

Chapter 5.10

LICENSED LIQUOR ESTABLISHMENTS - REQUIREMENTS

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5.10.010 Definitions. As used in this Chapter, unless the context otherwise requires:

- A. Terms shall have the same meaning as defined in Section 12-47-103, C.R.S.
- B. “Manager” means any person who manages, directs, supervises, oversees or administers an establishment and its employees preparing, selling, serving or otherwise providing alcohol beverages for consumption on the premises pursuant to a tavern license or hotel restaurant license issued therefor.
- C. “Offense” or “violation”, means any violation by the licensee or by any of the agents, servants, or employees of such licensee of the provisions of Articles 46 and 47 of Title 12, C.R.S., or any of the rules and regulations authorized pursuant to said Articles, or of any of the terms, conditions, or provisions of the license issued by the local licensing authority, as determined by a court of competent jurisdiction, or as determined by the State Licensing Authority or the Local Licensing Authority, following an opportunity for a hearing as provided by law.
- D. “Server” means any person who is employed by a licensee to prepare, serve, sell or otherwise provide alcohol beverages pursuant to a tavern license or hotel restaurant license. (Amended Ord. 30-2003 §1(part), 2003, Amended Ord. 35-2003 §1(part), 2003).

E. "Tastings" means the sampling of malt, vinous or spirituous liquors that may occur on the premises of a retail liquor store licensee or liquor licensed drugstore licensee by adult patrons of the licensee pursuant to the provisions of Section 12-47-301(10), C.R.S. and Section 5.10.045 of this Chapter. (Ord. 31-2005, §1 (part), 2005).

5.10.020 Education Requirements. A. All managers or owners/operators of tavern or hotel and restaurant licensed establishments, registered with the State of Colorado and the Local

B. Licensing Authority, shall have a valid certificate evidencing successful completion of an educational liquor seminar approved by the Local Liquor Licensing Authority. The certificate received by persons who successfully complete a liquor education and training seminar shall be valid for a period of three (3) years.

C. All existing managers or owners/operators of establishments holding a tavern license or hotel and restaurant license at the time of the effective date of this Chapter are required to enroll in a liquor education and training seminar approved by the Local Liquor Licensing Authority and receive a certificate of completion within six (6) months from the effective date of this Chapter. After the effective date of this Chapter, persons who become new managers or owners/operators of establishments holding a tavern license or hotel and restaurant license within the Town of Eagle shall successfully complete a liquor seminar approved by the Local Licensing Authority within one (1) month of registration as a manager or owner/operator and obtain a certificate of completion.

D. Every licensee of an establishment holding a tavern license or hotel and restaurant license shall insure that all servers currently employed by it successfully complete an liquor education and training seminar approved by the Local Liquor Licensing Authority. All servers currently employed by such establishments as of the effective date of this Chapter shall successfully complete the liquor education and training seminar approved by the Local Liquor Licensing Authority. All servers currently employed by such establishments as of the effective date of this Chapter shall successfully complete the liquor education and training seminar within six (6) months of the effective date of this Chapter, and obtain a certificate evidencing such completion. All servers initially employed by an establishment holding a tavern license or hotel and restaurant license after the effective date of this Chapter shall successfully complete a liquor education and training seminar approved by the Local Licensing Authority within three (3) months from the date of commencement of employment. The certificate received by servers who successfully complete the liquor education and training seminar shall be valid for a period of three (3) years.

E. Every person or agency offering a course of instruction approved by the Local Licensing Authority shall issue a certificate to those who successfully complete the liquor education and training seminar. The certificate shall indicate the date of completion of the training and the date of the certificate expiration and shall evidence at a minimum that the person has been in actual attendance for the required minimum number of hours at the course and has achieved a reasonable mastery of the subject matter presented. No person or agency approved by the Town of Eagle to

provide educational training shall issue a certificate unless the person taking the course has actually attended the course and achieved a reasonable mastery of the materials.

F. The local licensing authority shall establish by resolution the general criteria for courses and qualifications of instructors which shall satisfy the liquor education and training requirements of this Section. These requirements shall be available in the office of the Town Clerk. Any qualified person or entity may submit to the Local Licensing Authority a request that a particular seminar be deemed to meet the educational requirements. The Licensing Authority or its designee may make such determination. A file of all course requirements shall be available in the office of the Town Clerk.

