporting events, parades, walks and runs, art shows, circuses, fairs, carnivals, religious revivals, political rallies, vehicle shows and displays, swap meets, rodeos, parades, marches, demonstrations and similarly recognized temporary activities. Special events shall not exceed five (5) days in duration, nor occur more than four (4) times in any calendar year. A special event shall not include weddings and funeral ceremonies, elections, private yard sales, charitable fund-raising such as car washes and other similar activities that are otherwise lawfully conducted and which are in accordance with the provisions of the Town's Zoning Regulations. A special event shall not include minor fund raising activities of public schools, churches, or other nonprofit organizations which have a minimal impact on surrounding properties. Any organization claiming nonprofit status shall possess a letter or other documentation from the Internal Revenue Service proving nonprofit status.
- (3) **“Special Event Vendor”** means three or more vendors that are organized to sell items for up to five (5) consecutive days at a special event. Vendors who hold events on consecutive weekends do not fall under these provisions of a special event vendor and shall be subject to the business license requirements of Article I.
- (4) **“Vendor or transient merchant”** means any person, whether or not a resident of the Town, who brings goods, wares, merchandise, food items or products into the Town and sells or offers to sell any such goods, wares, merchandise, food items or products from any temporary location in any storeroom, stall, tent, building, structure or stand, who shall not have engaged such location for the purpose of establishing a permanent business.

**Sec. 6.3.2. Licenses Required.**

It shall be unlawful for any person to engage in the business of a peddler, solicitor, vendor or transient merchant in the Town and any special event held within the town limits without first having obtained a specialty license pursuant to this Article. Businesses requiring a specialty license pursuant to this Article are not required to also obtain a business license pursuant to Article I of this Chapter 6.

**Sec. 6.3.3. Fees.**

- (1) The fees for licenses required by this Article shall be set by resolution by the Town Council.
- (2) The Town Council shall have the authority to waive license fees for non-profit groups and groups invited by the Town to participate in Town-sponsored functions.
- (3) Licenses are non-transferable.
- (4) No license shall be issued unless a state sales tax license is produced.

**Sec. 6.3.4. Specifications.**

The license issued shall include the applicant's name, firm or business represented; state sales tax number; permanent residence; driver's license number; automobile identification and description; the kind or class of goods, wares, merchandise, food items, or products sold and the manner in which they will be sold; evidence of permission of the owner of the property on which the business will operate; and the dates of operation.

**Sec. 6.3.5. Records.**

The Licensing Officer shall keep on file a duplicate copy of each license issued.

**Sec. 6.3.6. Revocation.**

Upon conviction for any violation of this Article, the Licensing Officer may revoke the license of any peddler, solicitor, or transient merchant.

**Sec. 6.3.7. Location Regulated.**

- (1) No vendor, peddler, solicitor, or transient merchant shall encumber, obstruct, or create a nuisance on any sidewalk, street, or other public place by blocking free travel.
- (2) Because of existing vehicular congestion, solicitation or vending by vendors shall be prohibited in, on, or adjacent to San Juan Street (Highway 160) in the Town, extending from 7th Street westward to Piñon Causeway on all public or private property located within the Town.
- (3) No peddler shall leave any stand or motor vehicle unattended at any vending location within the Town.
- (4) No person shall store, park or leave any stand overnight on any street or sidewalk, or park any motor vehicle other than in a lawful parking place in conformance with the Town and state parking regulations.

**Sec. 6.3.8. Prohibited Conduct.**

It shall be unlawful for any person to engage in the following conduct:

- (1) Fraud, misrepresentation or making of a false statement in the application for a license.
- (2) Fraud, cheating, or other misrepresentation made in the course of carrying on business.
- (3) Selling anything other than that which the license authorizes.
- (4) Violate any other requirement of this article.

**ARTICLE 4. CONTRACTORS WORK PERMITS**

**Sec. 6.4.1. Purpose.**

The contractors work permit shall serve as a regulatory vehicle for work being performed within the Town limits, but shall not serve as an alternative to licenses, permits, or other authorizations to do specialized work if those authorizations are required by county, state and/or federal regulatory agencies.

**Sec. 6.4.2. License and Permit Required.**

Any contractor conducting business involving the building, construction, alteration, remodeling, repairing, equipping, moving or wrecking of buildings and other structures shall be required to first obtain a business license pursuant to Article 1 of this Chapter 6, and a contractors work permit pursuant to this Article, prior to performing work within the Town. No building permits shall be issued for work to be done by a contractor who does not have a valid business license and contractors work permit as required

by this Article. No work shall be done during the period a contractors work permit is suspended or revoked.

