

Title 5

BUSINESS REGULATIONS

Chapters:

- 5.02 General Occupation Tax
- 5.03 Gas Company Occupation Tax
- 5.04 Peddlers and Solicitors
- 5.05 Lodging Occupation Tax
- 5.06 Sales Within Public Rights-of-way and On Other Public Property
- 5.10 Licensed Liquor Establishments - Requirements
- 5.12 Economic Development Assistance for Broadway Redevelopment Projects
- 5.13 Business Marketing Fee
- 5.14 Sexually Oriented Businesses
- 5.15 Medical Marijuana Dispensaries
- 5.16 Retail Marijuana Businesses Occupation Tax

Chapter 5.02

GENERAL OCCUPATION TAX

Sections:

- 5.02.010 Amount of Tax.
- 5.02.015 Applicability.
- 5.02.020 Payment.
- 5.02.025 Receipt.
- 5.02.030 Classification.
- 5.02.040 Unlawful Procedure.
- 5.02.042 Legal Right of Town.
- 5.02.044 Violations.

5.02.010 Amount of Tax. There is hereby levied and assessed for each year, beginning with 1988, an occupation tax upon every business except as otherwise provided herein, in the amount of fifty dollars (\$50.00) per year.

5.02.015 Applicability. This tax shall apply to any business, trade, occupation, profession or calling which is engaged in for the purpose of making a profit, whether a profit is actually made on a regular basis within the Town of Eagle. This tax shall apply to building contractors, plumbing contractors, general contractors and other specialized contractors. It shall not apply to such activity if exempt by virtue of State or federal law, or if subject to a similar tax under

the ordinances of the Town of Eagle, such as lodging establishments, peddlers and solicitors, or to activity as an employee of a governmental entity, or of another who is subject to the tax.

5.02.020 Payment. This tax shall be due and payable on January 1st of each year by parties engaged, on that date, in activities which are the subject of this tax. For those who begin such activity after January 1st, this tax shall be payable within ten (10) days of beginning such activity. The entire amount of the tax is due regardless of when such activity was begun.

5.02.025 Receipt. Upon receipt of the tax, it shall be the duty of the Town Clerk to execute and deliver to the operator of the business paying the tax, a revenue receipt, showing the name of the person paying the tax, the date of payment, business paying the tax, the period for which said tax is paid, and the place at which the person conducts his business. This receipt must be posted in some prominent place at the premises of the business.

5.02.030 Classification. Every party doing business in more than one (1) store, stand or other place of business, shall pay a separate tax for each place of business, unless such places of business are contiguous to each other, communicate directly with and open to each other, and are operated as a unit. The business may be transferred from one location to another without payment of additional tax.

5.02.040 Unlawful Procedure. It shall be unlawful for any party or his agent to engage in or carry on a business in the Town of Eagle for which an occupational tax is required, without first having paid the tax and obtained and posted a revenue receipt, as herein provided. For the purpose of this Section, the opening of a place of business, or offering to sell, followed by a single sale or the doing of any act or thing in the furtherance of the business, shall be construed to be engaging in carrying on such business.

5.02.042 Legal Right of Town. The Town of Eagle shall have the right to recover all sums due by the terms of this Section by judgment and execution thereon in a civil action in any court of competent jurisdiction; such remedy shall be cumulative, with all other remedies provided herein for the enforcement of this Section.

5.02.044 Violations. 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. (Amended Ord. 10-2001 §12, 2001).

Chapter 5.03

GAS COMPANY OCCUPATION TAX

Sections:

5.03.010	Legislative Intent.
5.03.020	Definitions.
5.03.030	Levy of Tax.
5.03.040	Time of Payment of Tax.
5.03.050	Interest on Deficiency.
5.03.060	Failure to Pay.
5.03.070	Inspection of Records.
5.03.080	Administrative Hearings.
5.03.090	Administration of Tax.
5.03.100	Local Purpose.
5.03.110	Reimbursement of Costs.

5.03.010 Legislative Intent. The Board of Trustees hereby finds, determines, and declares:

A. That Ordinance No. 123, granting a franchise to the Rocky Mountain Natural Gas Company, Inc., to locate, build, construct, acquire, purchase, extend, maintain, and operate a gas system within the Town of Eagle expired by its terms on September 6, 1991; and

B. That the transportation, distribution, and sale of gas within a Town through pipelines, mains, and other fixed facilities, using easements and rights-of-way granted by the Town involves the use, availability, and potential use of Town personnel and facilities, and creates the potential for hazards dissimilar to other utility services; and

C. That the transportation, distribution, and sale of gas within the Town requires stand-by and active service by police, public works employees, and other local safety agencies, which is a matter of local and municipal concern; and

D. That the nature of companies transporting, distributing, and selling gas, and otherwise operating within the Town of Eagle, including, without limitation, their demands on Town staff, the use of public and private easements, streets and rights-of-way, and the potential and actual hazards from the operation of such companies, has a substantial effect upon the health, safety, and welfare of the citizens of the Town of Eagle, and upon the expenditures budgeted by the Town; and

E. That, upon review of all matters proper to be considered relating to the operations and

hazards of gas companies, the classification of such gas companies as separate businesses and occupations is reasonable, proper, uniform, and non-discriminatory; and the taxable amount hereby levied is reasonable, proper, uniform, non-discriminatory, and necessary for a just and proper distribution of the tax burdens of the Town; and

F. That the use by a gas company of the streets, alleys, easements, and public rights-of-way located within the Town is a valuable special privilege not provided to the public generally and for which the Town is entitled to consideration in the form of occupation tax revenues; and

G. That the occupation tax herein created is levied on the right of gas companies to do business within the Town as are other occupation taxes imposed within the Town.

5.03.020 Definitions. The following words, terms, and phrases, as used in this Chapter, shall have the following meanings:

A. “Gas” or “natural gas” refers to such gaseous fuels as natural, artificial, synthetic, liquefied natural, liquefied petroleum, manufactured, or any mixture thereof.

B. “Gas company” means any person, partnership, business, firm, or corporation that sells, provides, delivers, or distributes gas within the corporate limits of the Town through pipelines, mains, and other related facilities and appurtenances located in whole or in part in easements, streets, and other public places dedicated to or held by the Town for use by the public.

C. “Taxable amount” refers to the monthly amount of the occupation tax levied upon a gas company by this Chapter.

5.03.030 Levy of Tax. A. Effective September 25, 1991, there is hereby levied upon every gas company that sells, provides, supplies, delivers, or distributes gas within the Town a taxable amount for each and every calendar month that any such company sells, provides, supplies, delivers, or distributes gas within the Town.

B. The taxable amount shall be one thousand five hundred dollars (\$1,500.00) per calendar month, except that the taxable amount for the period of September 25, 1991, through September 30, 1991, shall be two hundred fifty dollars (\$250.00).

5.03.040 Time of Payment of Tax. The tax levied by this Chapter shall accrue against each and every gas company on September 25, 1991, and on the first (1st) day of each calendar month thereafter. The taxable amount shall be due and payable by any such company no later than the 10th day of each calendar month, except that the taxable amount for September, 1991, shall be due and payable no later than October 10, 1991. Any taxable amount not paid on the tenth (10th) day of each calendar month, shall become delinquent.

5.03.050 Interest on Deficiency. Interest on any deficiency in the payment of the tax shall be at the rate imposed under Section 39-21-110.5, C.R.S., plus one-half percent (1/2%) per month from the date when due.

5.03.060 Failure to Pay. If any gas company subject to the provisions of this Chapter shall fail to pay the taxes as herein provided, the full amount thereof plus costs of collection, including reasonable attorneys' fees, shall be due and collected from such company, and the same together with an additional ten percent (10%) of the amount of taxes due shall be and hereby is declared to be a debt due and owing from such company to the Town. The computation of said ten percent (10%) shall be in addition to interest on the deficiency as set out in the previous Section. The Town Attorney, upon direction of the Board of Trustees, shall commence and prosecute to final judgment and determination in any court of competent jurisdiction an action at law to collect said debt.

5.03.070 Inspection of Records. The Town, its officers, agents, or representatives, shall have the right at all reasonable hours and times to examine the books, and records of the gas companies which are subject to the provisions of this Chapter and to make copies of the entries or contents thereof.

5.03.080 Administrative Hearings. Any gas company subject to the provisions of this Chapter may request a hearing on the levy of the occupation tax after receiving a notice of final determination, assessment, demand for payment, or denial of claim for refund. If a gas company disputes the reasonableness or applicability of the tax, it may seek review of the assessment by filing a protest with the Town Administrator within thirty (30) days of the mailing of the accounting statement. If such a protest is filed, a hearing shall be held before the Town Administrator. Said hearing shall be conducted pursuant to Chapter 2.20 of the Eagle Municipal Code.

5.03.090 Administration of Tax. The Town Treasurer shall administer the provisions of this Chapter. The Town Administrator may promulgate rules or regulations to aid in the enforcement and administration of this Chapter.

5.03.100 Local Purpose. The tax herein provided is upon occupations and businesses in the performance of local functions and is not a tax upon functions relating to interstate commerce. It is expressly understood that none of the terms of this Chapter shall be construed to mean that any gas company subject to this tax is granted a franchise by the Town.

5.03.110 Reimbursement of Costs. Any entity challenging the validity, legality, applicability, or constitutionality of this Chapter, or the tax levied, if unsuccessful, shall reimburse the Town for all costs incurred, including attorneys' fees, in such litigation.

Chapter 5.04

PEDDLERS AND SOLICITORS

Sections:

5.04.010	Definitions
5.04.020	Business License and Sales Tax License – Required
5.04.030	Prohibited Activities
5.04.040	Juvenile Peddlers and Solicitors
5.04.050	Enforcement and Penalties

5.04.010 Definitions. Words used in this Chapter shall have the following meanings ascribed to them:

A. A “peddler” is any individual, whether a resident of the Town or not, who engages in the itinerant or transient sale or bartering of any goods, merchandise or services directly to the consuming public, whether or not the goods, merchandise or services are actually delivered at the time of sales. A peddler engages in such activities as selling from place to place, from house to house, or from street to street, hawking of items at public events, and selling or canvassing by means of carrying goods or samples around from place to place in order to encounter consumers who will purchase or order the goods.

B. “Peddling” includes all activities ordinarily performed by a peddler but does not include the following:

1. Any sales efforts by telephone, mail, or electronic media where there is no face to face encounter with the purchaser at the time of sale, delivery or provision of goods, merchandise or services;
2. Any sales by sales persons selling good or merchandise or providing services exclusively to commercial, industrial or business accounts;
3. Newspaper and magazine sales;
4. The sale of food by food peddlers or operators of mobile food units including push carts;
5. Sales from push carts and similar vending devices located in public rights-of-way;
6. Sales from a stationary but temporary source, such as a road side stand, located totally upon private property, to the extent such activities are permitted and regulated

under the Town's Land Use and Development Code contained in Title 4 of the Eagle Municipal Code; and

7. Sales in Town parks to the extent such activities are permitted.

C. A "solicitor" is any person, whether resident of the Town or not, traveling either by foot or vehicle or any other type of conveyance, from place to place, or from house to house, or from street to street, taking or attempting to take orders for the sale of goods, wares, merchandise or personal property of any nature whatsoever for future delivery or for services to be performed or furnished in the future, whether or not such person has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sale or not.

5.04.020 Business License and Sales Tax License - Required. A. Any peddler or solicitor working either individually or for a corporation, partnership or other legally recognized organization shall individually obtain a business license pursuant to Chapter 5.02 of the Eagle Municipal Code and sales tax license if required under Chapter 3.04 of the Eagle Municipal Code.

B. The following types of organizations and individuals selling goods, merchandise or services on their behalf are not required to obtain a license but shall otherwise comply with the applicable requirements of this Chapter:

1. State and local governmental departments, agencies and subdivisions, including public schools;
2. State accredited private schools and academies;
3. Charitable, civic, patriotic, religious, educational, recreational, fraternal or cultural organizations which are tax exempt pursuant to Section 501(C) of the Internal Revenue Code as amended; and
4. Person promoting a political candidate, political party, or ballot issue.

5.04.030 Prohibited Activities. It shall be unlawful for any peddler or a solicitor to:

A. Make any false statement of misrepresentation of fact, or otherwise engage in fraud, in the course of carrying out the activities permitted under this Chapter, or to fail to fulfill the obligations and representations which the peddler or solicitor makes to a consumer.

B. In peddling any goods, merchandise or services to be delivered or provided at a future date, refuse or fail to give to a purchaser at the time of sale a written and signed receipt which shall accurately set forth name, address and telephone number of the peddler or solicitor; a brief description of the goods, merchandise or services to be delivered or provided; the anticipated date and manner of

delivery or provision of such goods, merchandise or services; the amount paid by the consumer; the balance due on purchases; and the terms or any payment;

C. Fail or refuse to leave peacefully private property immediately when told to do so by the land owner, the land owner's agent or representative, or the occupant of the premises, or to attempt to solicit business at any place which maintains a sign or other visible and legible indication that such solicitation of business is not desired or is prohibited, unless the permission of the owner, agent, representative or occupant of the premises has been previously obtained;

D. Engage in door-to-door sales at residences from a half hour after sunset until 8:00 a.m. the next day; or

E. Obstruct, impede or otherwise interfere with the public's use of public streets, sidewalks, ways or places, other than as authorized by other provisions of the Eagle Municipal Code.

5.04.040 Juvenile Peddlers and Solicitors.

A. No person under the age of eighteen (18) years of age shall be permitted to engage in peddling or soliciting except as provided in this Section. Except as provided in Section 5.04.020 above, pursuant to Chapter 5.02 of the Eagle Municipal Code a business license shall be obtained by a sponsoring person, company or organization for the conduct of any peddling or soliciting business involving, in whole or in part, a sales force of one (1) or more persons under eighteen (18) years of age. Any person eighteen (18) years of age or older peddling or soliciting for a sponsor shall obtain an individual business license as provided in Section 5.04.020 above. The sponsor shall be responsible for supervising and controlling the conduct of all persons, including juveniles, peddling under the sponsor's license. This responsibility shall extend to the prohibited activities set forth in Section 5.04.030 above. The sponsor shall maintain visual contact with all juveniles at all times sponsored juveniles are peddling or soliciting.

B. The sponsor shall be limited to peddling or soliciting, through its sales force, food products, such as candies and snacks, which are pre-packaged by the manufacturer and not requiring refrigeration; inexpensive household and novelty items; items hand crafted or prepared by members or beneficiaries of the sponsor.

C. Peddling or soliciting under this Section shall be limited to between the hours of 3:00 p.m. and one half (1/2) hour after sunset on school days, as scheduled by the School District. During any other time of the year, peddling or soliciting under this Section shall be limited to the hours set forth Section 5.04.030 above.

D. No juvenile under the age of twelve (12) shall be permitted to engage in peddling or soliciting unless accompanied by his or her parent or guardian.

5.04.050 Enforcement and Penalties. Any person, firm, association or corporation knowingly violating any of the provisions of this Chapter commits a Class A municipal offense. Such person, firm, association or corporation shall be guilty of a separate offense for each and every day during any portion of which a violation of this Chapter is committed or continued. (Repealed and Reenacted, Ord. 06-2015 § 1, 2015).