G. At the time a licensee or applicant files an application to renew or transfer a tavern or hotel and restaurant license, or to change the location of the licensed premises, or to change the corporate structure, the licensee or applicant shall submit to the Town Clerk sufficient information to establish that all managers, owners/operators, and servers required to be certified under this Chapter have such certificates; and shall exhibit copies of said certificates, as well as employment records for servers showing the date of hire, when requested to do so by the Town Clerk, members of the Eagle Police Department, or other appropriate officials of the Town of Eagle. Failure to comply with the educational, certification, and disclosure requirements established under this Chapter shall be considered a violation of the conditions of the issuance of a license, and may result in suspension or revocation of the tavern license or hotel and restaurant license. In addition, failure to comply with the educational, certification and disclosure requirements provided by this Chapter may result in the denial of an application to renew a tavern or hotel and restaurant liquor license.

H. Any person who knowingly violates any provision of this Chapter, or who knowingly fails to perform an act required by any provision of this Chapter, commits a Class A municipal offense. A separate and distinct offense shall be deemed to have been committed for each day which any violation of this Chapter shall continue. (Amended Ord. 10-2001 §15, 2001).

5.10.025 Delegation of Authority to Town Clerk to Issue Licenses and Permits.

A. The Town Clerk shall assist the Town of Eagle Board of Trustees, acting as the Local Licensing Authority, by receiving all applications; coordinating with other Town departments when appropriate; scheduling required public hearings; and exercising the Town Clerk's discretion in forwarding applications for renewal of licenses, transfers of ownership, and applications for change of manager of a licensee to the Local Licensing Authority.

B. As set for the below, the Town Clerk is hereby granted authority to administratively review and approve applications for liquor license renewals; transfers of ownership, including corporate and trade name changes, and reports of changes for corporations, limited liability companies and partnerships; changes of a manager of a licensee; and special event permits.

1. Renewals. The Town Clerk is authorized to administratively review and

approve an application for the renewal of any previously approved liquor license or fermented malt beverage license, where, after reasonable investigation by the Town Clerk and consultation by the Town Clerk with the Eagle Police Department and other appropriate administrative personnel, all of the following circumstances are found to exist:

- a. The applicant has timely and properly submitted a complete license renewal application and tendered all required fees in accordance with this Chapter and the provisions Title 12, C.R.S.;
- b. The applicant's license in is good standing with the Town and the State of Colorado, and no violation of law has occurred during the previous year;
- c. To the knowledge of the Town Clerk, there is no pending or proposed criminal or legal investigation or charges against the applicant or the licensed premises; and
- d. There is no other information known by the Town Clerk that would cause the Town Clerk to reasonably believe that some violation of applicable law has occurred or that the license should not be renewed.

2. Changes of Manager of Licensees. The Town Clerk is authorized to administratively review and approve an application for the change of a manager for a licensed establishment where, after reasonable investigation of the Town Clerk and consultation by the Town Clerk with the Eagle Police Department and other appropriate administrative personnel, all the following circumstances are found to exist:

- a. The applicant has timely and properly submitted a complete application for change of manager and tendered all required information in accordance with this Chapter and the provisions of Title 12, C.R.S., and the new manager has presented himself to the Police Department for fingerprinting and a background investigation; and
- b. There is no information known by the Town Clerk that could support denial of the application for change in manager under applicable law.

3. Temporary Permits. The Town Clerk is authorized to administratively review and approve an application for a temporary permit where, after reasonable investigation by the Town Clerk and consultation by the Town Clerk with the Eagle Police Department and other appropriate administrative personnel, all the following circumstances are found to exist:

- a. The applicant has timely and properly submitted a complete application for a temporary permit and tendered all required fees in accordance with this Chapter and

the provisions of Section 12-47-303, C.R.S.;

- b. There is pending an application for the transfer of the liquor or fermented malt beverage license corresponding to the application for a temporary permit;
- c. The premises subject to the proposed temporary permit is currently subject to a valid liquor license or fermented malt beverage license; and
- d. There is no information known by the Town Clerk that could support denial of the application for change in ownership under applicable law.

4. Special Event Permits. The Town Clerk is authorized to review and approve an application for a special event permit where, after reasonable investigation of the Town Clerk and consultation by the Town Clerk with the Eagle Police Department and other appropriate administrative personnel, all the following circumstances are found to exist:

- a. The applicant has timely and properly submitted a complete application for a special event permit and tendered all required fees in accordance with this Chapter and the provisions of Article 48 of Title 12, C.R.S.;
- b. There has been a timely and proper posting of conspicuous public notice of the proposed permit and protest procedures at the locations sought to be licensed;
- c. The application and the applicant satisfy the eligibility criteria set forth in Sections 12-48-102 and 12-48-103, C.R.S.; and
- d. There is no information known by the Town Clerk that could support denial of the application for a special event permit.