**Sec. 6.4.3. Definitions.**

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

- (1) “contractor”
  - (a) is any person who:
    - (i) Undertakes, independently or with or for another, to build, construct, alter, remodel, repair, relocate or wreck any building or structure, or any portion thereof, for which a building permit from the Town is required, and which work is to be done for a fixed price, fee percentage or other compensation;
    - (ii) Builds, constructs, alters or adds to another building or structure, either upon their own or another’s property; and
    - (iii) Holds themselves out as available to perform relocation of buildings or structures, or wrecking of buildings or structures.
  - (b) contractor is not:
    - (i) An employee working for and under the supervision of a permitted contractor;
    - (ii) Owners or occupants of a building they own or occupy, making alterations or repairs to their own buildings totaling less than one thousand dollars (\$1,000.00) in any one (1) calendar year, which repairs do not alter the structural elements of the buildings, and the owners or occupants furnish all the materials; or
    - (iii) A homeowner who constructs their own residence, or a building or structure accessory thereto, which is intended for their own personal use; however, if the homeowner constructed more than one (1) residence within a period of a year, such homeowner shall be deemed a contractor.

**Sec. 6.4.4. Authority.**

The Licensing Officer shall have the authority and responsibility in accordance with the terms of this Article to administer the contractors work permit program and approve, deny, suspend, or revoke any contractors work permit.

**Sec. 6.4.5. Classification.**

- (1) Classification.
  - (a) The following classes of contractors work permits are established for work performed within the limits of the Town:
    - (i) Class “A”. This class of permit shall entitle the holder to contract for the construction, alteration, or repair of any type of structure permitted within the Town. A Class “A” permit is required for all work requiring the supervision of an architect or structural engineer. Possession of a Class “A” permit entitles the holder to undertake activities authorized by a Class “B” or Class “C” permit.

(ii) Class “B”. This permit shall entitle the holder to contract for the construction, alteration or repair of single-family and two-family residences of two (2) stories or less. This contractor may not contract for the construction, alteration or repair of public buildings or places of public assembly. Possession of a Class “B” permit entitles the holder to undertake activities authorized by a Class “C” permit.

(iii) Class “C”. This permit shall be issued to contractors engaged in contracting for labor or for labor and material involving specialized trades such as brick, plastering, framing, plumbing, electrical, wrecking, HVAC, moving, and manufactured home setup. Such permits may cover more than one (1) such trade conducted by the permittee.

**Table 6-1: Contractors Work Permit Fees.**

| Classification | Purpose   |
|----------------|---|
| A              | Construction, alteration or repair of any type of permitted structure                       |
| B              | Construction, Alteration, or repair of single or two-family residences of 2 stories or less |
| C              | Contracting for labor or for labor and material involving specialized trades                |

(b) Upgrading. Permittees wishing to upgrade their permit to a higher classification must submit a new application and the balance of the fee for the new classification. Credit shall accrue toward the new classification fee for the unused term of the original permit.

(c) Transferring. Contractors work permits are not transferable

**Sec. 6.4.6. Fees.**

The Town Council shall adopt, by resolution, fees for the application, review and transfer of a contractors work permit and for each specific permit classification. All permit fees shall be submitted with the application to the Licensing Officer.

(1) Application Fee. A non-refundable fee that covers review of the application, which must be submitted along with each application. Said review charge will be credited toward the fee for the contractor’s work permit if the application is approved.

(2) Permit Classification Fee. A fee collected for the administration of contractors work permits, which shall vary according to the classification (A, B or C).

(3) Transfer Fee. A fee payable prior to the issuance of any permit that has been transferred.

(4) Refunds. All permit fees are non-refundable, even in the event of revocation or the contractor goes out of business.

**Sec. 6.4.7. Term and Renewal.**

All contractors work permits, including renewed permits, will be valid for a period of one (1) year from the date of issue. A permit may be renewed by submitting an application for renewal, on a form prescribed by the Licensing Officer, together with the permit fee and a certificate of insurance, to the Licensing Officer within thirty (30) days of the expiration date of the previous permit. If a permit is not timely renewed as provided in this Section, a new application will be required before another permit can be issued.