Chapter 5.05

LODGING OCCUPATION TAX

Sections:

5.05.010	Purpose.
5.05.020	Definitions.
5.05.030	Levy of Tax.
5.05.040	Exemptions.
5.05.050	Exemption From General Occupation Tax.
5.05.060	Collection of Tax.
5.05.070	Audit of Records.
5.05.080	Tax Overpayments and Deficiencies.
5.05.090	Tax Information Confidential.
5.05.100	Forms and Regulations.
5.05.110	Enforcement and Penalties.
5.05.120	Tax Lien.
5.05.130	Recovery of Unpaid Tax.
5.05.140	Status of Unpaid Tax in Bankruptcy and Receivership.
5.05.150	Hearings, Subpoenas and Witness Fees.
5.05.160	Depositions.
5.05.170	Statute of Limitation.
5.05.180	Funds Created.
5.05.190	Exemption from Revenue Limitation.

5.05.010 Purpose. The Board of Trustees hereby finds, determines and declares:

A. For the purposes of this Chapter, every person that furnishes a lodging room or accommodation for consideration in the Town of Eagle is exercising a taxable privilege. The purpose of this Chapter is to impose a tax that will be paid by every vendor providing such lodging room or accommodation in the Town of Eagle, which tax will provide revenues for the preservation of agricultural lands and for the acquisition, maintenance and management of land and easements in and around the Town for open space buffer zones, trails within open space areas, wildlife habitats and wetland preservation, as well as for the general marketing and promotion of the Town of Eagle and the marketing and promotion of Eagle events for the purpose of generating additional revenue for existing and future lodging and other Town of Eagle businesses; and

B. The Town of Eagle desires to maintain a small Town, not a resort, atmosphere, desires to preserve open space and provide access to public lands, desires to protect wildlife habitat and corridors, and desires to protect riparian corridors, all of which serves to attract tourists, the

traveling public and others to the Eagle area, who use lodging rooms and accommodations; and

C. The Eagle Area Community Plan (2010) endorses the following economic actions by the Town: use environmentally appropriate strategies to promote organized and disbursed recreation tourism in the area, pursue opportunities provided through the operation of facilities for organized sports and events, promote businesses and activities that benefit from Eagle's proximity to the I-70 corridor, generate new sales tax dollars, encourage diversification of the local economy, and optimize commercial development to create more jobs and provide additional outlets for goods and services within the five (5) existing commercial centers; and

D. The provision of lodging rooms and accommodations to the traveling public results in the increased use of Town streets and rights-of-way, increased traffic, increased demands upon municipal services such as police protection and has a substantial effect upon the health, safety and welfare of the citizens of the Town of Eagle and upon the expenditures budgeted by the Town which is a matter of local concern; and

E. The classification of the provision of lodging as separate businesses and occupations is reasonable, proper, uniform and nondiscriminatory; and the taxable amount hereby levied is reasonable, proper, uniform, nondiscriminatory, and necessary.
(Ord. 9-1996 §1 (part), 1996; Amended Ord. 19-2011 §1, 2011).

5.05.020 Definitions. When not clearly otherwise indicated by the context, the following words and phrases as used in this Chapter shall have the following meanings:

A. "Lodging" shall mean hotel rooms, motel rooms, lodging rooms, motor hotel rooms, guest house rooms, or other similar accommodations that are rented to persons for a period of less than one (1) month or thirty (30) consecutive days, but shall not include rentals under a written agreement for occupancy for a period of at least one (1) month or thirty (30) days.

B. "Monetary Consideration" means the transfer of funds from a person to a vendor, directly or indirectly, by whatever means, including the payment of cash, issuance of a check or similar negotiable instrument, or through a credit card service in exchange for the provision of a lodging accommodation.

C. "Person" means an individual, partnership, firm, joint enterprise, limited liability company, corporation, estate or trust, or any group or combination acting as a unit, but shall not include the United States of America, the State of Colorado and any political subdivision thereof.

D. "Sale" means the furnishing for Monetary Consideration by any person of lodging within the Town.

E. "Tax" means the tax payable by the vendor or the aggregate amount of taxes due from

vendor during the period for which the vendor is required to pay the occupation tax on the provision of lodging for Monetary Consideration under this Chapter.

F. “Taxpayer” means the vendor obligated to pay the tax under the terms of this Chapter.

G. “Vendor” means a person furnishing lodging for Monetary Consideration within the Town. ((Ord. 9-1996 §1 (part), 1996) Amended Ord. 07-2015 § 1, 2015, Amended Ord. 14-2015 § 1, 2015)

5.05.030 5.05.030 Levy of Tax. Effective January 1, 2012, there is hereby levied by the Town of Eagle an occupation tax on the provision of lodging upon every person or business that furnishes any hotel room, motel room, lodging room, motor hotel room, guest house room or other similar accommodation for Monetary Consideration for less than one (1) month or thirty (30) consecutive days within the Town of Eagle in the amount of four dollars (\$4.00) per day, per occupied lodging room or accommodation. (Ord. 9-1996 §1 (part), 1996; Amended Ord. 19-2011 §2, 2011, Amended Ord. 14-2015 § 2, 2015).

5.05.040 Exemptions. The following transactions shall be exempt from the tax imposed by this Chapter:

A. Accommodations provided by the United States, the State of Colorado, its departments and institutions, and the political subdivisions of the State in their governmental capacities only;

B. Accommodations provided by those charitable, religious and eleemosynary organizations that have received from the Internal Revenue Service status under Section 501(c)(3) of the Internal Revenue Code as a tax exempt organization, while in the conduct of their regular charitable, religious or eleemosynary functions and activities; and

C. Accommodations provided to a person who is a permanent resident of a hotel, motel, apartment hotel, lodging house, motor hotel, guest house, or other similar business pursuant to a written agreement for a period of at least one (1) month or thirty (30) consecutive days.

D. Accommodations provided to a person without Monetary Consideration being paid to the vendor for such accommodations. ((Ord. 9-1996 §1 (part), 1996) Amended, Ord. 07-2015 § 2, 2015, Amended, Ord. 14-2015 § 3, 2015)

5.05.050 Exemption From General Occupation Tax. Any taxpayer who pays taxes imposed by this Chapter in the amount of fifty dollars (\$50.00) or more in any calendar year shall be

exempt from payment of the General Occupation Tax set forth in Chapter 5.02 of this Code. (Ord. 9-1996 §1 (part), 1996).

5.05.060 Collection of Tax

A. Every vendor providing lodging taxable under this Chapter shall remit such tax on or before the tenth (10th) day of each month on account of lodging provided in the preceding month. Said payment shall be accompanied by a return which shall contain such information and be in such form as the Town Clerk may prescribe.

B. The burden of providing that any transaction is exempt from the tax shall be upon the vendor

C. If the accounting methods regularly employed by the vendor in the transaction of business, or other conditions, are such that the returns aforesaid made on a calendar month basis will impose unnecessary hardship, the Town Clerk may, upon request of the vendor, accept returns at such intervals as will, in the Town Clerk's opinion, better suit the convenience of the vendor and will not jeopardize the collection of the tax; provided, however, the Town Clerk may by rule permit a vendor whose monthly tax obligation is less than sixty dollars (\$60.00) to make returns and pay taxes at intervals not greater than three (3) months.

D. It shall be the duty of every vendor to maintain, keep and preserve suitable records of all sales made by the vendor and such other books or accounts as may be required by the Town Clerk in order to determine the amount of the tax of which the vendor is liable under the Chapter. It shall be the duty of every such vendor to keep and preserve for a period of three (3) years all such books, invoices and other records and the same shall be open for examination by the Town Clerk or his designee.

(Ord. 9-1996 §1 (part), 1996; Amended Ord. 19-2011 §3, 2011).

E. (Repealed, Ord. 1-2015 § 1, 2015)

5.05.070 Audit of Records. A. For the purpose of ascertaining the correct amount of the occupation tax on the provision of lodging due from any person engaged in such business in the Town under this Chapter, the Town Clerk or an authorized agent, may conduct an audit by examining any relevant books, accounts and records of such person.

B. All books, invoices, accounts and other records shall be made available within the Town limits and be open at any time during regular business hours for examination by the Town

Clerk or an authorized agent. If any taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the Town Clerk may issue a subpoena to require that the taxpayer or its representative attend a hearing or produce any such books, accounts and records for examination.

C. Any exempt organization claiming exemption under the provisions of this Chapter is subject to audit in the same manner as any other person engaged in the lodging business in the Town.
(Ord. 9-1996 §1 (part), 1996).

5.05.080 Tax Overpayments and Deficiencies. An application for refund of tax monies paid in error or by mistake shall be made within three (3) years after the date of payment for which the refund is claimed. If the Town Clerk determines that within three (3) years of the due date, a vendor overpaid the occupation tax on the provision of lodging, he shall process a refund or allow a credit against a future remittance from the same taxpayer. If at any time the Town Clerk determines the amount paid is less than the amount due under this Chapter, the difference together with the interest shall be paid by the vendor within ten (10) days after receiving written notice and demand from the Town Clerk. The Town Clerk may extend that time for good cause. (Ord. 9-1996 §1 (part), 1996).

5.05.090 Tax Information Confidential. A. All specific information gained under the provisions of this Chapter which is used to determine the tax due from a taxpayer, whether furnished by the taxpayer or obtained through audit, shall be treated by the Town and its officers, employees or legal representatives as confidential. Except as directed by judicial order or as provided in this Chapter, no Town officer, employee, or legal representative shall divulge any confidential information. If directed by judicial order, the officials charged with the custody of such confidential information shall be required to provide only such information as is directly involved in the action or proceeding. Any Town officer or employee who shall knowingly divulge any information classified herein as confidential, in any manner, except in accordance with proper judicial order, or as otherwise provided in this Chapter or by law, shall be guilty of a violation hereof.

B. The Town Clerk may furnish to officials of any other governmental entity who may be owed sales tax any confidential information, provided that said jurisdiction enters into an agreement with the Town to grant reciprocal privileges to the Town.

C. Nothing contained in this Section shall be construed to prohibit the delivery to a taxpayer or their duly authorized representative a copy of such confidential information relating to such taxpayer, the publication of statistics so classified as to prevent the identification of particular taxpayers, or the inspection of such confidential information by an officer, employee, or legal representative of the Town.
(Ord. 9-1996 §1 (part), 1996).

5.05.100 Forms and Regulations. The Town Clerk is hereby authorized to prescribe

forms and promulgate rules and regulations to aid in the making of returns, the ascertainment, assessment and collection of said occupation tax on the provision of lodging and in particular and without limiting the general language of this Chapter, to provide for:

- A. A form of report on the provision of lodging to be supplied to all vendors;
- B. The records which vendors providing lodging are to keep concerning the tax imposed by this Chapter.
(Ord. 9-1996 §1(part), 1996).

5.05.110 Enforcement and Penalties. A. It shall be unlawful for any person to intentionally, knowingly, or recklessly fail to pay the tax imposed by this Chapter, or to make any false or fraudulent return, or for any person to otherwise violate any provisions of this Chapter. Any person convicted of a violation of this Chapter shall be deemed guilty of a Class A municipal offense. Each day, or portion thereof, that any violation of this Chapter continues shall constitute a separate offense. (Ord. 9-1996 §1 (part), 1996; Amended Ord. 10-2001 §14, 2001; Amended Ord. 19-2011 §4, 2011).

B. A penalty in the amount of ten percent (10%) of the tax due or the sum of ten dollars (\$10.00), whichever is greater, shall be imposed upon the vendor and become due in the event the tax is not remitted by the tenth (10th) day of the month as required by this Chapter, or such other date as prescribed by the Town Clerk, and one and one-half percent (1.5%) interest shall accrue each month on the unpaid balance. The Town Clerk is hereby authorized to waive, for good cause shown, any penalty assessed.

C. If any part of a deficiency is due to negligence or intentional disregard of regulations, but without intent to defraud, there shall be added ten percent (10%) of the total amount of the deficiency, and interest, from the vendor required to file a return. If any part of the deficiency is due to fraud with the intent to evade the tax, then there shall be added fifty percent (50%) of the total amount of the deficiency together with interest and in such case, the whole amount of the unpaid tax, including the additions, shall become due and payable ten (10) days after written note and demand by the Town Clerk.

D. If any vendor fails to make a return and pay the tax imposed by this Chapter, the Town may make an estimate, based upon available information of the amount of tax due and add the penalty and interest provided above. The Town shall mail notice of such estimate, by certified mail, to the vendor at his address as indicated in the Town records. Such estimate shall thereupon become an assessment, and such assessment shall be final and due and payable from the taxpayer to the Town Clerk ten (10) days from the date of service of the notice or the date of mailing by certified mail; provided, however, that within the ten (10) day period such delinquent taxpayer may petition the Town Clerk for a revision or modification of such assessment and shall, within such ten (10) day period, furnish the Town Clerk the documents, facts and figure showing the correct amount of such

taxes due and owing.

E. Such petition shall be in writing and the facts and figures submitted shall be submitted either in writing or orally, and shall be given by the taxpayer under penalty or perjury. Thereupon, the Town Clerk may modify such assessment in accordance with the facts submitted in order to effectuate the provisions of this Chapter. Such assessment shall be considered the final order of the Town Clerk, and may be reviewed under the Rule 106(a)(4) of the Colorado rules of Civil Procedure, provided that the taxpayer gives written notice to the Town Clerk of such intention within ten (10) days after of the final order of assessment. (Ord. 9-1996 §1 (part), 1996).

5.05.120 Tax Lien. A. The tax imposed by this Chapter, together with the interest and penalties herein provided and the costs of collection which may be incurred, shall be and, until paid, remain a first and prior lien superior to all other liens on all the tangible personal property of a taxpayer within the Town and may be foreclosed by seizing under distraint warrant and selling so much thereof as may be necessary to discharge the lien. Such distraint warrant may be issued by the Town Clerk whenever the taxpayer is in default in the payment of the tax, interest, penalty or costs. Such warrant may be served and the goods subject to such lien seized by any Town police officer, the Eagle County Sheriff or any duly authorized employee of the Town. The property so seized may be sold by the agency seizing the same or by the Town Clerk at public auction after ten (10) days have passed following an advertised notice in a newspaper published in the Town, in the same manner as is prescribed by law in respect to executions against property upon judgment of a court of record, and the remedies of garnishment shall apply.

B. The tax imposed by this Chapter shall be, and remain, a first and prior lien superior to all other liens on the real property and appurtenant premises at which the taxable transactions occurred. (Ord. 9-1996 §1 (part), 1996).

5.05.130 Recovery of Unpaid Tax. A. The Town Clerk may also treat any such taxes, penalties, costs or interest due and unpaid as a debt due the Town from the taxpayer.

B. In case of failure to pay the taxes, or any portion thereof, or any penalty, costs or interest thereon, when due, the Town Clerk may recover at law the amount of such taxes, penalties, costs, the reasonable value of any attorney's time or the reasonable attorney's fees charged, plus interest, in any county or district court of the county wherein the taxpayer resides or had a principal place of business (at the time the tax became due) having jurisdiction of the amount sought to be collected.