C. Notwithstanding any authority delegated to the Town Clerk for administrative approval of applications under this Section, the Town Clerk may, in her discretion, refer any licensing or permitting decision authorized to her under this Section to the Board of Trustees if, in the Town Clerk's opinion, the matter should be presented to the Local Licensing Authority. In the event the Town Clerk cannot or will not approve a transfer or renewal of a license, or the issuance of a temporary permit, or the approval of a change in manager of a licensee or a special event permit, then the Town Clerk shall refer the application to the Local Licensing Authority for consideration in accordance with applicable law. Written notice of the time and place of such consideration shall be mailed to the applicant by regular mail at least ten (10) days prior to consideration by the Local Licensing Authority and shall contain such facts or reasons relied upon by the Town Clerk in declining to issue the license or permit for approval. Notice of the proceeding shall also be timely published and posted on the subject premises in accordance with the requirements set forth in Section 12-47-311, C.R.S, and timely provided to any person who may have filed a protest against

the issuance of the license with the Town Clerk. Additionally, any license or permit applicant, or any party in interest, as defined in Section 12-47-311 C.R.S., who is dissatisfied with the decision of the Town Clerk under this Section may appeal the same to the Local Licensing Authority by filing a written protest with the Town Clerk not more than ten (10) days after the date of the decision appealed from. The Town Clerk shall promptly set the appeal for hearing before the Local Licensing Authority in accordance with the notice and hearing procedures described above.

D. The Town Clerk shall not approve an application for the renewal or transfer of a license where the Eagle Police Department has timely submitted written objections to the Town Clerk concerning such action. Whenever such an objection is received, the Town Clerk shall set the application for hearing before the Local Licensing Authority in accordance with the procedures set forth in subsection (C) above.

E. The Town Clerk shall regularly report to the Authority in a timely manner all licensing actions taken by the Town Clerk under the provisions of this Section.

(Ord. 15 §1, 2013)

5.10.030 (Repealed, Ord. 13-2015 § 1, 2015)

5.10.035 Distance Between Schools and Licensed Liquor Establishments in the Central Business District. Pursuant to the authority granted in Section 12-47-313(1)(d)(III), C.R.S., there shall be no required minimum distance between a building in which malt, vinous or spirituous liquor is sold pursuant to the issuance of any license specified in Articles 46 or 47 of Title 12, C.R.S. within the Central Business District (CBD) Zone District and any public or parochial school or the campus of any college, university, or seminary. (Amended Ord. 5-2004 §1, 2004).

5.10.037 Special Event Permits.

A. Pursuant to Section 12-48-107 (5)(a) C.R.S., the Board of Trustees, acting as the Local Licensing Authority, elects not to notify the State Licensing Authority to obtain the State Licensing Authority's approval or disapproval of applications for special events permits pursuant to Article 48 of Title 12, C.R.S. The Board of Trustees hereby authorizes the issuance of special event permits for the sale, by the drink only, of fermented malt beverages, or the sale, by the drink only, of malt, spirituous, or vinous liquors to the Town, organizations, and political candidates in accordance with this Chapter and Article 48 of Title 12, C.R.S. No alcoholic beverages shall be sold at any special event until a special event permit is obtained from the Town. The standards contained in this Chapter shall be considered in addition to all other standards and requirements applicable to the issuance of licenses under the Colorado Liquor Code, Sections 12-47-101, *et. seq.*, C.R.S.

B. Any organization or political candidate desiring to sell alcoholic beverages at a special event shall obtain a permit from the Local Licensing Authority by first completing a special event license permit application and paying a permit fee, which shall be established by periodically

amended by resolution of the Board of Trustees but not to exceed one hundred dollars (\$100.00). An applicant shall file the application at least thirty (30) days prior to the date of the event, unless waived by the Town Clerk for good cause shown.

C. Upon receipt of an application for a special event permit, the Town Clerk, acting on behalf of the Local Licensing Authority shall, as required by Section 12-48-107 (5)(c), C.R.S., access information made available on the State Licensing Authority's website to determine the statewide permitting activity of the organization applying for the permit. Before approving an application, the Town Clerk shall consider compliance with Section 12-48-105(3) C.R.S., which restricts the number of permits issued to an organization in a calendar year.