**Sec. 6.4.8. Application Submittal.**

(1) **Application.** Applications for contractors work permits shall be on such forms and shall contain such information as may be required by the Licensing Officer. Applicants may at any time, be required to furnish additional information with respect to their qualifications and financial status, or other matters relating to or affecting their permit, as may be deemed necessary or desirable by the Licensing Officer. Failure to furnish such information within a reasonable time, or to furnish supplemental materials upon request, shall be grounds for denial, revocation, or suspension of a permit. All fees must be remitted with the application to the Licensing Officer.

(2) **Insurance Requirements.** At the time application is made for a permit, the contractor shall file with the Licensing Officer a certificate of insurance evidencing that an insurance policy containing coverage in the minimum amount set forth in Table 16-2 has been issued to the applicant. The certificate of insurance must also contain the policy number; the name of the insurance company; the effective date of the policy; and an endorsement requiring ten (10) days advance written notice to the Licensing Officer in the event of cancellation. Such certificate shall be signed by an authorized agent of the insurance company. At the time the permittee seeks renewal of the permit, he or she must submit a new certificate of insurance.

**Table 6-2: Liability Insurance Requirements.**

| <b>Class</b> | <b>Per Person</b> | <b>Per Occurrence</b> | <b>Property Damage</b> |
|--------------|-------------------|-----------------------|------------------------|
| A            | \$300,000         | \$300,000             | \$50,000               |
| B            | \$300,000         | \$300,000             | \$50,000               |
| C            | \$50,000          | \$100,000             | \$25,000               |

(3) **Worker's Compensation Requirements.** The contractor shall file with the Licensing Officer a worker's compensation certificate evidencing that the contractor maintains worker's compensation for his or her business. The certificate must contain policy information including the carrier, policy number and policy period as well as the liability limits; and an endorsement requiring ten (10) days advance written notice to the Licensing Officer in the event of cancellation. Such certificate shall be signed by an authorized agent of the insurance company. At the time the permittee seeks renewal of the permit, he or she must submit a new certificate of insurance.

**Sec. 6.4.9. Expiration of Permit.**

The following actions shall result in early expiration of a contractors work permit:

(1) Any change of name, business designation, or address must be reported to the Licensing Officer within thirty (30) days after making such a change. Failure of the permittee to report such change within the time limit shall cause the permit to expire by force of law and become invalid at the expiration of the thirty (30) day period.

(2) Incorporation or change in incorporation creating a new legal entity shall require a new permit for such entity, even though a permit has already been issued to one (1) or more stockholders or directors.

(3) The organization of a partnership or change in a partnership thereby creating a new legal entity shall require a new permit, even though a permit has already been issued to one (1) or more of the partners.

(4) The dissolution of a corporation or partnership shall result in termination of the permit, and no individual or firm may operate under such permit.

**Sec. 6.4.10. Permittee Responsibilities.**

All permittees shall be responsible for any work performed pursuant to any building permit issued hereunder, without limitation, and shall:

(1) Report in writing, within seventy-two (72) hours, to the Licensing Officer and the Building Official any accident occurring on any job site that has resulted in lost time, injury or death to any person, or damage to any building or structure;

(2) Provide minimum safety measures and equipment to protect workmen and the public, as prescribed by the current adopted edition of the Building Code;

(3) Observe any other Town ordinances prescribing measures for the safety of workmen and of the public;

(4) Present a contractors work permit card when requested by the Licensing Officer or the Building Official or their authorized representative;

(5) Employ a qualified supervisor and provide the name of such supervisor on the permit inspection card;

(6) Obtain a building permit when the same is required;

(7) Faithfully construct, without substantial departure from or disregard for drawings and specifications, when such drawings and specifications have been filed and approved by the Building Official and a building permit issued for same, unless such changes are approved by the Building Official;

(8) Complete all work authorized on the building permit issued under the authority of the Uniform Building Code;

(9) Obtain inspection services when the same are required, as set forth in the Uniform Building Code; and

(10) Pay any fee assessed under the authority of this Article.