C. The return of the taxpayer or the assessment made by the Town Clerk shall be prima facie proof of the amount due.

D. Such actions may be actions in attachment, and writs of attachment may be issued to

the Eagle police or Eagle County Sheriff as the case may be, and in any such proceeding no bond shall be required of the Town Clerk, nor shall any police officer or sheriff require of the Town Clerk an indemnifying bond for executing the writ of attachment or writ of execution upon any judgment entered in such proceedings. The Town Clerk may prosecute appeals in such cases without the necessity of providing bond therefor.

E. It shall be the duty of the Town Attorney, when requested by the Town Clerk, to commence action for the recovery of taxes due under this Chapter and this remedy shall be in addition to all other existing remedies, or remedies provided in this Chapter.

F. The Town may certify the amount of any delinquent tax, plus interest, penalties and the costs of collection, as a charge against the property at which the taxable transaction occurred to the County Treasurer for collection in the same manner as delinquent ad valorem taxes. (Ord. 9-1996 §1 (part), 1996).

5.05.140 Status of Unpaid Tax in Bankruptcy and Receivership. Whenever the business or property of a taxpayer subject to this Chapter shall be placed in receivership, bankruptcy or assignment for the benefit of creditors, or seized under distraint for taxes, all taxes, penalties and interest imposed by this Chapter and for which the taxpayer is in any way liable under the terms of this Chapter shall be a prior and preferred lien against all the property of the taxpayer, except as to other tax liens which have attached prior to the filing of the notice, and no sheriff, receiver, assignee or other officer shall sell the property of any person subject to this Chapter under process or order of any court, without first ascertaining from the Town Clerk the amount of any taxes due and payable under this Chapter, and if there be any such taxes due, owing and unpaid, it shall be the duty of such officer to first pay the amount of the taxes out of the proceeds of such sale before making payment of any monies to any judgment creditor or other claimants of whatsoever kind or nature, except the costs of the proceedings and other preexisting tax liens as above provided. (Ord. 9-1996 §1 (part), 1996).

5.05.150 Hearings, Subpoenas and Witness Fees. A. Hearings before the Town Clerk pursuant to provisions in this Chapter shall be held pursuant to Chapter 2.20, Procedures for Hearings, of this Code. Any subpoena issued pursuant to this Chapter may be enforced by the Eagle Municipal Judge pursuant to Section 13-10-112(2), C.R.S. The fees of witnesses for attendance at hearings shall be the same as the fees of witnesses before the District Court, such fees to be paid when the witness is excused from further attendance. When the witness is subpoenaed at the instance of the Town Clerk, such fees shall be paid in the same manner as other expenses under the terms of this Chapter, and when a witness is subpoenaed at the instance of any party to any such proceeding, the Town Clerk may require that the cost of service of the subpoena and the fee of the witness be borne by the party at whose instance the witness is summoned. In such case, the Town Clerk, at his discretion, may require a deposit to cover the cost of such service and witness fees. A subpoena issued as aforesaid shall be served in the same manner as a subpoena issued out of a court of record.

B. The Eagle Municipal Judge, upon the application of the Town Clerk, may compel the attendance of witnesses, the production of books, papers, records or memoranda, and the giving of testimony before the Town Clerk or any duly authorized hearing officers, by an action for contempt, or otherwise, in the same manner as production of evidence may be compelled before the Court. (Ord. 9-1996 §1 (part), 1996).

5.05.160 Depositions. The Town Clerk or any party in an investigation or hearing before the Town Clerk may cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil actions in courts of this State and to that end compel the attendance of witnesses and the production of books, papers, records or memoranda. (Ord. 9-1996 §1 (part), 1996).

5.05.170 Statute of Limitation. A. Except as otherwise provided in this Section, the taxes for any period, together with interest thereon and penalties with respect thereto, imposed by this Chapter shall not be assessed, nor shall notice of lien be filed, or distraint warrant be issued, or suit for collection be instituted, or any other action to collect the same be commenced, more than three (3) years after the date on which the tax was or is payable. Nor shall any lien continue after such period, except for taxes assessed before the expiration of such three (3) year period, notice of lien with respect to which has been filed prior to the expiration of such period.

B. In case of a false or fraudulent return with intent to evade taxation, the tax, together with interest and penalties thereon, may be assessed, or proceedings for the collection of such taxes may be commenced at any time.

C. Before the expiration of such period of limitation, the taxpayer and the Town Clerk may agree in writing to an extension thereof, and the period so agreed on may be extended by subsequent agreements in writing. (Ord. 9-1996 §1 (part), 1996).

5.05.180 Fund Created. A. There is hereby created a fund to be known as the “Open Space Preservation Fund”. One half (½) of the revenues derived from the occupation tax on the provision of lodging imposed by this Chapter shall be placed in such Open Space Preservation Fund. All expenditures from such fund shall be used exclusively for: (1) the preservation of agricultural lands; (2) for the acquisition, maintenance and management of lands and easements in and around the Town for open space buffer zones, trails within open space areas, and wildlife habitats; (3) wetland preservation; (4) construction and maintenance of soft path recreation trails connecting to the existing Eagle Area Trails System; and (5) the construction of facilities which will serve open space users such as restrooms, parking areas, and other physical improvements which will improve the quality of the user’s experience when utilizing Town open space and adjacent lands. (Amended Ord. 12-2014 §1, 2014).

B. There is hereby created a fund to be known as the “Town Marketing and Events Fund Account”. One-half (1/2) of the revenues derived from the occupation tax on the provision of lodging imposed by this Chapter shall be placed in the Town Marketing and Events Account. All expenditures from such fund shall be used exclusively for the general marketing and promotion of the Town of Eagle and the marketing and promotion of Eagle events for the purpose of generating additional revenue for existing and future lodging and other Town of Eagle businesses.

C. The Board of Trustees may, by a Resolution of the Board, adopt rules and procedures for the expenditure of funds for the Marketing and Events Account, including but not limited to the following: establishment of an advisory committee, the role and conduct of the advisory committee, the expenditure of funds and any other rules and regulations it deems necessary for the effective use and disposition of the funds. (Ord. 9-1996 §1 (part), 1996; Amended Ord. 19-2011 §5, 2011).

5.05.190 Exemption From Revenue Limitation. The occupation tax on the provision of lodging imposed by this Chapter and the use of revenues derived from said tax for open space preservation and marketing and promotion of the Town of Eagle and the marketing and promotion of Eagle events as set out herein was approved by the electors of the Town of Eagle on April 2, 1996 and November 1, 2011. As a part of said approvals, the revenues are to be collected and spent as a voter approved revenue change, notwithstanding any revenue or expenditure limitations contained in Article X, Section 20, of the Colorado Constitution. (Ord. 9-1996 §1 (part), 1996; Amended Ord. 19-2011 §6, 2011)

Chapter 5.06

SALES WITHIN PUBLIC RIGHTS-OF-WAY AND ON OTHER PUBLIC PROPERTY

Sections:

5.06.010	Purpose.
5.06.020	Definitions.
5.06.030	License Required.
5.06.040	Application for License.
5.06.050	Issuance of License.
5.06.060	License Conditions and Restrictions.
5.06.070	License-Fees.
5.06.080	License-Display Required.
5.06.090	License-Revocation.
5.06.100	Appeals.
5.06.110	Violations.

5.06.010 Purpose. A purpose of this Chapter is to protect the public health, safety and welfare of the public by regulating certain business activities within the Town’s public rights-of-way and on certain other public property and to enhance the environment within such public rights-of-way and public property. It is also a purpose of this Chapter to provide for the reasonable usage of the public rights-of-way and applicable public property for business sales activities subject to appropriate restrictions. It is not a purpose of this Chapter to regulate or restrict political speech and activities protected by the State and federal Constitutions. (Ord. 45-2003 §1, 2003).

5.06.020 Definitions. As used in this Chapter:

A. “Public Property” means all parks, open space, recreation areas, and unimproved real property dedicated or conveyed to the Town of Eagle or dedicated to the public within the Town of Eagle. Provided, however, the term “public property” shall not apply to visitor or tourist information centers, the Town Hall, golf courses, or the Town’s pool and ice facility.

B. “Public Right-of-Way” means any real property or easement dedicated or conveyed to the Town of Eagle or to the public within the Town of Eagle; and any real property or easement dedicated to Eagle County or the State of Colorado within the Town of Eagle, for vehicular and/or pedestrian travel, including sidewalks and pedestrian paths.

C. “Sales Activity” means selling or offering for sale to consumers, any goods, wares, food or merchandise while parked in any vehicle or other form of conveyance, or while situate in a

stand or any other like structure of a temporary nature, or while traveling on foot. (Ord. 45-2003 §1, 2003).

5.06.030 License Required. It shall be unlawful for any person to engage in or conduct sales activity within a public right-of-way or on public property, as defined herein, without having first obtained a license therefor from the Town pursuant to this Chapter. Provided, however, the Board of Trustees may waive the requirements of this Chapter for street fairs, festivals, business promotions and similar special events approved by the Town. (Ord. 45-2003 §1, 2003).

5.06.040 Application for License. Applications for a license to engage in or conduct sales activity within a public right-of-way or on applicable public property shall be submitted to the Town Administrator on a form provided by the Town Clerk and shall include, but not be limited to, the following:

A. Name and address of the applicant; and the names of all beneficial owners of the applicant if the applicant is other than a natural person or sole proprietorship;

B. If the applicant is acting as an employee of a business entity, the name, address and phone number of the employer, together with credentials establishing the exact relationship between employer and employee;

C. A brief description of the nature of the sales activity and the goods, wares, food or merchandise to be offered for sale;

D. A statement as to whether or not the applicant has ever been convicted of any crime or municipal offense, other than minor traffic violations or infractions of six (6) points or less, and if the applicant has been so convicted, a statement as to the nature of the offense and conviction;

E. The length of time for which applicant desires to engage in sales activity;

F. The location for which the license is requested;

G. The description of the stand, temporary structure and/or other implements to be used in connection with the sales activity if the license is granted;

H. A signed statement that the applicant shall hold harmless and indemnify the Town of Eagle, its officers and employees, for any claims for damage to property or injury to persons which may be occasioned by any activity carried on under the terms of the license within the public right-of-way or other applicable public property, including reasonable attorney's fees; and

I. Proof of a current business license issued pursuant to Chapter 5.02, and proof of a sales tax license if required under Chapter 3.04 of the Eagle Municipal Code or applicable State law.

At the time of the filing of the application, a fee of twenty-five dollars (\$25.00) shall be paid to the Town Clerk to cover the cost of processing the application.
(Ord. 45-2003 §1, 2003).

5.06.050 Issuance of License. A. Upon receipt of an application described in Section 5.06.040, an investigation shall be conducted at the direction of the Town Administrator to determine the applicant's business character and responsibility; the impacts of the proposed sales activity on the safety of inhabitants in the area and the free flow of pedestrian and vehicular traffic; the impacts on the public right-of-way, or other applicable public property, where the applicant desires to engage in or conduct sales activity; and impacts on the adjoining land uses and established businesses in the neighborhood. Based upon such investigation, the Town Administrator shall grant or deny the application for a license to engage in or conduct sales activity within a public right-of-way, or on applicable public property, within thirty (30) days following receipt of the application.

1. If the application for a license is granted, the Town Administrator shall issue a license to the applicant which shall contain the signature of the issuing officer, the type of license issued, and the kind of goods, wares, food or merchandise to be sold thereunder, the date of issuance, the expiration date thereof, and any restrictions or conditions of the license.

2. The Town Administrator, in the exercise of his reasonable discretion, may adopt a policy providing that no applications for a license will be accepted, and no licenses issued, for certain defined locations and time periods when the Town Administrator determines that any sale activity within a public right-of-way or applicable public property will result in a danger to inhabitants in the area; or negative impacts to the free flow of pedestrian and vehicular traffic; or negative impacts on adjoining land uses and established businesses in the neighborhood; or negative impacts on the public right-of-way, or other applicable public property.
(Ord. 45-2003 §1, 2003).

5.06.060 License Conditions and Restrictions. Any license issued by the Town Administrator under this Chapter may include the following conditions or restrictions:

A. Requirement for the provision of a fidelity bond in a reasonable amount to the Town to guarantee the payment of applicable sales taxes;

B. Requirement that licensee maintain such public liability, food products liability and other insurance that will protect the licensee and the Town of Eagle from all claims for damage to the property or bodily injury of others, including illness or death, which may arise from sales activities under the license or in connection therewith. Such insurance shall be in such amounts as reasonably determined by the Town Administrator. Such insurance shall be deemed primary insurance and not contributory insurance to any insurance policies maintained by the Town, and shall name the Town of Eagle and its officers and employees as additional insureds, and shall further

provide that the policy shall not terminate or be cancelled prior to expiration of the license and without thirty (30) days advance written notice to the Town. If such insurance is required, the licensee shall provide proof thereof to the Town Administrator;

C. If licensee intends to utilize a motor vehicle or other form of conveyance to be parked upon or located on any public right-of-way, or other applicable public property; or intends to operate from a stand or any other like structure of a temporary nature, the Town Administrator, may restrict the location of such parking or structure to certain limited areas within the Town to promote and facilitate the safety of inhabitants in the area and the free flow of pedestrian and vehicular traffic, and lessen the impacts on adjoining land uses or on established businesses in the neighborhood; and

D. Any other conditions or restrictions reasonably necessary to promote the public health, safety and welfare.
(Ord. 45-2003 §1, 2003).

5.06.070 License-Fees. Prior to the issuance of a license granted pursuant to this Chapter, the licensee shall pay to the Town Clerk a license fee as follows:

Term of License	License Fee
One Day	\$25.00
Two Consecutive Days	\$40.00
Three Consecutive Days	\$60.00
Seven Consecutive Days	\$80.00
Thirty Consecutive Days	\$100.00
One Year	\$250.00

5.06.080 License-Display Required. Upon request by any person, a licensee shall exhibit its license issued pursuant to this Chapter to such person, including police officers and other Town officials.

5.06.090 License-Revocation. Licenses issued under this Chapter may be revoked by the Town Administrator, after notice and hearing, for any of the following causes:

A. Fraud, misrepresentation or a false statement contained in the application for the license;

B. Fraud, misrepresentation or a false statement made in the course of engaging in or conducting sales activity within a public right-of-way, or other applicable public property;

C. Any violation of the conditions or restrictions of the license issued or any violation of the Eagle Municipal Code;

D. Conviction of any crime or municipal offense involving moral turpitude; or

E. Conducting sales activity in an unlawful manner or in such a manner so as to constitute a breach of the peace, or constitute a danger to the health, safety or general welfare of the public.

Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds for revocation and the time and place of hearing. Such notice shall be mailed, postage pre-paid, to the licensee at its address shown on the application, at least five (5) days prior to the date of the hearing. Such hearing shall be held no later than thirty (30) days following issuance of the notice and shall be conducted in accordance with Chapter 2.20 of the Eagle Municipal Code.

(Ord. 45-2003 §1, 2003).