D. The Town Clerk or the Local Licensing Authority may deny issuance of a special event permit if it determines that the issuance would be injurious to the public welfare because of the nature of the special event, or the applicant's ability to conduct the event in compliance with applicable laws and regulations. Special event permits shall not be transferable.

E. As required by Section 12-48-107(5)(a), C.R.S., the Town Clerk, acting on behalf of the Local Licensing Authority, shall report to the Colorado Liquor Enforcement Division within ten (10) days after the issuance of a permit, the name of the organization to which a permit was issued, the address of the permitted location, and the permitted dates of alcohol beverage service.

F. Pursuant to Section 12-48-105 C.R.S., a special event permit shall not be issued to any organization for more than fifteen (15) days in any one (1) calendar year.

(Ord. 15 §2, 2013)

5.10.040 Optional Premises Licenses and Hotel/Restaurant Licenses with Optional Premises.

A. The following standards for the issuance of Optional Premises licenses or for Optional Premises for hotel and restaurant licenses are adopted pursuant to the provisions of Article 47 of Title 12 of the Colorado Revised Statutes. The standards adopted in this Section shall be in addition to all other standards applicable to the issuance of licenses under the Colorado Liquor Code for an Optional Premises license or for Optional Premises for a hotel and restaurant license. All relevant provisions of this Chapter shall apply to this Section.

B. The following words, terms and phrases, when used in this Section, shall have the meaning ascribed to them in this subsection, except where the context clearly indicates a different meaning:

1. "Optional Premises" means the same as that defined in the Colorado Liquor Code. The two (2) types of licenses authorized in this Section, "Optional Premises" and

“hotel and restaurant with Optional Premises”, will collectively be referred to as “Optional Premises” in this Section unless otherwise stated.

2. “Outdoor Sports and Recreational Facility” means the same as that defined in the Colorado Liquor Code.

C. Application for an Optional Premises license shall be made to the Town Clerk on forms which shall contain the following information in addition to any information required by the State Licensing Authority:

1. A map or other drawing illustrating the Outdoor Sports or Recreational Facility boundaries and the approximate location of the proposed Optional Premises license requested.

2. Proposed locations for the permanent, temporary, or moveable structures or vehicles which are proposed to be used for the sale or service of alcoholic beverages.

3. A description of the method which shall be used to identify the boundaries of the Optional Premises license when it is in use and how the licensee will insure alcoholic beverages are not removed from such premises. Golf courses, however, do not require fencing around the perimeter of the Optional Premises area.

4. Proof of the applicant’s right to possession of the Optional Premises including a legal description and supporting documentation.

5. A description of the provisions which have been made for storing alcoholic beverages in a secure area on or off the Optional Premises for future use on the Optional Premises.

6. A description of the location of seating areas, if any.

7. A description of the location of restroom facilities, if any.

8. Access restrictions to the Optional Premises, if any.

9. A description of the provisions which shall be implemented to control the dispensing of alcoholic beverages to underage persons or visibly intoxicated persons.

10. Such other information as may be reasonably required to satisfy the Local Licensing Authority that the control of the Optional Premises will be insured and that the health, safety and welfare of the surrounding neighborhood will not be adversely affected should the Optional Premises be licensed.

D. There shall be no restrictions on the minimum size of the Outdoor Sports and Recreational Facility which may be eligible for approval. There are no restrictions on the number of Optional Premises which any one licensee may have for a facility. However:

1. The Local Licensing Authority may consider the size of the particular Outdoor Sports or Recreational Facility in relationship to the number of Optional Premises licenses requested for the facility; and

2. Any applicant requesting approval of more than one Optional Premises shall demonstrate the need for each Optional Premise in relation to the Outdoor Sports or Recreational Facility and its guests.

E. Nothing contained in this Section shall preclude the Local Licensing Authority, in its discretion, from imposing other conditions, restrictions or limitations on any Optional Premises license in order to serve the public health, safety and welfare. Any such conditions may be imposed when the license is initially issued or issued for any specific event or use of the Optional Premises. The Local Licensing Authority shall have complete discretion to deny any request for such a license or to suspend or revoke the Optional Premises license in accordance with the procedures set forth in the Colorado Liquor Code and any applicable Town ordinances.

F. It shall be unlawful for alcoholic beverages to be served on the Optional Premises until the Optional Premises licensee has fully complied with this Section and has filed written notice with the State and the Local Licensing Authority stating the specific days and hours during which the Optional Premises will be used. Such notice must be recorded at least forty-eight (48) hours prior to serving alcoholic beverages on the Optional Premises. Any violation of this Section shall be deemed to be one of "strict liability" and shall constitute a Class A municipal offense. Each day, or part thereof, during which such a violation occurs shall constitute a separate offense. (Ord. 11-2001 §1, 2001).