**Sec. 6.4.11. Grounds for Suspension, Revocation or Denial.**

(1) Authority. The Licensing Officer may suspend, revoke, or deny a contractor's work permit when the permittee or applicant, including partners of a partnership, members of a joint venture, or officers, directors, or holders of ten percent (10%) or more of the stock of a corporate permittee or applicant, is responsible for one (1) or more of the following acts or omissions:

(a) Failure to comply with any of the permittee responsibilities, as outlined herein when such failure is not corrected within ten (10) days of written notification of such failure by the Licensing Officer;

- (b) Knowingly combining or conspiring with any other person, firm, or corporation to allow the holder's permit to be used by such persons, firms, or corporation that are not authorized to use such permit;
  - (c) Acting as principal agent, partner, associate, or in any other capacity with persons, firms, or corporations to evade any provision of this Article;
  - (d) Violating any provision of this Article, or any laws of the United States, the State of Colorado, or the ordinances of the Town having any bearing upon or related to the work or services performed under the contractor's work permit, or ability to perform the work or services under the work permit, when such violation is not corrected within ten (10) days of notification by the Licensing Officer of such violation;
  - (e) Any conduct constituting fraud or misrepresentation in or connected with any activity or activities for which a contractor's work permit has been issued; and
  - (f) Failure to keep and maintain necessary insurance or necessary state licenses.
- (2) Suspension. With regard to the acts or omissions listed herein:
- (a) The first act or omission during a term of a permit issued hereunder shall result in suspension of the permit for a period of between ten (10) and thirty (30) days, as determined by the Licensing Officer.
  - (b) The second act or omission during a term of a permit issued hereunder shall result in suspension of the permit for a period of between thirty (30) and sixty (60) days, as determined by the Licensing Officer.
  - (c) The third act or omission during the term of a permit issued hereunder shall result in revocation of the permit.
- (3) Emergency Suspension or Revocation. If the Licensing Officer finds that immediate suspension or revocation of a permit is warranted, due to a perceived threat to the health, safety and/or welfare of human lives, the Licensing Officer may enter an order for immediate suspension or revocation of such permit, pending further investigation and proceedings, as provided herein. The permittee may, upon notice of immediate suspension or revocation, request an immediate hearing before the Licensing Officer, pursuant to the procedures set forth herein.
- (4) Denial. Three (3) or more acts or omissions, as described above, during the preceding year shall be cause for the denial of an application for renewal of a permit.

**Sec. 6.4.12. Procedures for Suspension, Revocation or Denial.**

- (1) With the exception of emergency suspensions or revocations, when the Licensing Officer determines that grounds for suspension or revocation of a permit exist, the following procedures shall apply:
- (a) The permittee shall be notified in writing, by certified mail, at the permittee's address of record, at least five (5) days prior to the suspension or revocation of the permit.
  - (b) Upon receipt of the notice, the permittee may request a hearing. Such request shall be in writing to the Licensing Officer within ten (10) days of receipt of the notice.
  - (c) If a hearing is requested by the permittee within the allowed timeframe, the Licensing Officer shall, within five (5) days of receipt of the request for a hearing, set a time, date and place for the hearing, and so notify the permittee.

(d) A hearing shall be conducted before the Licensing Officer, at which the permittee and all interested parties shall be given an opportunity to present evidence as to why the permit should not be suspended or revoked.

(e) Upon completion of the hearing, the Licensing Officer shall take all the evidence admitted under advisement, and shall, within ten (10) days, notify the permittee in writing and certified mail of the findings and ruling. The suspension or revocation shall be stayed while the matter is under advisement.

(f) The ruling of the Licensing Officer will stand pending any appeal.

(2) If an emergency suspension or revocation of a permit is warranted due to a threat to the health, safety and/or welfare of human lives, the permit shall be immediately revoked. A hearing on the matter shall be held before the Licensing Officer within five (5) days of the revocation. At such hearing, the applicant shall have an opportunity to contest the revocation. The ruling of the Licensing Officer shall stand pending any appeal.

**Sec. 6.4.13. Appeals and Reapplication.**

(1) If a permit is suspended, revoked or denied by the Licensing Officer, the contractor may reapply for a permit, but not sooner than ninety (90) days after the Licensing Officer provides notice of his or her decision.

(2) A contractor may appeal any decision of the Licensing Officer to the Town Council. Appeals shall be conducted pursuant to Section 21.3.10.

(3) If the Licensing Officer's decision is appealed and affirmed by the Town Council, the contractor may reapply for a permit, but not sooner than ninety (90) days after the order of the Town Council affirming the suspension, revocation or denial. Any reapplication must be accompanied by the resubmission of the appropriate permit fees and certificate of insurance.

**Sec. 6.4.14. Penalties.**

Any contractor who undertakes work within the Town without a contractor's work permit commits a municipal offense punishable in Municipal Court as set forth in Section 1.3.3 of the Municipal Code.