5.06.100 Appeals. Any person aggrieved by the action of the Town Administrator in the denial of a license or the revocation of the same shall have the right of appeal to the Board of Trustees. Such appeal shall be filed within fourteen (14) days after notice of the action complained of has been mailed to such person's last known address, by means of a notice of appeal setting forth the grounds for the appeal. The Board shall set a time and place for the hearing within thirty (30) days following receipt of the notice of appeal, and shall give notice to the appellant at its address as set forth in the application, at least five (5) days prior to the date set for the hearing. Such hearing shall be held within thirty (30) days following receipt of the notice of appeal and shall be conducted in accordance with Chapter 2.20 of the Eagle Municipal Code. The Board of Trustees may affirm the decision of the Town Administrator, reverse the decision of the Town Administrator, or approve a license subject to reasonable conditions and restrictions. The decision of the Board shall be final, subject to an appeal to a court of competent jurisdiction pursuant to State law. (Ord. 45-2003 §1, 2003).

5.06.110 Violations. Any person who knowingly violates any of the provisions of this Chapter commits a Class A municipal offense. Such person shall be guilty of a separate municipal offense for each and every day during any portion of which any violation of this Chapter is committed or continued. (Ord. 45-2003 §1, 2003).

Chapter 5.10

LICENSED LIQUOR ESTABLISHMENTS - REQUIREMENTS

Sections:

- 5.10.010 Definitions.
- 5.10.020 Education Requirements.
- 5.10.025 Delegation of Authority to Town Clerk to Issue Licenses and Permits.
- 5.10.030 Requirements for Renewal of Liquor Licenses.
- 5.10.035 Distance Between Schools and Licensed Liquor Establishments in the Central Business District.
- 5.10.037 Special Event Permits.
- 5.10.040 Optional Premises Licenses and Hotel/Restaurant Licenses with Optional Premises.
- 5.10.045 Alcoholic Beverage Tastings.
- 5.10.050 Penalty Guidelines for Violations - General.
- 5.10.060 Penalty Guidelines for Violations Involving Compliance Check.
- 5.10.070 Unlawful Acts.

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).

Chapter 5.12

ECONOMIC DEVELOPMENT ASSISTANCE FOR BROADWAY REDEVELOPMENT
PROJECTS

Sections:

- 5.12.010 Purpose.
- 5.12.020 Eligible Property.
- 5.12.030 Duration of Incentives.
- 5.12.040 Periodic Reviews by Board of Trustees.
- 5.12.050 Declaration of Restrictive Covenant Required.
- 5.12.060 Waiver of Building Permit Fees
- 5.12.070 Waiver of Water and Wastewater Plant Investment Fees.
- 5.12.080 Grants for Preparation of Conceptual Architectural and Site Plans.

5.12.010 Purpose. This Chapter is intended to encourage new commercial growth, especially retail sales and restaurant development, on Broadway by waiving certain fees payable to the Town, in whole or in part, and by authorizing grants for the costs of preparing conceptual architectural design and site plans for certain new development projects on Broadway. This Chapter implements certain goals and policies of the Eagle Area Community Plan, a major component of the Town's Master Plan, including:

- A. Commercial activity should be expanded in "old town" Eagle, providing services and retail shops that are compatible with the current character and image of the Town;
- B. Town zoning codes should be revised to focus development of small town service businesses such as walk-in restaurants, gift shops, business services and similar firms in downtown Eagle;
- C. Diversification of the local economy should be encouraged;
- D. Zone district regulations should be revised to focus small retail, entertainment and business services in the downtown area; and
- E. The Town should remove barriers in the Municipal Code to infill and redevelopment projects; and
- F. The Town should develop incentives to attract retail uses to the Central Business District (CBD).

5.12.020 Eligible Property. The economic development assistance and incentives established by this Chapter shall apply to all properties which abut Broadway in the 100, 200, 300 and 400 blocks of Broadway (“Eligible Property”).

5.12.030 Duration of Incentives. The economic development assistance and incentives established by this Chapter shall apply to buildings for which a complete application for a building permit is submitted to the Town between September 1, 2006 and December 31, 2010. (Ord. 2 §1, 2010)

5.12.040 Periodic Reviews by Board of Trustees. The Board of Trustees shall review the economic development assistance and incentives established by this Chapter to determine if such assistance and incentives should be terminated, continued, or expanded when the Town Administrator certifies to the Board of Trustees that the total cost to the Town of the economic development assistance and incentives established by this Chapter is five hundred thousand dollars (\$500,000.00). In addition, the Board of Trustees may periodically review the economic development assistance and incentives established by this Chapter to determine whether such assistance and incentives should be expanded to include additional properties, continued in the manner currently provided under this Chapter, or terminated. The Board of Trustees reserves the right to restrict, limit or terminate the assistance and incentives established in this Chapter at any time, in its sole discretion, without liability to any person. Provided, however, any such action shall not apply to Eligible Properties that have previously qualified for economic development assistance and incentives at the time any such action is taken by the Board of Trustees.

5.12.050 Declaration of Restrictive Covenant Required. Every owner of Eligible Property who receives a waiver of building permit fees pursuant to Section 5.12.060, or a waiver of water and/or wastewater plant investment fees pursuant to Section 5.12.070 shall execute a declaration of restrictive covenant and record such covenant in the records of the Eagle County Clerk and Recorder. The duration of the declaration shall be three (3) years and shall provide that notwithstanding the zoning provisions contained in Title 4 of the Eagle Municipal Code, only retail sales and/or restaurant uses shall be permitted on the ground floor of any building located on the Eligible Property. Such declaration shall be for the benefit of the Town of Eagle and may not be amended or repealed without the expressed written consent of the Town of Eagle. The form of the declaration shall be approved by the Town Attorney.

5.12.060 Waiver of Building Permit Fees. A. In the event a new building is constructed on an Eligible Property that contains only retail sales and/or restaurant uses on the ground floor, all building plan check and building inspection fees established pursuant to Section 13.13.080 of the Eagle Municipal Code shall be waived in full so long as a certificate of occupancy is issued for such building.

B. In the event an existing building located on an Eligible Property is remodeled to

accommodate a change in use from a non-retail sales and/or restaurant use to a retail sales and/or restaurant use on the ground floor of such building, all building plan check and building inspection fees established pursuant to Section 13.13.080 of the Eagle Municipal Code associated with such remodeling shall be waived in full so long as a certificate of occupancy is issued for such remodeling.

5.12.070 Waiver of Water and Wastewater Plant Investment Fees. A. In the event a new building is constructed on an Eligible Property which contains only retail sales and/or restaurant uses on the ground floor of such building, all water plant investment fees and tapping charges established pursuant to Sections 12.16.040 and 12.16.050 of the Eagle Municipal Code for such retail sales/restaurant uses (including any such uses which may be expanded to a floor other than the first floor) shall be waived in full for such uses. In the event such building also contains permitted non-residential uses above the ground floor, the water plant investment fees and tapping charges due and owing pursuant to Sections 12.16.040 and 12.16.050 of the Eagle Municipal Code shall be reduced by fifty percent (50%).

B. In the event a new building is constructed on an Eligible Property which contains only retail sales and/or restaurant uses on the ground floor of such building, all wastewater plant investment fees established pursuant to Sections 12.36.040 and 12.36.050 of the Eagle Municipal Code for such retail sales/restaurant uses (including any such use which may be expanded to a floor other than the first floor) shall be waived in full. In the event such building also contains permitted non-residential uses above the ground floor, the wastewater plant investment fees due and owing pursuant to Sections 12.36.040 and 12.36.050 of the Eagle Municipal Code shall be reduced by fifty percent (50%).

C. In the event additional water using fixtures are installed in an existing building located on an Eligible Property as a result of a change to, or expansion of, a retail sales and/or restaurant use on the ground floor of such building (including any such uses which may be expanded to a floor above the first floor) including the tenant finish of unoccupied spaces, a change of use in the existing building, and an addition to an existing building, the water plant investment fees and tapping charges established pursuant to Sections 12.16.040 and 12.16.050 of the Eagle Municipal Code shall be waived in full.

D. In the event additional water using fixtures are installed in an existing building located on an Eligible Property as a result of a change to, or expansion of, a retail sales and/or restaurant use on the ground floor of such building (including any such uses which may be expanded to a floor above the first floor) including the tenant finish of unoccupied spaces, a change of use in existing building, and an addition to an existing building, the wastewater plant investment fees established pursuant to Sections 12.36.040 and 12.36.050 of the Eagle Municipal Code shall be waived in full.

5.12.080 Grants for Preparation of Conceptual Architectural and Site Plans. If a

building project located on an Eligible Property requires the issuance of a development permit pursuant to Chapter 4.06 of the Eagle Municipal Code, the owner of such Eligible Property, or its designee, may apply to the Town for a development assistance grant in an amount up to five thousand dollars (\$5,000.00) for the cost of preparing architectural design and site plans for the building project. The purposes of such grant shall be to better assure conformance with the Town's rules and regulations concerning architectural and site design standards; and to provide for a more expedient review process for issuance of the development permit. The Town Administrator is authorized to promulgate rules, regulations and application forms for such grants.

Any grant provided by the Town pursuant to this Section shall be conditioned on:

- A. The conceptual architectural and site plans shall be prepared by an architect duly licensed by the State of Colorado.
- B. The applicant and its consultants shall consult on a regular basis with the Town's Planning staff concerning development of conceptual plans during design of the project;
- C. A development permit, building permit and certificate of occupancy are issued by the Town for such building project in accordance with applicable provisions of the Eagle Municipal Code and the Town's regulations; and
- D. Grant monies shall be provided by the Town to the applicant on a reimbursement basis.

Chapter 5.13

BUSINESS MARKETING FEE

Sections:

- 5.13.010 Amount of Fee.
- 5.13.020 Applicability.
- 5.13.030 Classification.
- 5.13.040 Payment.
- 5.13.050 Separate Fund Created.
- 5.13.060 Unlawful Acts.
- 5.13.070 Enforcement.
- 5.13.080 Criminal Violations.

5.13.010 Amount of Fee. There is hereby levied and assessed for each calendar year, beginning with 2010, a business marketing fee upon every business, except as otherwise provided herein, in the amount of twenty dollars (\$20.00) per year.

5.13.020 Applicability. The fee imposed by this Chapter shall apply to any business, trade, occupation, profession or calling which is engaged in for the purpose of making a profit, whether or not a profit is actually made on a regular basis, within the Town of Eagle. Provided, however, this fee shall not apply to contractors engaged in the building trades. In addition, the fee shall not apply to such business activity if exempt by virtue of State or federal law or to activity as an employee of a governmental entity.

5.13.030 Classification. Every party doing business in more than one (1) store, stand or other place of business, shall pay a separate fee for each place of business, unless such places of business are contiguous to each other, communicate directly with and open to each other, and are operated as a unit. The business may be transferred from one location to another without payment of an additional fee.

5.13.040 Payment. The fee imposed by this Chapter shall be due and payable on January 31 in the year 2010 and shall be due and payable January 1 of each year thereafter by parties engaged, on that date, in business activities which are subject to this fee. For those who begin such activity after January 1, this fee shall be payable within ten (10) days of beginning such activity. The entire amount of the fee shall be due regardless of when such business activity was begun. The fee imposed by this Chapter shall be billed and collected in connection with the collection of the Town's general occupation tax set forth in Chapter 5.02 of this Title.

5.13.050 Separate Fund Created. There is hereby created a separate Town account to be known as the Town of Eagle Marketing Fund. All proceeds from the collection of fees imposed

by this Chapter shall be deposited in such fund which shall be appropriated by the Board of Trustees in its discretion for the sole purpose of developing and implementing a marketing program to promote the Town of Eagle and its businesses to the general public and targeted groups for the benefit of the Town's businesses and the Town's economy.

5.13.060 Unlawful Acts. It shall be unlawful for any person or entity or its agent to engage in or carry on a business within the Town of Eagle for which a business marketing fee is required, without first having paid such fee as herein provided. For the purposes of this Section, the opening of a place of business, or offering to sell, followed by a single sale or the doing of any act or thing in the furtherance of the business, shall be construed to be engaging in and carrying on such business.

5.13.070 Enforcement. A. The fee imposed by this Chapter shall be a lien upon the goods and business fixtures of the applicable business and upon the real property and appurtenant premises at which the business is conducted. The Town may foreclose upon such lien in accordance with law and record notices of such lien in the records of the Eagle County Clerk and Recorder's office.

B. The Town may also certify the amount of any delinquent fee as a delinquent charge upon the property at which the business is located to the Eagle County Treasurer for collection in the same manner as delinquent general ad valorem taxes are collected pursuant to Section 31-20-105, C.R.S.

C. The Town of Eagle shall further have the right to recover all sums due by the terms of this Chapter by judgment and execution thereon in a civil action in any court of competent jurisdiction; such remedies shall be cumulative with all other remedies provided herein for the enforcement of this Chapter.

5.13.080 Criminal Violations. Any person or entity who knowingly violates any provision of this Chapter or knowingly fails to perform an act required by any provision of this Chapter, commits a Class A municipal offense.

(Ord. 1 §2, 2010)

Chapter 5.14

SEXUALLY ORIENTED BUSINESSES

Sections:

5.14.010	Purpose and Description.
5.14.020	Definitions.
5.14.030	License Required.
5.14.040	Issuance of a Sexually Oriented Business License.
5.14.050	Manager's Registration.
5.14.060	Employee Registration.
5.14.070	Inspection.
5.14.080	Expiration of License.
5.14.090	License Suspension or Revocation.
5.14.100	Mandatory License Revocation.
5.14.110	Hours of Operation.
5.14.120	Peep Booth Regulations.
5.14.130	Lighting Regulations.
5.14.140	Additional Regulations - Adult Theaters, and Adult Cabarets.
5.14.150	Conduct for Sexually Oriented Businesses.
5.14.160	Sexually Oriented Business - Employee Tips.
5.14.170	Adult Motel Regulations.
5.14.180	Injunctions.
5.14.185	Prohibited Acts - Penalty.
5.14.190	Fees.

5.14.010 Purpose and Description. The purpose of these Regulations is to provide for the regulation and licensing of sexually oriented businesses within the Town in a manner which will protect the property values, neighborhoods and residents from the potential adverse secondary effects of sexually oriented businesses while providing to those who desire to patronize sexually oriented businesses the opportunity to do so. It is not the intent of this Chapter to suppress any speech activities protected by the First and Fourteenth Amendments of the United States Constitution or Article II, Section 10 of the Colorado Constitution, but to impose content-neutral regulations which address the adverse secondary effects of sexually oriented businesses. Nothing in this Chapter is intended to authorize or license anything otherwise prohibited by law. Sexually oriented businesses are frequently used for unlawful sexual activities, including prostitution. The concern over sexually transmitted diseases is a legitimate health concern of the Town which demands reasonable regulation of sexually oriented businesses to protect the health and well-being

of the citizens, including the patrons of sexually oriented businesses. Licensing of sexually oriented businesses is a legitimate and reasonable means of ensuring that operators of sexually oriented businesses comply with reasonable regulations and that operators do not knowingly allow their businesses to be used as places of illegal sexual activity or solicitation. There is convincing documented evidence that sexually oriented businesses, because of their nature, have a deleterious effect on both the existing businesses around them and surrounding residential areas causing increased crime and downgrading of property values. The purpose of this Chapter is to control adverse effects from sexually oriented businesses and thereby protect the health, safety and welfare of the citizens; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of the surrounding neighborhoods and deter the spread of urban blight.