5.10.045 Alcoholic Beverage Tastings. A. In accordance with Section 12-47-301(10)(a), C.R.S., retail liquor store licensees and liquor-licensed drugstore licensees are authorized to conduct alcoholic beverage tastings subject to the limitations contained in Section 12-47-301(10), C.R.S., and subject to the approval by the Board of Trustees, acting as the local licensing authority, of an alcoholic beverage tastings permit application and payment of all requisite fees.

B. A retail liquor store licensee or a liquor-licensed drugstore licensee who desires to conduct tastings may submit an application or application renewal to the Board of Trustees, acting as the local licensing authority. The Board of Trustees may reject the application if the applicant fails to establish that he or she is able to conduct tastings without violating the provisions of Section 12-47-310(10), C.R.S. or creating a public safety risk to the neighborhood. An approved alcoholic beverage tastings permit shall have an expiration date concurrent with the establishment's existing

retail liquor store license or liquor-licensed drugstore license and shall be subject to annual renewals accordingly.

C. The applicant for an alcoholic beverage tastings permit shall certify on the application that all persons serving alcoholic beverages at tastings have completed a server training program that meets the standards established by the Liquor Enforcement Division of the Colorado Department of Revenue. The applicant shall also state on the application the days and times that tastings will occur. The licensee shall give at least twenty-four (24) hours prior notice to the Eagle Police Department of any deviations in the tastings schedule as set forth in the application.

D. Every application for an alcoholic beverage tastings permit or renewal thereof shall be accompanied by an application fee in the amount of one hundred dollars (\$100.00). (Ord. 31-2005, §2 (part), 2005).

5.10.050 Penalty Guidelines for Violations-General. Violations of certain provisions of the Colorado Beer Code, Article 46, Title 12, C.R.S., and the Colorado Liquor Code, Article 47, Title 12, C.R.S., not involving compliance checks, as determined by the Town of Eagle Local Licensing Authority, following notice and an opportunity for hearing as provided by law, shall result in penalties which may be in accordance with the penalty guidelines provided below. Provided, however, nothing contained in the following guidelines is intended to restrict the Local Licensing Authority from issuing a greater penalty, a lesser penalty, or additional penalties as allowed by State law, up to and including revocation of a liquor license.

A. Presumptive Penalties

<u>CODE VIOLATION</u>	<u>PENALTY</u>
1. Sale to Underage Persons, 12-47-901, C.R.S.	
First Offense	15 days total suspension, 5 days actually served and 10 days held in abeyance for a period of one year from the date of hearing pending no further violations of State Codes, Regulations or local ordinances regarding subject matter of Respondent's license
Second Offense within two (2) years of first violation	30 days total suspension, 10 days actually served and 20 days held in abeyance for a period of one year from the date of hearing, pending no further violations of State Codes, Regulations or local ordinances regarding subject matter of Respondent's license

<u>CODE VIOLATION</u>	<u>PENALTY</u>
Third Offense within two (2) years of first violation	45 days total suspension, 15 days actually served and 30 days held in abeyance for a period of one year from the date of hearing, pending no further violations of State Codes, Regulations or local ordinances regarding subject matter of Respondent's license
Fourth and Subsequent Offenses within two (2) years of first violation	60 days suspension to be served by actual closure; no days held in abeyance; or revocation
2. Sale to or Loitering of Visibly Intoxicated Patron or Habitual Drunkard, Section 12-47-901, C.R.S., Regulation 47-900	
First Offense	15 days total suspension, 5 days actually served and 10 days held in abeyance for a period of one year from the date of the hearing, pending no further violations of State Codes, Regulations or local ordinances regarding subject matter of Respondent's license
Second Offense within two (2) years of first violation	30 days total suspension, 10 days actually served and 20 days held in abeyance for a period of one year from the date of hearing, pending no further violations of State Codes, Regulations or local ordinances regarding subject matter of Respondent's license
Third Offense within two (2) years of first violation	45 days total suspension, 15 days actually served and 30 days held in abeyance for a period of one year from the date of hearing, pending no further violations of State Codes, Regulations or local ordinances regarding subject matter of Respondent's license
Fourth and Subsequent Offenses within two (2) years of first violation	60 days suspension to be served by actual closure; no days held in abeyance; or revocation
3. Purchase of Alcoholic Beverages From Someone Other Than a Licensed Wholesaler, Section 12-47-901, C.R.S.	
First Offense	10 days total suspension, 3 days actually served and 7 held in abeyance for a period of one year from date of hearing, pending no further violations of State Codes, Regulations or local ordinances regarding subject matter of Respondent's license

<u>CODE VIOLATION</u>	<u>PENALTY</u>
Second and Subsequent Offenses within one (1) year of first violation	10 days total suspension, 5 days actually served and 5 days held in abeyance for a period of one year from the date of hearing, pending no further violations of State Codes, Regulations or local ordinances regarding subject matter of Respondent's license
4. Failure to Meet Food Requirements, Sections 12-47-411, C.R.S. (Hotel and Restaurant Licenses), 12-47-412, C.R.S. (Tavern Licenses)	
First Offense	15 days total suspension, 5 days actually served and 10 days held in abeyance for a period of one year from the date of hearing, pending no further violations, of State Codes, Regulations or local ordinances regarding subject matter of Respondent's license, with 30 days to come into compliance
Second and Subsequent Offenses within two (2) years of first violation	15 days total suspension, 5 days actually served and 10 days held in abeyance for a period of one year from the date of hearing, pending no further violations, of State Codes, Regulations or local ordinances regarding subject matter of Respondent's license with 30 days to come into compliance
5. Permitting Use of Gambling Machines and Devices, Section 12-47-901, C.R.S., Regulation 47-922	
First Offense	45 days total suspension, 15 days actually served and 30 days held in abeyance for a period of one year from the date of hearing, pending no further violations of State Codes, Regulations or local ordinances regarding subject matter of Respondent's license
Second Offense within one (1) year of first violation	45 days suspension to be served by actual closure, no days held in abeyance.
Third and Subsequent Offenses within one (1) year of first violation	Revocation
6. Permitting Illegal Gambling, Section 12-47-901, C.R.S., Regulation 47-922	
First Offense	10 days total suspension, 3 days actually served and 7 days held in abeyance for a period of one year from the date of hearing, pending no further violations of State Codes, Regulations or local ordinances regarding subject matter of Respondent's license

<u>CODE VIOLATION</u>	<u>PENALTY</u>
Second and Subsequent Offenses within one (1) year of first violation	45 days total suspension, 15 days actually served and 30 days held in abeyance for a period of one year from the date of hearing, pending no further violations of State Codes, Regulations or local ordinances regarding subject matter of Respondent's license; or revocation
7. Failure to Maintain Adequate Books and Records, Section 12-47-701, C.R.S.	
First Offense	15 days total suspension, 5 days actually served and 10 days held in abeyance for a period of one year from the date of hearing, pending no further violations of State Codes, Regulations or local ordinances regarding subject matter of Respondent's license
Second and Subsequent Offenses within one (1) year of first violation	30 days total suspension, 10 days actually served and 20 days held in abeyance for a period of one year from date of hearing, pending no further violations of State Codes, Regulations or local ordinances regarding subject matter of Respondent's license; or revocation
8. Sale or Consumption of Alcohol Beverages After Legal Hours, Section 12-47-901, C.R.S., Regulation 47-910	
First Offense	10 days total suspension, 3 days actually served and 7 days held in abeyance for a period of one year from the date of hearing, pending no further violations of State Codes, Regulations or local ordinances regarding subject matter of Respondent's license
Second and Subsequent Offenses within one (1) year of first violation	30 days total suspension for each offense, 10 days actually served and 20 days held in abeyance for a period of one year from the date of hearing, pending no further violations of State Codes, Regulations or local ordinances regarding subject matter of Respondent's license; or revocation
9. Permitting Improper Conduct Within Establishment, Other Than Serving or Loitering of Visibly Intoxicated Persons or Habitual Drunkard, Regulation 47-900	
First Offense	30 days total suspension, 10 days actually served and 20 days held in abeyance for a period of one year from the date of hearing, pending no further violations of State Codes, Regulations or local ordinances regarding subject matter of Respondent's license