5.14.020 Definitions.

A. Adult Arcade: Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

B. Adult Bookstore or Adult Video Store: A business having as a substantial and significant portion of its stock and trade, revenues, space or advertising expenditures, resulting from the sale, renting or viewing of one or more of the following:

1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, laser disks, slides or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or

2. Instruments, devices, or paraphernalia which are designed for specified sexual activities.

C. Cabaret: A nightclub, bar, restaurant or similar business which regularly features:

1. Persons who appear in a state of nudity; or

2. Live performances which are characterized by the exposure to specified anatomical areas or by specified sexual activities; or

3. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

D. Adult Motel: A hotel, motel or similar business which offers private rooms to the public and provides patrons live performances or closed-circuit television transmissions, not including pay per view satellite transmissions, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

E. Adult Motion Picture Theater: A business where films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

F. Adult Theater: A theater, concert hall, auditorium, or similar business which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

G. Employee: Includes any person who is paid directly or indirectly by the licensee for services performed on the premises whether such person would otherwise as a matter of law be classified as an employee, agent, manager, entertainer or independent contractor.

H. Licensing Officer: The Licensing Officer referred to in this Title is the Town Clerk unless another official has been designated by the Town Manager or Board of Trustees as the Licensing Officer.

I. Manager: Any person other than a licensee who is employed by a sexually oriented business to act as a manager or supervisor of the employees, finances or patrons of the business or is otherwise responsible for operation of the business.

J. Peep booth: A viewing room, other than a private room, of less than one hundred fifty (150) square feet of floor space upon the premises of a sexually oriented business where there is exhibited photographs, films, motion pictures, video cassettes, or other video reproductions, slides or other visual representations which depict or describe specified sexual activities or specified anatomical areas.

K. Person: An individual, proprietorship, partnership, corporation, association or other legal entity.

L. Private Room: A room in an adult motel that is not a peep booth, has a bed in the room, has a bath in the room or adjacent to the room, and is used primarily for lodging.

M. Sexual Encounter Establishment: A business or commercial establishment, which as one of its primary business purposes, offers for any form of consideration, a place where two (2) or more persons may congregate, associate or consort for the purpose of specified sexual activities or

the exposure of specified anatomical areas, when one or more of the persons exposes any specified anatomical area.

N. Sexually Oriented Business. An adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, sexual encounter establishment or other similar business and includes:

1. The opening or commencement of any sexually oriented business as a new business.
2. The conversion of an existing business, whether or not a sexually oriented business, to a sexually oriented business.
3. The addition of any sexually oriented business to any other existing sexually oriented business.
4. The relocation of any sexually oriented business; or
5. The continuation of a sexually oriented business in existence on the effective date of this Ordinance.

O. Specified Anatomical Areas: Are defined as:

1. Less than completely and opaquely covered: human genitals, pubic region, buttocks and female breast below a point above the top of the areola.
2. Human male genitals in a discernibly turgid state even if completely and opaquely covered.

P. Specified Sexual Activities: Acts, simulated acts, exhibitions, representations, depictions or descriptions of:

1. Human genitals in a state of sexual stimulation or arousal.
2. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.
3. Intrusion, however slight, of any object, any part of an animal's body, or any part of a person's body into the genital or anal openings of any person's body or into the body of an animal.
4. Cunnilingus, fellatio, anilingus, masturbation, bestiality, lewd exhibition of

genitals or excretory function.

5. Flagellation, mutilation or torture for purposes of sexual arousal, gratification, or abuse.

Q. Stage: A raised floor or platform at least three feet (3') above the surrounding floor measured perpendicularly from the edge of the stage to the surrounding floor and at least thirty six square feet (36 sq. ft.) in area.

5.14.030 License Required.

A. It shall be unlawful for any person to operate a sexually oriented business without a license issued by the Licensing Officer under the provisions of this Chapter.

1. An application for a license must be made on a form provided by the Town.
2. The application must be accompanied by a diagram showing the configuration of the premises, including a statement of total floor space occupied by the business, and designating the use of each room or other area of the premises.
3. The diagram shall designate those rooms or other areas of the premises where patrons are not permitted.
4. The diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches (+/- 6").
5. The diagram shall designate the place at which the license will be conspicuously posted.
6. No alteration in the configuration of the premises or any change in use of any room or area as shown on the diagram may be made without the prior written approval of the Town.
7. The Licensing Officer may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared and that the use of any area or room in the premises has not changed.

B. The applicant must be qualified according to the provisions of this Title and the premises must be inspected by the Fire Department, Building Official of the Building Department and the Licensing Officer and found to be in compliance with the law.

C. Contemporaneously with the submission of an application for a license, the applicant shall submit the special use permit from the Town Planning Department indicating that the requirements of Chapter 4.05 of the Eagle Municipal Code are met unless the applicant's sexually oriented business is an existing nonconforming use under the provisions of Chapter 4.04 of the Eagle

Municipal Code. In the event that such permit is subject to appeal, no further action shall be taken upon such application until such appeal is finally adjudicated.

5.14.040 Issuance of a Sexually Oriented Business License.

A. The sexually oriented business shall be issued a license within thirty (30) days after receipt of an application if the requirements set forth in Section 5.04.050 are met, unless the Licensing Officer finds one or more of the following:

1. An applicant is overdue in payment to the Town of taxes, fees, fines or penalties assessed against the applicant or imposed upon the applicant in relation to a sexually oriented business.

2. An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.

3. The premises to be used for the sexually oriented business have not been approved by the Fire District, the Building Official and the Licensing Officer as being in compliance with applicable laws and ordinances.

4. The applicant has not been issued a permit by the Town Planning Department indicating the requirements of Title 4 of the Eagle Municipal Code are met and that such permit, if issued, is not subject to appeal or the applicant's sexually oriented business is an existing nonconforming use under Title 4 of the Eagle Municipal Code.

B. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually oriented business. The license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

C. The Fire District and Building Official shall complete their certification that the premises are in compliance or not in compliance within twenty (20) days of receipt of the application by the Licensing Officer. Their certifications shall be promptly presented to the Licensing Officer. The Licensing Officer's inspection shall be completed within thirty (30) days after the receipt of the application.

D. A denial by the Licensing Officer of the application shall be in accordance with Section 5.04.080 of this Title. The applicant may appeal the denial in accordance with the provisions of Section 5.04.090 of this Title.

5.14.050 Manager's Registration.

A. It shall be unlawful for any person to work as a manager of a sexually oriented business without first registering with the Licensing Officer.

B. The registration of a manager with the Licensing Officer is in lieu of the issuance of a license to a manager.

C. The Licensing Officer shall register a manager if all of the requirements for a license as set forth under Chapter 5 of this Title and Section 5.14.040 of this Chapter are met.

D. The manager's registration shall be issued or denied in accordance with the criteria for issuance or denial of a license as set forth in Chapter 5.04.

E. The registration may be suspended or revoked for any grounds for the suspension or revocation of a license as set forth in Section 5.04.080 of this Title.

5.14.060 Employee Registration. Each licensee will provide to the Licensing Officer the full name, aliases if any, address, telephone number and date of birth of any employee within five (5) days of employment.

5.14.070 Inspection.

A. The licensee or the licensee's employees shall permit representatives of the Police Department, Health Department, Building Official of the Building Department, the Fire District, Planning Department, Licensing Officer or other Town departments or agencies to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law as provided for in this Section.

B. Town departments and agencies shall conduct such inspections in a reasonable manner and only as frequently as may be reasonably necessary.

C. Inspections shall take place during the regular business hours of the sexually oriented business or when any person is on the premises.

D. It shall be unlawful for the licensee or any employee to refuse to permit such lawful inspection of the premises as provided in this Section.

5.14.080 Expiration of License. Each license shall expire annually and may be renewed only by making application as provided in Section 5.04.060 of this Title.

5.14.090 License Suspension or Revocation.

A. In addition to, the grounds set forth for suspension or revocation of a license in Section 5.04.080 of this Chapter, the Licensing Officer shall suspend a license for a period not to

exceed six (6) months and may revoke a license if the Licensing Officer determines that a licensee or an employee of a licensee has:

1. Violated or is not in compliance with any Chapter of this Title.
2. Refused to allow an inspection of the sexually oriented business premises as authorized by this Chapter.
3. Knowingly permitted any unlawful act upon the premises.

B. In determining the action to be taken as provided in this Section, the Licensing Officer shall consider the following aggravating and mitigating circumstances:

1. Whether the licensee has been previously suspended or revoked.
2. Whether the licensee was warned that the conduct involved could lead to a suspension or revocation.
3. Whether the cause for suspension or revocation involves one or several violations.
4. Whether the violation(s) are technical or substantive in nature.
5. The extent to which the licensee, licensee's agents and employees, as opposed to patrons, were involved in the violation(s).
6. The extent to which the licensee or licensee's employees had knowledge of the violation(s).
7. Any corrective or remedial action the licensee has taken to prevent similar violation(s) in the future.
8. Whether the violation(s) involved the commission of a crime, and if so, the degree of felony or misdemeanor involved.
9. The extent to which the violation(s) caused personal injuries or property damages.
10. Whether the licensee has paid damages or made restitution to any person or entity damaged by the violation(s).
11. The extent to which the violations posed a significant risk to the health, safety and welfare of persons on or off of the licensed premises.

12. The length of time over which the violation(s) extended.
13. The extent to which the licensee or licensee's employees realized a financial gain from the violation(s).
14. The number of employees, patrons, or both involved in the violation(s).
15. The nature and extent of enforcement action taken by the Town or any law enforcement to detect the violation(s).
16. The involvement of any persons under twenty one (21) years of age in the violation(s).
17. The extent to which the licensee or licensee's employees have attempted to cover up the violation(s), destroy evidence or otherwise hinder the investigation and detection of the violation(s).
18. The extent to which the licensee and licensee's employees have acted in good faith.

5.14.100 Mandatory License Revocation.

- A. The Licensing Officer shall revoke a license if the Licensing Officer determines that:
1. A license has previously been suspended within the preceding twelve (12) months;
 2. A licensee gave false information in the material submitted to the Licensing Officer;
 3. A licensee or employee has knowingly allowed possession, use, or sale of controlled substance as defined in Part 3 of Article 22 of Title 12 C.R.S. on the premises;
 4. A licensee or an employee has knowingly allowed prostitution on the premises;
 5. A licensee or an employee knowingly operated the sexually oriented business during a period of time when the license was suspended.
 6. Excluding conduct within a private room of an adult motel, a licensee or employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation,

masturbation or other sexual conduct to occur on the premises.

B. When the Licensing Officer revokes a license, the revocation shall continue for one year, and the licensee shall not be issued a sexually oriented license for one year from the date revocation became effective.

5.14.110 Hours of Operation.

A. It shall be unlawful for a sexually oriented business to be open for business or for the licensee or any employee of a licensee to allow patrons upon the licensed premises from:

1. On any Tuesday through Saturday from two o'clock (2:00) A.M. until seven o'clock (7:00) A.M.;

2. On any Monday other than a Monday which falls on January 1, from twelve o'clock midnight (12:00) until seven o'clock (7:00) A.M.;

3. On any Sunday from two o'clock (2:00) A.M. until eight o'clock (8:00) A.M.;

4. On any Monday which falls on January 1, from two o'clock (2:00) A.M. until seven o'clock (7:00) A.M.

B. This Section shall not apply to those areas of an adult motel which are private rooms.

5.14.120 Peep Booth Regulations.

A. A licensee who has peep booths upon the premises shall comply with all of the following requirements:

1. The diagram accompanying an application for a license shall specify the location of one or more manager's stations.

2. It is the duty of the licensee to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

3. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain film or video reproduction equipment or equipment for showing slides or photographs. If the premises has two (2) or more manager's stations, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises

to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

4. It shall be the duty of the licensee and employees present on the premises to ensure that the view area specified in subsection (A)(3) above remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises which has been designated in the application as an area to which patrons will not be permitted.

5. It shall be the duty of the licensee to ensure that all walls shall be maintained without holes or damage.

6. No peep booth may be occupied by more than one person at any time.

B. It shall be unlawful for any person having a duty under subsections (A)(1) through (A)(5) of this Section to knowingly fail to fulfill that duty.

5.14.130 Lighting Regulations.

A. Excluding a private room of an adult motel, the interior portion of the premises to which patrons are permitted access shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place at an illumination of not less than two (2.0) foot-candle as measured at the floor level.

B. It shall be the duty of the licensee and employees present on the premises to ensure that the illumination described above is maintained at all times that any patron is present on the premises.

5.14.140 Additional Regulations - Adult Theaters, And Adult Cabarets.

A. Any adult cabaret or adult theater shall have one or more separate areas designated in the diagram submitted as part of the application as a stage for the licensee or employees to perform as entertainers. Entertainers shall perform only upon the stage. The stage shall be fixed and immovable. No seating for the audience shall be permitted within three feet (3') of the edge of the stage. No members of the audience shall be permitted upon the stage or within three feet (3') of the edge of the stage.

B. It shall be unlawful for the licensee or for any employee to violate any of the requirements of this Section or to knowingly permit any patron to violate the requirements of this Section.

D. In any adult theater or adult cabaret that features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities, the licensee and all employees present on the premises and all patrons shall be at least twenty-one (21) years of age.

5.14.150 Conduct For Sexually Oriented Businesses.

A. No licensee or employee mingling with the patrons, or serving food or drinks, shall be unclothed or in such attire, costume or clothing, so as to expose to view any specified anatomical area.

B. No licensee or employee shall encourage or knowingly permit any person upon the premises to touch, caress or fondle the breasts, anus or specified anatomical areas of any person.

C. No licensee or employee shall violate the requirements of subsections 5.14.100 (A)(2) through (A)(5) of this Section.

D. It shall be unlawful for any licensee or employee to knowingly permit a patron to violate any of the requirements of this Section.

5.14.160 Sexually Oriented Businesses - Employee Tips.

A. It shall be unlawful for any employee of a sexually oriented business to receive tips from patrons except as set forth in subsection (C) of this Section.

B. A licensee that desires to provide for tips from its patrons shall establish one or more boxes or other containers to receive tips. All tips for such employees shall be placed by the patron of the sexually oriented business into the tip box.

C. A sexually oriented business that provides tip boxes for its patrons as provided in this Section shall post one or more signs to be conspicuously visible to the patrons on the premises in letters at least one inch (1”) high to read as follows: “All tips are to be placed in tip box and not handed directly to the entertainer. Any physical contact between the patron and the entertainer is strictly prohibited.”

5.14.170 Adult Motel Regulations. An adult motel that, in addition to the renting of private rooms, operates a sexually oriented business as otherwise defined in this Chapter shall comply with all of the requirements set forth in this Chapter pertaining to that business.