<u>CODE VIOLATION</u>	<u>PENALTY</u>
Second Offense within two (2) years of first violation	45 days total suspension, 15 days actually served and 30 days held in abeyance for a period of one year from the date of hearing, pending no further violations of State Codes, Regulations or local ordinances regarding subject matter of Respondent's license
Third and Subsequent Offenses within two (2) years of first violation	45 days suspension, to be served by actual closure, no days held in abeyance; or revocation
10. Failure to Report Manager, Corporate or Financial Change, Sections 12-47-111 and 112, C.R.S., Regulation 47-304	
First Offense	5 days total suspension, all 5 days held in abeyance for a period of one year from the date of hearing, pending no further violations of State Codes, Regulations or local ordinances regarding subject matter of Respondent's license
Second and Subsequent Offenses within one (1) year of first violation	10 days total suspension, 3 days actually served, and 7 days held in abeyance for a period of one year from the date of hearing, pending no further violations of State Codes, Regulations or local ordinances regarding subject matter of Respondent's license
11. Underage Employee Selling or Serving Alcoholic Beverages, Section 12-47- 901(5)(a), C.R.S.; Regulation 47-913	
First Offense	7 days total suspension, 2 days actually served and 5 days held in abeyance for a period of one year from the date of hearing, pending no further violations of State Codes, Regulations or local ordinances regarding subject matter of Respondent's license
Second Offense within one (1) year of first violation	14 days total suspension, 4 days actually served, and 10 days held in abeyance for a period of one year from the date of hearing, pending no further violations of State Codes, Regulations or local ordinances regarding subject matter of Respondent's license

<u>CODE VIOLATION</u>	<u>PENALTY</u>
Third and Subsequent Offenses within one (1) year of first violation	30 days total suspension, 10 days actually served, and 20 days held in abeyance for a period of one year from the date of hearing, pending no further violations of State Codes, Regulations or local ordinances regarding subject matter of Respondent's license

B. Aggravating and Mitigating Circumstances. In considering whether to deviate from the presumptive penalty guidelines set forth above, the Local Licensing Authority may consider mitigating and aggravating factors when considering the imposition of the penalty. Such factors may include:

1. Corrective action(s) taken by the Licensee to prevent further violations; i.e. training of servers.
2. Licensee's past history.
3. Prior violations, prior warnings, prior corrective action(s) and its effectiveness.
4. Willfulness or deliberateness of the violation.
5. Likelihood of recurrence of the violation.
6. Seriousness of violation.
7. Licensee or the manager is the violator or has directed an employee or other individual to violate the law.

C. General Provisions Concerning Imposition of Penalty.

1. In the event a second or subsequent action is brought before the Local Licensing Authority for a violation of the Colorado Beer Code, Colorado Liquor Code, or Regulations promulgated thereunder, and Licensee is found to have committed such violation, days suspended but held in abeyance in a previous action shall automatically be imposed, plus any additional suspension for the new violation as determined by the Local Licensing Authority.

2. Any period of actual closure imposed as part of a suspension by the Local Licensing Authority must run consecutive to any previously imposed period of closure.

3. In the event a license for the retail sale of malt, vinous or spirituous liquor for on premises consumption is suspended, and an actual closure is ordered, there shall be a mandatory closure of at least one (1) day commencing at 12:01 a.m. or 2:01 a.m. on a Saturday and ending at midnight the same day. In the event a license for the retail sale of malt, vinous or spirituous liquor for off premises consumption is suspended, suspension days shall not include Sundays.

4. Notwithstanding the presumptive penalties set forth above, the Town Attorney reserves the right to request revocation of a license for any violation.

5. The Local Licensing Authority shall have the power to impose on a Licensee as a condition of a period of suspension to be held in abeyance, or as a condition of renewal of a license, any condition(s) reasonably related to the offenses leading to the suspension or the conduct of the business whose license is to be renewed.

(Ord. 30-2003 §2(part), 2003; Amended Ord. 35-2003 §2(part), 2003).

5.10.060 Penalty Guidelines for Violations Involving Compliance Check. When the Local Licensing Authority finds that a Licensee has sold alcohol beverages to a person under the legal age limit and that said violation was investigated or detected by using a person under twenty-one (21) years of age to purchase alcohol beverages from the Licensee, the Local Licensing Authority may consider the following penalties to be imposed for the violation.

A. First Offense (within 1 year).

1. A written warning up to a fifteen (15) day suspension. The Local Licensing Authority may hold a portion of the suspension time in abeyance for a period of time.

2. As an inducement for Licensees to provide training for servers, because server training has proven to be an aid in the reduction of violations, it is recommended that, where there are no aggravating circumstances, a Licensee who has provided training to its staff members be issued only a warning on the first violation.

B. Second Offense (within 1 year).

1. A five (5) day to thirty (30) day suspension. If no suspension was served at the time of the first offense, it is within the discretion of the Licensing Authority to hold a portion of the suspension time in abeyance for a period of time.