5.14.180 Injunction. Any person who operates or causes to be operated a sexually oriented business without a license is subject to suit for injunction as well as criminal prosecution.

5.14.185 Prohibited Acts - Penalty. Any person who violates any provision of this Chapter, or who fails to perform an act required by any provision of this Chapter, commits a Class A municipal offense.

5.14.190 Fees. A business license fee of one hundred dollars (\$100.00) and a manager's registration fee of one hundred dollars (\$100.00) shall be paid upon submission of an application and annually thereafter upon renewal of the sexually oriented business.

(Ord. 8-2007 §15, 2007; Amended Ord. 18-2008, §1§ 2, 2008)

Chapter 5.15
LICENSING AND REGULATION OF MEDICAL MARIJUANA BUSINESSES

Sections:

- 5.15.010 Legislative Intent and Purpose.
- 5.15.020 Definitions.
- 5.15.030 License Required.
- 5.15.040 Local Licensing Authority.
- 5.15.050 General Licensing Procedure and Regulations.
- 5.15.060 Application and License Fees.
- 5.15.070 License Applications.
- 5.15.080 Procedures for Approval or Denial of License Application.
- 5.15.090 Conditions on Licenses.
- 5.15.100 Personal Requirements for Licensee, Principals, Business Manager, Persons Holding Financial Interest and Employees.
- 5.15.110 Special Restrictions and Requirements.
- 5.15.120 Specific Requirements for a Medical Marijuana Center.
- 5.15.130 Specific Requirements for Optional Premises Cultivation Operation License.
- 5.15.140 Specific Requirements for a Medical Marijuana-Infused Products Manufacturer's License.
- 5.15.150 Renewal of Medical Marijuana Business License.
- 5.15.160 Major Changes to Medical Marijuana Business License or Licensed Premises Requiring Approval of the Local Licensing Authority.
- 5.15.170 Reports of Minor Changes.
- 5.15.180 Books and Records.
- 5.15.090 Inspection of Books and Records; Audits.
- 5.15.200 Inspection of Licensed Premises and Adjacent Grounds.
- 5.15.210 Suspension and Revocation of License.

5.15.010 Legislative Intent and Purpose.

A. Legislative Intent: The Board of Trustees of the Town of Eagle intends to regulate the use, acquisition, cultivation, production, and distribution of Medical Marijuana in a manner consistent with Article XVIII, Section 14 of the Colorado Constitution (the "Medical Marijuana Amendment").

1. The Medical Marijuana Amendment to the Colorado Constitution does not provide a legal manner for Patients to obtain Medical Marijuana unless the Patient grows the marijuana or the marijuana is grown by the Patient's Primary Caregiver.

2. House Bill 10-1284, signed by the Governor on June 7, 2010, enacts Articles 43.3 of Title 12, Colorado Revised Statutes (the “Colorado Medical Marijuana Code”) which imposes statewide regulations pertaining to the use, acquisition, cultivation, production, sale and distribution of Medical Marijuana and Medical Marijuana-Infused Products within the State of Colorado.

3. Nothing within this Chapter is intended to promote or condone the production, cultivation, use, sale or distribution of Medical Marijuana other than in compliance with applicable State law.

B. Purpose: The purpose of this Chapter is to implement the Medical Marijuana Amendment in a manner consistent with Article 43.3 of Title 12, Colorado Revised Statutes, to protect the public health, safety and welfare of the residents and Patients of the Town by prescribing the manner in which Medical Marijuana Businesses can be conducted within the Town. Further, the purpose of this Chapter is to:

1. Provide for the safe sale and distribution of Medical Marijuana to Patients who qualify to obtain, possess and use marijuana for medical purposes under the Medical Marijuana Amendment.

2. Protect public health and safety through reasonable limitations on business operations as they relate to noise, air and water quality, neighborhood and Patient safety, security for businesses and their personnel, and other health and safety concerns.

3. Limit the number of Medical Marijuana Businesses that can be established within the Town of Eagle based on the Town’s population, the needs of the community and the desires of the inhabitants.

4. Impose fees to cover the costs incurred by the Town for licensing and regulating Medical Marijuana Businesses.

5. Adopt a mechanism for monitoring compliance with the provisions of this Chapter 5.15 of the Eagle Municipal Code.

6. Create regulations that address the particular needs of the Patients and residents of the Town and coordinate with laws enacted by the State that pertain to such matters.

7. Facilitate the implementation of the Medical Marijuana Amendment without exceeding the authority granted to the Town by such Amendment.

5.15.020 Definitions:

The following words and phrases used in this Chapter 5.15 shall have the following meanings unless the context clearly indicates otherwise:

“Adjacent Grounds” means all areas that the Licensee has a right to possess by virtue of his/her ownership or lease, which are outside the enclosed Licensed Premises, but adjacent and contiguous to the Licensed Premises, including but not limited to porches, patios, decks, entryways, lawns, parking lots, and similar areas and all fixed and portable things in such areas, including but not limited lights, signs and security devices.

“Business Manager” means the individual designated by the owner of a Medical Marijuana Business and registered with the Town as the person responsible for all operations of the business during the owner’s absence from the business premises.

“Character and Record” includes all aspects of a person’s character and record, including but not limited to, moral character; criminal record including Serious Traffic Offenses; record of previous sanctions against liquor licenses, gambling licenses, or Medical Marijuana licenses, which the person owns, in whole or in part, in which the person serves as a Principal, manager, or employee; education, training, experience; civil judgments entered against the person; truthfulness, honesty; and financial responsibility. The conviction of any person for an offense, shall not, in itself, be grounds for a finding of a bad character and record if such person demonstrates that he/she has been rehabilitated in accordance with Section 24-5-101, C.R.S. In the event the Local Licensing Authority considers information concerning the criminal history of a person, the Local Licensing Authority shall also consider any information provided by an applicant regarding such criminal history records, including but not limited to, evidence of rehabilitation, character references and educational achievements especially those items pertaining to the period of time between the last criminal conviction and the time of consideration of a license application.

“Good Cause” shall have the same meaning as set forth in Section 12-43.3-104(1), C.R.S.

“Laws of the State of Colorado” shall mean and include Section 14 of Article XVIII of the Colorado Constitution; the Colorado Medical Marijuana Code, Article 43.3 of Title 12, C.R.S.; other Colorado statutes, including but not necessarily limited to Section 18-18-406(3), C.R.S. and Section 25-1.5-106, C.R.S.; applicable regulations promulgated by the Colorado Department of Public Health and Environment and the State Licensing Authority; and all applicable final decisions of Colorado’s appellate courts.

“Licensed Premises” means the premises specified in an application for a license under this Chapter 5.15 which are owned or in possession of the Licensee, and within which the Licensee is authorized to cultivate, manufacture, distribute or sell Medical Marijuana in accordance with the provisions of this Chapter 5.15 and the Laws of the State of Colorado.

“Licensee” shall have the same meaning as set forth in Section 12-43.3.104(4), C.R.S.

“Local Licensing Authority” shall mean the Board of Trustees of the Town of Eagle.

“Medical Marijuana” shall have the same meaning as set forth in Section 12-43.3-104(7), C.R.S.

“Medical Marijuana Business” shall mean a person holding a Medical Marijuana Center license, as defined in Section 12-43.3-402, C.R.S.; a Medical Marijuana-Infused Products Manufacturer license, as defined in Section 12-43.3-404, C.R.S.; and/or an Optional Premises Cultivation Operation license, as defined in Section 12-43.3-403, C.R.S. For the purposes of this Chapter 5.15, a Patient that cultivates, produces, possesses or transports Medical Marijuana or a Primary Caregiver that cultivates, produces, sells, distributes, possesses, transports, or makes available marijuana in any form to one or more Patients shall not be deemed a “Medical Marijuana Business”.

“Medical Marijuana Center” shall have the same meaning as set forth in Section 12-43.3-104(8), C.R.S.

“Medical Marijuana-Infused Products Manufacturer” shall have the same meaning as set forth in Section 12-43.3-104(10), C.R.S.

“Medical Use” shall have the same meaning as is set forth in Article XVIII, Section 14(1)(b) of the Colorado Constitution, or as may be fully defined in any applicable State law or regulation.

“Optional Premises Cultivation Operation” shall have the same meaning as set forth in Section 12-43.3-104(12), C.R.S.

“Patient” shall have the same meaning as is set forth in Article XVIII, Section 14(1)(d) of the Colorado Constitution, or as may be more fully defined in any applicable State law or regulation.

“Person” means a natural person, partnership, association, company, corporation, limited liability company or organization, or a manager, agent, owner, director, servant, officer, or employee thereof.

“Premises” means a distinct definite location which may include a building, a part of a building, a room, or any other definite contiguous area.

“Primary Caregiver” shall have the same meaning as is set forth in Article XVIII, Section 14(1)(d) of the Colorado Constitution, or as may be more fully defined in any applicable State law or regulation.

“Principal” means:

1. In the case of any business entity, including any general or limited partnership, corporation, limited liability company or other entity, any person who has any interest in the ownership of the entity and any person who has the day to day authority to or actually does manage the entity's financial affairs.

2. In the case of a corporation, the persons described for any entity described in subsection (1) above and the president, vice president, secretary, chief executive officer, chief financial officer, and any person who holds any of the capital stock of the corporation.

3. In the case of a limited liability company, the persons described for any such entity in subsection (1) above and any member of the limited liability company.

4. In the case of a sole proprietorship, the individual owner.

“Serious Traffic Offense” means any driving offense carrying eight (8) points or greater under Section 42-2-127, C.R.S. or the substantial equivalent of such events in any other state.

“State Licensing Authority” means the authority created by Section 12-43.3-201, C.R.S. for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution and sale of Medical Marijuana in this State.

Unless defined in this Chapter or the context clearly indicates otherwise, any word or term used in this Chapter that is defined in Article XVIII, Section 14(1)(f) of the Colorado Constitution or in the Colorado Medical Marijuana Code shall have the same meaning that is ascribed to such word or term in the Colorado Constitution or in the Colorado Medical Marijuana Code.

5.15.030 License Required.

A. It shall be unlawful for any person to operate a Medical Marijuana Business without first having obtained a license to operate pursuant to the provisions of this Chapter, having paid the fees therefor, as well as having obtained a license to operate from the State Licensing Authority. The licensing requirements apply to all Medical Marijuana Businesses that exist on the effective date of this Chapter and any Medical Marijuana Businesses established after such effective date.

B. Any person violating this Section commits a Class A municipal offense. A person committing a violation shall be guilty of a separate offense for each day or part thereof during which the offense is committed or continued to be permitted by such person and shall be punished accordingly.

C. Any Medical Marijuana Business holding a valid business license, that commenced operations prior to the effective date of this Chapter, which is in a location where the business has a special use permit in the zone district in which it is located, and which has obtained a valid sales tax

license from the Town, may continue to operate pending final action on an application for a license pursuant to Section 5.15.070, which application must be filed with the Town no later than October 31, 2012.

D. Pursuant to the provisions of Article 43.3, Title 12, C.R.S., Medical Marijuana Businesses shall be licensed by the Town in one of the following categories:

1. Medical Marijuana Center, as defined in Section 12-43.3-104(8), C.R.S. Such center shall meet all criteria and requirements of Section 12-43.3-402, C.R.S. as well as all other regulatory requirements applicable to Medical marijuana centers set forth within this Chapter, and within Article 43.3, Title 12, C.R.S.

2. Medical Marijuana-Infused Products Manufacturer, as defined in Section 12-43.3-104(8), C.R.S. Such business shall meet all criteria and requirements of Section 12-43.3-404, C.R.S., as well as all other regulatory requirements applicable to Medical Marijuana-Infused Products Manufacturing set forth in this Chapter and within the laws of the State of Colorado.

3. Optional Premises Cultivation Operations license, as defined in Section 12-43.3-403, C.R.S. Such cultivation operation shall meet all criteria and requirements of Section 12-43.3-404, C.R.S., as well as all other regulatory requirements applicable to Optional Premises Cultivation Operations set forth in this Chapter and within the laws of the State of Colorado.

E. The licensing requirements set forth in this Chapter shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any federal law, the laws of the State of Colorado, or local laws, including, but not by way of limitation, a business license, retail sales tax license, retail food establishment license, or any applicable zoning permits or building permits.

F. No license for a Medical Marijuana Business shall be issued by the Town until a license for such use, at the location designated in the application, has been issued by the State Licensing Authority.

G. The issuance of a license pursuant to this Chapter does not create a defense, exception or provide immunity to any person in regard to any potential federal criminal liability the person may have for the production, distribution or possession of marijuana.

H. Every license issued under this Chapter confers only a limited and conditional privilege subject to the requirements, conditions, and limitations of this Chapter and State law. The license does not confer a property right of any kind. The license and the privilege created by the license may be further regulated, limited, or completely extinguished at the end of the license term at

the discretion of the Board of Trustees or the electors of the Town, without any compensation to a Licensee. Every license approved or issued under this Chapter 5.15 shall be subject to the future exercise of the reserved rights of referendum and initiative, exercise of the local option described in Section 12-43.3-106, C.R.S., and any other future ordinances adopted by the electors of the Town or the Board of Trustees. Nothing contained in this Chapter grants to any Licensee any vested right to continue operating under the provisions of this Chapter as they existed at the time the license was approved or issued and every license shall be subject to any ordinance or prohibition adopted after the license was approved or issued.

I. A separate license shall be required for each location from which a Medical Marijuana Business is operated.

J. All Medical Marijuana Business licenses issued by the Town shall be valid for a period of one (1) year from the date such license is issued. Renewal applications shall be filed at least forty-five (45) days prior to the expiration date of the existing license.

K. Licensees shall report each transfer or change of ownership interest, change in manager, or change in Principals on forms provided by the Town Clerk. An application for a change of manager shall be submitted to the Town Clerk at least thirty (30) days prior to any such change to provide necessary time for the background check and processing of the application pursuant to Section 5.15.160.

5.15.040 Local Licensing Authority.

A. For the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution and sale of Medical Marijuana within the Town, there is hereby created the Medical Marijuana Local Licensing Authority of the Town of Eagle. The Board of Trustees of the Town shall serve as the Local Licensing Authority.

B. The Local Licensing Authority shall have such powers and duties as are provided for in this Chapter and the Colorado Medical Marijuana Code.

C. The Local Licensing Authority shall be assisted by the Town Attorney, the Chief of Police, the Town Clerk and such other personnel as may be designated by the Town Administrator in the performance of the powers and duties of the Local Licensing Authority.

5.15.050 General Licensing Procedure and Regulations.

The Town Clerk shall have authority to promulgate and employ reasonable regulations associated with the making and processing of applications for Medical Marijuana Business licenses. The Town Clerk also may promulgate regulations concerning the processes and procedures associated with the issuance, renewal, denial, suspension and/or revocation of such licenses that supplement and are not inconsistent with the provisions of this Chapter. Such regulations shall be written and shall become effective when copies of the same have been provided to the Board of

Trustees and made available to the public, or upon a later effective date set forth in the regulations.

5.15.060 Application and License Fees.

A. Application and license fees for Medical Marijuana Businesses shall be as follows:

1. New license application fee (1 st submittal)	\$1,000.00
a. New license application fee (for associated facilities or licenses.)	\$500.00
2. Fingerprint based criminal background check fee, per person checked	Actual Cost
3. License Fee	\$2,000.00
3. Renewal application fee	\$500.00
5. Change of Business Manager	\$150.00 (plus actual fingerprint based background check fees)
6. Transfer of location	\$1,000.00
7. Modification of premises and/or other activities for which a fee is permitted, but for which a fixed amount is not set in this Chapter	Up to \$250.00
8. Change of corporate structure or change of a Principal	\$150.00 per person (plus actual fingerprint based background check fees)
9. Change in financial interests	\$100.00 minimum, or actual cost if more than \$100.00

B. The Board of Trustees, by resolution, may increase or decrease any fee or cost or otherwise modify any other provisions set forth in subsection (A.). Any such increase, decrease or other modification shall be evidenced by an appendix to this Chapter.

C. The primary purpose of the fees established in this Section is to defray the costs of the particular municipal services provided and not to defray the costs of general services provided by the Town or to raise general revenues. The fees provided in this Section are reasonably related and proportional to the costs of the services provided and do not generate additional net revenue.

D. If any license or application is denied, approved but not issued, lapsed, abandoned, or withdrawn, only the license fee shall be refunded to the applicant.

5.15.070 License Applications.

A. Application for a Medical Marijuana Business license shall be made to the Town Clerk upon forms provided by the Town Clerk for that purpose. A complete application must contain all information that is required by the Laws of the State of Colorado with respect to any license that may be issued pursuant to the Colorado Medical Marijuana Code and such additional information as may be requested by the Town Clerk in writing. At a minimum, the application shall require the following information:

1. The name, address and date of birth of the owner or owners of the proposed Medical Marijuana Business in whose name the license is proposed to be issued. If the owner is a corporation, partnership, limited liability company or similar business entity, the application shall include the name and address of all Principals. If the owner is not a natural person, the organization documents for all business entities identified in the application and the contact information for the person that is authorized to represent the entity shall be provided.

2. The name, address and date of birth of the Business Manager of the Medical Marijuana Business, if the manager is proposed to be someone other than the owner, or if the owner is an entity other than a natural person.

3. The name, address and date of birth of all persons holding any financial interest in the Medical Marijuana Business, other than commercial lenders regulated by the federal government or the State of Colorado.

4. The name, address and date of birth of all employees of the Medical Marijuana Business.

5. A statement of whether or not any of the named owners, Principals, managers, parties with a financial interest, employees or persons named on the application have been:

a. Denied an application for a Medical Marijuana Business license by any other jurisdiction, including the State of Colorado, or has had such license suspended or revoked.

b. Denied an application for a liquor license pursuant to Article 46 or 47, Title 12, C.R.S., or has had any such license suspended or revoked.

c. Convicted, entered a plea of no contest, or entered a plea of guilty in conjunction with a deferred judgment and sentence pertaining to any charge related to the possession, use, or possession with intent to distribute narcotics, drugs or other controlled substances.

d. Convicted, entered a plea of no contest or entered a plea of guilty in

conjunction with a deferred judgment and sentence pertaining to any Serious Traffic Offense.

A licensee shall notify the State Licensing Authority and Local Licensing Authority in writing of the name, address and date of birth of any proposed new owners, Principal, Business Manager, person holding a financial interest in the business or employee before the new owner, Principal, Business Manager, or employee becomes associated with the business. The new owner, Principal, Business Manager or employee shall pass a fingerprint-based criminal history record check as required by the State Licensing Authority and obtain the required identification prior to being associated with, managing, owning or working at the Medical Marijuana Business.

6. Proof of ownership or legal possession of the proposed Licensed Premises for the term of the proposed license shall be presented to the Town Clerk before any Medical Marijuana Business license permitted by this Chapter may be issued. If the Licensed Premises will be leased rather than owned by the applicant, a written consent by the owner of the property to licensing of the premises as a Medical Marijuana Business must be submitted by the applicant to the Town Clerk as part of a complete application. A fully executed lease may satisfy this requirement if it clearly indicates that the owner knows the leased premises will be used as a licensed Medical Marijuana Business. If the building in which the Licensed Premises will be located is regulated by a declaration of covenants, such declaration, covenants or restrictions shall be submitted by the applicant to the Town Clerk as part of its complete application to establish that a Medical Marijuana Business is not prohibited by such declaration, covenants or restrictions.

7. An operating plan for the proposed Medical Marijuana Business including the following information:

a. A description of the products and services to be provided by the Medical Marijuana Business, including an indication of whether or not the facility proposes to engage in the retail sale of Medical Marijuana-Infused Products for human consumption.

b. A floor plan showing all interior dimensions of the Licensed Premises and the layout of the Medical Marijuana Business. Such floor plan shall also show the principal uses of the floor area depicted therein, including a depiction of where any services other than the dispensing of Medical Marijuana are proposed to occur on the Licensed Premises. If the building or proposed Licensed Premises is not yet in existence, the applicant shall file a plot plan and a detailed sketch for the interior and submit an architect's drawing of any building to be constructed.

c. A security plan containing all information required by the State

Licensing Authority's regulations.

d. A lighting plan, including security lighting, for the Licensed Premises and Adjacent Grounds.

e. Any information and/or documentation not included in the foregoing subsections that is or will be required in an application to be filed with the State Licensing Authority for the State license that may be issued in accordance with the provisions of the Colorado Medical Marijuana Code.

f. A statement to be initialed by the applicant that it is not an owner, part owner, shareholder, member of a business entity or financially interested, directly or indirectly, in any other Medical Marijuana Business in the State of Colorado.

g. Any additional document(s) or information reasonably requested by the Town Clerk.

B. Any application for a Medical Marijuana Business license shall be accompanied by the application fee, criminal background check fee, and an annual fee as required by Section 5.15.060 of this Chapter or in any resolution adopted pursuant thereto. No application shall be deemed complete or be processed in the absence of the payment of such fees.

C. Upon receipt of an application for a Medical Marijuana Business license, the Town Clerk shall circulate the application to the Town Planner, Building Official and the Police Department to determine whether the proposed facility is or will be in full compliance with any and all laws, rules and regulations administered by said departments.

D. Unless an application is under concurrent review by the State Licensing Authority and the Local Licensing Authority, the Police Department shall perform a criminal background investigation for the proposed licensee, Business Manager, if any, the Principals of the entity, if applicable, persons holding a financial interest in the proposed business, employees and any other persons subject to a criminal background check under the provisions of the Colorado Medical Marijuana Code in connection with any license application permitted thereunder. The applicant shall pay all costs of such background checks. The Police Chief or his designee shall provide the Board of Trustees with a written report concerning the Character and Record of the proposed licensee, the Business Manager if any, the Principals of any business entity that would constitute the licensee, persons holding a financial interest in the proposed business, and employees.

E. The Town Administrator and the Chief of Police, or their designees, shall perform a physical inspection of the proposed Licensed Premises to determine compliance with any applicable requirement of this Chapter.

F. The Town Clerk shall not proceed to process any application for a license that is not complete or otherwise in full compliance with this Chapter, any other applicable Town ordinance or regulation, or any applicable Laws of the State of Colorado. The Town Clerk also shall refuse to further process any application that contains any false or incomplete information, but shall allow an applicant reasonable opportunity to correct deficiencies in applications that fail to include complete information before denying such application.

5.15.080 Procedures for Approval or Denial of License Application.

Within thirty (30) days following the date the Town Clerk certifies that a license application is complete, the Local Licensing Authority shall consider the license application at a public meeting. The Local Licensing Authority may approve the license application, deny the license application, or approve the application with conditions. No public hearing shall be required. However, the Local Licensing Authority shall notify the applicant of the date and time the application will be considered.

The applicant shall appear at such meeting and the applicant shall be permitted to address the Local Licensing Authority in support of the application. No application for a license authorized under this Chapter shall be approved unless:

- A. All applicable requirements of this Chapter 5.15 have been satisfied;
- B. All applicable requirements of the Colorado Medical Marijuana Code have been satisfied;
- C. All required licensee fees and associated costs have been paid by the applicant;
- D. Applicant has received a special use permit to operate the proposed Medical Marijuana Business in accordance with the Town's Land Use and Development Code contained in Title 4 of the Eagle Municipal Code;
- E. All other applicable requirements of the Eagle Municipal Code have been met;
- F. The applicant has obtained a State sales tax license, Town sales tax license, if required, and has obtained a business license pursuant to Chapter 5.02 of the Eagle Municipal Code;
- G. The applicant is not in arrears in regard to any administrative fines, court fines, assessments, sales tax reporting and/or payment obligations, or fees owed to the Town of Eagle; and
- H. No fraudulent, misrepresented or false statement of material or relevant fact is contained within the application or was made to the Local Licensing Authority.

The Local Licensing Authority shall issue its determination and findings within thirty (30) days following the meeting at which the application was considered. The Local Licensing Authority shall notify the applicant in writing of its determination and findings by first class U.S. mail

addressed to the applicant at the address shown on the application. No license shall actually be issued by the Local Licensing Authority until the applicant has obtained the requisite license from the State Licensing Authority.

5.15.090 Conditions on Licenses.

At the time that a new license is first approved, or when an existing license is renewed, or at any time that a sanction other than revocation is imposed, or at any time the Local Licensing Authority approves a major change to a license, the Local Licensing Authority may impose on the license any conditions related to the license, Licensed Premises, or Adjacent Grounds, that is reasonably necessary to protect the public health, safety or welfare, including but not limited to the following:

- A. Additional security requirements;
- B. Additional record keeping requirements;
- C. Limits and requirements on parking and traffic flows;
- D. Requirements for walls, doors, windows, locks and fences on the Licensed Premises and Adjacent Grounds;
- E. Limits on the number of Patients who may patronize the establishment at one time;
- F. Limits on Medical Marijuana-Infused Products that may be sold;
- G. Requirements and limits on ventilation and lighting;
- H. Limits on the products other than Medical Marijuana and Medical Marijuana-Infused Products that can be sold on the Licensed Premises;
- I. Limits on noise inside the Licensed Premises or on the Adjacent Grounds;
- J. Prohibitions on certain conduct in the Licensed Premises;
- K. Limits on hours of operation that are more restrictive than prescribed by Section 5.15.110(k) of this Chapter;
- L. A requirement that the licensee temporarily close the Licensed Premises to the public until certain changes, inspections or approvals are made; and
- M. A limitation on the square footage of the Licensed Premises.

5.15.100 Personal Requirements for the Licensee, Principals, Business Manager, Persons Holding a Financial Interest and Employees.

A. The applicant, Principals, Business Manager, persons holding a financial interest in the business, and employees shall meet all requirements for the issuance of a license by the State Licensing Authority.

B. The applicant, Principals, Business Manager and employees shall all be over the age of twenty-one (21) years.

C. The applicant, Principals, Business Manager, persons holding a financial interest in the business, and employees have not been determined by any Medical Marijuana licensing authority, any other licensing board within the State, or the State Licensing Authority to not be persons of good Character and Record within the preceding three (3) years.

D. The applicant, Principals, Business Manager, persons holding a financial interest in the Medical Marijuana Business and employees are persons of good Character and Record.

E. The applicant, Principals, Business Manager, persons holding a financial interest in the Medical Marijuana Business and employees have not discharged a sentence for any felony in the five (5) years immediately preceding the filing of a license application.

F. The applicant, Principals, Business Manager, persons holding a financial interest in the Medical Marijuana Business and employees have never been convicted of a felony or received a deferred judgment and sentence pursuant to State or federal law regarding the possession, distribution, or use of a controlled substance.

G. The applicant, Principals, Business Manager, persons holding a financial interest in the Medical Marijuana Business have not held an interest in any liquor license, Medical Marijuana license or other license issued by any municipality, county, or the State of Colorado that has been revoked, suspended, or fined within the preceding two (2) years.

H. The applicant, Principals, Business Manager, persons holding any financial interest in the Medical Marijuana Business, and employees have not had their authority, if any, to act as a Primary Caregiver revoked by the State of Colorado within the preceding two (2) years.

I. The applicant, Principals, and Business Manager are not in default on any municipal, county, State, or federal taxes, fees, fines or charges, do not have any outstanding warrants for their arrest, and do not have any outstanding liens or judgments payable to the Town of Eagle.

J. The applicant and Principals are not in default on any student loan.

K. The applicant and Principals do not have any orders or judgments against them for child support in default or in arrears.

L. The applicant and Principals are not peace officers or prosecuting attorneys.

M. The applicant and Principals are not licensed physicians who recommend Medical Marijuana to Patients.

5.15.110 Special Restrictions And Requirements.

A. Limitation On The Number Of Licenses That May Be Issued Within The Town. The number of Medical Marijuana Businesses permitted within the Town is based on population. A maximum of one (1) Medical Marijuana Center, one (1) Medical Marijuana-Infused Products Manufacturer and one (1) Optional Premises Cultivation Operation shall be permitted for every five thousand (5,000) people or a fraction thereof. Population shall be based on the most recent data available from the U.S. Census Bureau and the State of Colorado Demographer's Office. If more than one (1) license application for a Medical Marijuana Business of the same classification are submitted to the Local License Authority within a period of thirty (30) days, the applications that comply with all requirements of this Chapter and the Colorado Medical Marijuana Code, but the Local Licensing Authority is not permitted to approve all of the applications reviewed because of the limitations set forth in this subsection, the Local Licensing Authority shall approve the application that the Local Licensing Authority finds and determines will best promote the intent and purposes of this Chapter 5.15 and the Colorado Medical Marijuana Code. An application for renewal of an existing Medical Marijuana Business license shall receive a preference over an application for a new Medical Marijuana Business license if the existing business has substantially met all of the requirements of this Chapter 5.15 and the Colorado Medical Marijuana Code during the previous license term and is in good standing. (Amended Ord. 33 §1, 2013)

B. Permitted Locations. All Medical Marijuana Business licenses shall be issued for a specific location which shall be designated as the Licensed Premises. Except as permitted by law, all sales, deliveries and other transfers of Medical Marijuana products by a licensee shall be made at the Licensed Premises. Medical Marijuana Businesses are not permitted in any residential zone district. Medical Marijuana Businesses shall only be located in the Commercial General (CG) and Industrial (I) Zone Districts east of Nogal Gulch pursuant to a special use permit issued in accordance with the requirements contained in the Town's Land Use & Development Code.

C. Distance from Schools. Medical Marijuana Businesses shall be located a minimum of 1,000 feet from schools, as defined in the Colorado Medical Marijuana Code.

D. Distance from Licensed Child Care Facilities. Medical Marijuana Businesses shall be located a minimum of 100 feet from licensed child care facilities, as defined in the Colorado Medical Marijuana Code.

E. Distance from Alcohol or Drug Treatment Facilities. Medical Marijuana Businesses shall be located a minimum of 1,000 feet from alcohol or drug treatment facilities, as defined in the Colorado Medical Marijuana Code.