C. Third Offense (within 1 year).

1. A twenty (20) to forty-five (45) day suspension shall be imposed.

D. The Fourth Offense (within 2 years).

1. A minimum forty-five (45) days suspension up to and including revocation shall be imposed.

E. Aggravating and Mitigating Circumstances. The Local Licensing Authority may also consider aggravating and mitigating factors when considering the imposition of the penalty for violations involving compliance checks. These factors may include:

1. Action taken by the Licensee to prevent violations, i.e., training of servers.
2. Licensee's past history of success or failure with compliance checks.
3. Corrective action(s) taken by the Licensee.
4. Prior violations/prior corrective action(s) and its effectiveness.
5. Willfulness or deliberateness of the violation.
6. Likelihood of recurrence of the violation.
7. Factors which might make the situation unique, such as
 - a. Prior notification letter to the Licensee that a compliance check would be forthcoming.
 - b. The dress or appearance of the underage operative, i.e., the operative was wearing a high school letter jacket.
8. Licensee or the manager is the violator or has directed an employee or other individual to violate the law.

E. General Provisions Concerning Imposition of Penalty.

1. In the event a second or subsequent action is brought before the Local Licensing Authority for a violation of the Colorado Beer Code or Colorado Liquor Code involving a compliance check, and Licensee is found to have committed such violation, days suspended but held in abeyance in a previous action shall automatically be imposed, plus any additional suspension for the new violation as determined by the Local Licensing Authority.

2. Any period of actual closure imposed as part of a suspension by the Local

Licensing Authority must run consecutive to any previously imposed period of closure.

3. In the event a license for the retail sale of malt, vinous or spirituous liquor for on premises consumption is suspended, and an actual closure is ordered, there shall be a mandatory closure of at least one (1) day commencing at 12:01 a.m. or 2:01 a.m. on a Saturday and ending at midnight the same day. In the event a license for the retail sale of malt, vinous or spirituous liquor for off premises consumption is suspended, suspension days shall not include Sundays.

4. Notwithstanding the presumptive penalties set forth above, the Town Attorney reserves the right to request revocation of a license for any violation.

5. The Local Licensing Authority shall have the power to impose on a Licensee as a condition of a period of suspension held in abeyance, or as a condition of renewal of a license, any condition(s) reasonably related to the offenses leading to the suspension or the conduct of the business whose license is to be renewed. (Ord. 30-2003 §2(part), 2003; Amended Ord. 35-2003 §3(part), 2003).

5.10.070 Unlawful Acts. It shall constitute a Class A municipal offense for any person licensed to sell alcohol pursuant to the Colorado Beer Code, Article 46, Title 12, C.R.S., or the Colorado Liquor Code, Article 47, Title 12, C.R.S.:

A. To sell an alcohol beverage to any person under the age of twenty-one (21) years, to a habitual drunkard, or to a visibly intoxicated person. If a person who, in fact, is not twenty-one (21) years of age exhibits a fraudulent proof of age, any action relying on such fraudulent proof of age shall not constitute grounds for the revocation or suspension of any license issued under Articles 46 or 47 of Title 12, C.R.S.

B. With knowledge, to permit or fail to prevent the use of his or her identification, including a driver's license, by a person who is under twenty-one (21) years of age, for the unlawful purchase of any alcohol beverage.

C. To fail to conduct the licensed premises in a decent, orderly and respectable manner; to knowingly permit on the licensed premises the loitering of a visibly intoxicated person or habitual drunkard; or to knowingly permit any activity or acts of disorderly conduct as defined by and provided for in Section 18-9-106, C.R.S.; or to permit rowdiness, undue noise, or other disturbance or activity offensive to the senses of the average citizen or to the residents of the neighborhood in which the licensed establishment is located.

D. To fail to immediately contact the Eagle Police Department or other law enforcement agency upon the happening of any act within the licensed establishment apparently constituting harassment, as defined in Section 9.12.050 of the Eagle Municipal Code; disorderly conduct, as defined in Section 9.12.060 of the Eagle Municipal Code; assault and battery, as defined in Section

9.12.070 of the Eagle Municipal Code; or criminal trespass, as defined in Section 9.14.060 of the Eagle Municipal Code. The mere number of calls made by a licensed establishment to the Eagle Police Department or other law enforcement agency for such purposes shall not be used against a Licensee at a suspension, revocation or license renewal hearing.

The above offenses, unless otherwise indicated, shall constitute “strict liability” offenses.

(Ord. 30-2003 §3(part), 2003; Amended Ord. 35-2003 §4(part), 2003).