F. Distance from College Campuses. Medical Marijuana Businesses shall be located a minimum of 1,000 feet from the campus of a college, as defined in the Colorado Medical Marijuana Code.

G. Distance from Residential Zone District. Medical Marijuana Businesses shall be located a minimum of 100 feet from any residential zone district.

H. Distance from Other Medical Marijuana Businesses. There shall be no distance requirement between Medical Marijuana Businesses.

I. No Mobile Facilities. No Medical Marijuana Business shall be located in a movable or mobile vehicle or structure and no Medical Marijuana products shall be delivered in the Town unless such delivery is specifically permitted by the Colorado Medical Marijuana Code.

J. No Products to be Visible from Public. Marijuana plants, products, accessories, and associated paraphernalia contained in a Medical Marijuana Business shall not be visible from a public sidewalk, public street or right-of-way, or any other public place.

K. No Beer or Alcohol on Premises. No fermented malt beverages and no alcohol beverages, as defined in the Colorado Beer Code and the Colorado Liquor Code, respectively, shall be kept, served or consumed on the Premises of a Medical Marijuana Business.

L. Hours of Operation. Medical Marijuana Businesses shall limit their hours of operation to between 11:00 a.m. and 7:00 p.m.

M. Restrictions Regarding Signage. Signs shall not be permitted on the exterior of Optional Premises Cultivation Operation facilities and Medical Marijuana Infused Products Manufacturing facilities. All signage associated with a Medical Marijuana Center shall meet the standards established in the Eagle Municipal Code and the Eagle Land Use and Development Code. In addition, no sign associated with a Medical Marijuana Center shall use the word “marijuana”, “cannabis”, or any other word or phrase commonly understood to refer to marijuana unless such word or phrase is immediately preceded by the word “medical” or the message of such sign includes the words “for medical use” or “for medicinal purposes” in letters that are no smaller than the largest letter on the sign. No depiction of marijuana plants or leaves shall appear on any exterior sign of a Medical Marijuana Center.

N. Storage of Products. All products and accessories shall be stored completely indoors

and on-site.

O. Consumption of Marijuana Prohibited. No consumption of any Medical Marijuana product shall be allowed or permitted on the Licensed Premises or Adjacent Grounds.

P. Storage of Currency. All currency over \$1,000.00 shall be stored within a separate vault or safe (no marijuana in safe), securely fastened to a wall or floor, as approved by the Police Department.

Q. Prevention of Emissions. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting the Licensed Premises shall be provided at all times. In the event that any debris, dust, fluids or other substances shall exit the Licensed Premises, the landowner and licensee shall be jointly and severally responsible for the full cleanup immediately. The Medical Marijuana Business shall properly dispose of all materials and other substances in a safe and sanitary manner in accordance with State regulations and Eagle County Landfill regulations.

R. Compliance with Other Codes. The Licensed Premises and Adjacent Grounds of a Medical Marijuana Business shall comply with all zoning, health, building, fire, and other codes and ordinances of the Town as shown by completed inspections and approvals by the Town Planner, Building Department, Greater Eagle Fire Protection District, and the Eagle County Health Department, if applicable.

S. No Harm to Public Health, Safety and Welfare. The Licensed Premises and Adjacent Grounds of a Medical Marijuana Business shall be operated in a manner that does not cause any substantial harm to the public health, safety and welfare.

5.15.120 Specific Requirements for a Medical Marijuana Center.

A. The applicant shall cultivate at least seventy percent (70%) of the marijuana sold or exchanged on the Licensed Premises.

B. Small samples of Medical Marijuana products offered for sale may be displayed on shelves, counters and display cases. All bulk marijuana products shall be locked within a separate vault or safe (no other items in this safe), securely fastened to a wall or floor, as approved by the Police Department.

C. A Medical Marijuana Center may sell “drug paraphernalia” as that term is defined in Chapter 9.15 of the Eagle Municipal Code to Patients only and shall be exempt from the prohibitions contained in said Chapter. Provided, however, a Medical Marijuana Center shall not display “drug paraphernalia” for sale on the Licensed Premises and such “drug paraphernalia” shall only be shown to Patients upon request.

5.15.130 Specific Requirements for Optional Premises Cultivation Operation License.

A. The applicant shall also hold a Medical Marijuana Center license or a Medical Marijuana-Infused Products Manufacturer's license.

B. The area of the proposed Licensed Premises utilized for cultivation shall be equipped with a ventilation system with carbon filters sufficient in type and capacity to eliminate marijuana odors emanating from the interior to the exterior discernible by reasonable persons. The ventilation system must be inspected and approved by the Building Official.

C. The area of the proposed Licensed Premises utilized for cultivation shall be physically separated from the area of the premises open to the public or to Patients.

D. If carbon dioxide will be used in the cultivation area in the proposed Licensed Premises, sufficient physical barriers or a negative air pressure system shall be in place to prevent carbon dioxide from moving into the ambient air in to any adjacent building in a concentration that would be harmful to any person, including persons with respiratory disease, and shall be inspected and approved by the Greater Eagle Fire Protection District and Building Official.

F. Walls, barriers, locks, signage and other means shall be employed to prevent the public or Patients from entering the area of the Licensed Premises utilized for cultivation of marijuana.

G. Disposal of un-wanted marijuana by-products shall be done in accordance with procedures approved by the Police Department.

5.15.140 Specific Requirements for a Medical Marijuana-Infused Products Manufacturer's License.

A. The applicant has a contract with a Medical Marijuana Center, stating the type and quantity of Medical Marijuana-Infused Products that the Medical Marijuana Center will buy from the licensee.

B. The applicant shall have a written agreement or contract with a Medical Marijuana Center licensee which shall at a minimum set forth the total amount of Medical Marijuana obtained from such Medical Marijuana Center to be used in the manufacturing process, and the total amount of Medical Marijuana-Infused Products to be manufactured from the Medical Marijuana obtained from that Medical Marijuana Center.

C. The applicant shall use Medical Marijuana from no more than five (5) Medical Marijuana providers, including its own Optional Premises Cultivation Operation if applicable, to manufacture one Medical Marijuana-Infused Product.

D. The applicant may sell products to any licensed Medical Marijuana Center.

E. The applicant shall meet all of the standards set forth in Section 12-43.3-404, C.R.S.

5.15.150 Renewal of Medical Marijuana Business License.

A. A licensee may renew its Medical Marijuana Business license by submitting an application to the Town Clerk at least forty-five (45) days before and not more than ninety (90) days before the expiration of the license. If a licensee fails to file an application for renewal of its license at least forty-five (45) days before expiration of the license, the license shall expire.

B. A licensee may renew a license that has expired if:

1. The license has expired for less than ninety (90) days; and
2. The licensee pays the regular renewal fee and an additional five hundred dollars (\$500.00) late renewal fee.

C. In the event an application for renewal has been filed at least forty-five (45) days before the expiration of the previous license, but the Local Licensing Authority does not rule on the application for renewal before the expiration of the previous license, the previous license shall be deemed extended until the Local Licensing Authority issues a decision on the application for renewal, but in no event may the license be extended for more than ninety (90) days.

D. The Local Licensing Authority may renew a license without a public hearing. However, if the Local Licensing Authority believes there may be Good Cause to deny the application for renewal, the Local Licensing Authority shall hold a public hearing on the application. The licensee shall have an opportunity to be heard and shall be given at least fifteen (15) days written notice of the date and time of the public hearing on the application for renewal.

5.15.160 Major Changes to Medical Marijuana Business License or Licensed Premises Requiring Approval of the Local Licensing Authority.

A. A licensee shall not make any of the following changes without first obtaining written approval of the Local Licensing Authority:

1. Any transfer of the license or any ownership interest in the licensee's business entity or license;
2. Any change in the location of the Licensed Premises;
3. Any change in the licensee's Principals;
4. The hiring, substitution, resignation, replacement or termination of the Business Manager;

5. Any change in the ownership of any of the stock of licensee's corporation;
6. Any change in the structure, ventilation system, plumbing system, electrical supply system, floor plan, safe or vault, locks, surveillance system, or security system at the License Premises;
7. Any material change to the Adjacent Grounds, including but not limited to, lighting, parking, or fences; and
8. Any material change in the operation from the operational plan submitted at the time the license was approved.

B. The Local Licensing Authority may summarily approve any of the above changes or hold a public hearing on the same, in the Local Licensing Authority's discretion.

C. The transfer of a license to a new owner does not constitute a new license. The transferring of a license or ownership interest in a license takes the transfer of such license or interest subject to the conditions, history, record, and sanctions imposed on that license under the previous ownership of the license.

5.15.170 Reports of Minor Changes.

Every licensee shall report the following to the Local Licensing Authority in the writing within ten (10) days of such event:

- A. Any change in a person's financial interest in licensee's business, the Licensed Premises, or Adjacent Grounds;
- B. Any change in the Licensee's employees;
- C. Any charges filed against or any conviction of any Principal, Business Manager, or employees for any felony, misdemeanor, or Serious Traffic Offense including but not limited to any deferred judgment and sentence ordered or supervised by a court of law; and
- D. Any change to any sign on the Licensed Premises or Adjacent Grounds.

5.15.180 Books and Records.

A. Every licensee shall maintain on the Licensed Premises at any time that any person is present on the Licensed Premises accurate and up to date books and records of the business operations of the licensee or an authentic copy of the same, including but not limited to the following:

1. All books and records required to be maintained by the Colorado Medical Marijuana Code and the regulations promulgated thereunder;

2. Lists, manifests, orders, invoices, and receipts for all marijuana, marijuana plants, and Medical Marijuana-Infused Products cultivated, harvested, processed, delivered, purchased, stored, sold, and exchanged during the preceding two (2) years by each transaction or event, including the date, source, strain, type, quantity, weight, and purchaser;

3. An inventory of all marijuana and Medical Marijuana-Infused Products presently on the Licensed Premises;

4. Sales taxes collected and paid;

5. The name, address, and a copy of each purchaser's Medical Marijuana registry card for every Patient who has registered the Medical Marijuana Center as his or her primary center or who has purchased Medical Marijuana, marijuana plants or Medical Marijuana-Infused Products at the Licensed Premises;

6. The written recommendation of any physician who has recommended that a Patient registered with the Medical Marijuana Center needs more than two (2) ounces of Medical Marijuana and six (6) marijuana plants to address the Patient's debilitating medical condition;

7. The name, address and a copy of the Medical Marijuana license of any other Medical Marijuana facility licensee with whom the Licensee has transacted any business, including but not limited, to any purchase, sale, or exchange of marijuana plants, harvested marijuana or Medical Marijuana-Infused Products; and

8. Copies of the Medical Marijuana registry card of a homebound Patient and the waiver from the State of Colorado authorizing a Primary Caregiver to purchase Medical Marijuana for the homebound Medical Marijuana Patient and transport the same to the homebound Patient.

B. The licensee shall separate or redact any information showing a Patient's debilitating medical condition from the above records.

5.15.190 Inspection of Books and Records; Audits.

A. Any law enforcement officer, the Town Administrator, or his designee, may, without a warrant and without reasonable suspicion, inspect the books and records described in Section 5.15.180 of this Chapter at any time that anyone is present inside the Licensed Premises, but shall not inspect confidential Patient medical information describing a Patient's debilitating medical condition, unless a warrant specifically authorizing inspection of such records is issued or there are

legal grounds that would excuse the requirement of a warrant.

B. Upon five (5) days written notice, a licensee shall provide all of the books and records of the licensee for auditing by the Town, but shall not be required to provide any confidential Patient medical information. In the event confidential Patient medical information is interspersed with other records or are contained on the same sheet of paper or electronic record, the licensee shall copy the record and redact the confidential Patient medical information and provide a redacted copy to the Town or law enforcement officers.

5.15.200 Inspection of Licensed Premises and Adjacent Grounds.

A. Every Licensed Premises and Adjacent Grounds shall be open to inspection by police officers, building officials, Fire Department officials, zoning officials, and health department officials at any time that anyone is present in the Licensed Premises, without obtaining a search warrant, and without reasonable suspicion to believe that any violation or criminal offense has occurred.

B. The licensee, Principals, Business Manager, and employees shall have no reasonable expectation of privacy as to the buildings, rooms, areas, furniture, safes, lockers, or containers on the Licensed Premises and Adjacent Grounds, except as provided in this Section.

C. Licensees, Principals, Business Managers, employees, Patients, Primary Caregivers, and other persons on the Licensed Premises and Adjacent Grounds shall retain a reasonable expectation of privacy as to their medical condition, their persons, the personal effects in their immediate possession, and their motor vehicles on the Licensed Premises and Adjacent Grounds, to the extent provided by law.

5.15.210 Suspension and Revocation of License.

A. In accordance with Section 12-43.3-601, C.R.S., as contained in the Colorado Medical Marijuana Code, and the rules and regulations promulgated thereunder, the Local Licensing Authority shall have the power, on its own motion or on complaint, after investigation and opportunity for a public hearing at which the licensee shall be afforded an opportunity to be heard, to suspend or revoke a Medical Marijuana Business license issued by the Local Licensing Authority. The Local Licensing Authority shall have the power to administer oaths, and issue subpoenas to require the presence of persons and the production of papers, books, and records necessary to the determination of the hearing. The procedure for imposing such disciplinary actions shall be in accordance with Section 12-43.3-601, C.R.S.

B. The Local Licensing Authority may suspend or revoke a Medical Marijuana Business license for a violation by the licensee or by any of the agents or employees of the licensee of the following:

1. Any of the provisions of the Colorado Medical Marijuana Code or the rules

and regulations promulgated thereunder;

2. Good Cause as defined in subsection (1) of Section 12-43.3-104, C.R.S., as contained in the Colorado Medical Marijuana Code;

3. Violation of any of the provisions set forth in Sections 5.15.100, 5.15.110, 5.15.120, 5.15.130, and 5.15.160 of this Chapter;

4. The licensee has failed to pay the annual Medical Marijuana license and application fees, annual business license fee or sales taxes due and owing;

5. The licensee has made any false statement in the application for a license as to any of the facts required to be stated in such application;

6. The licensee has failed either to file the required reports or to furnish such information, and records as required by this Chapter;

7. Violation of any condition imposed by the Local Licensing Authority on the issuance of the license;

8. Any facts or condition exist which, if it had existed or had been known to exist, at the time of the application for such license, would have warranted the Local Licensing Authority in refusing originally to issue such license;

9. The licensee has failed to maintain the Licensed Premises in compliance with the requirements of the Eagle Land Use and Development Code or any building code provision applicable to the Licensed Premises; or

10. The licensee, or any of the agents or employees of the licensee, have violated any ordinance of the Town or any State law on the Licensed Premises or have permitted such a violation on the Licensed Premises by any other person.

C. Except in the case of an emergency suspension, a suspension of a license shall not be for a period longer than six (6) months.

D. Any final decision of the Local Licensing Authority suspending or revoking a Medical Marijuana Business license, following a hearing as permitted in this Section, may be appealed to the Eagle County District Court within thirty (30) days following the date of such decision pursuant to the provisions of Rule 106(a)(4), Colorado Rules of Civil Procedure.

(Ord. 13 §1, 2012)

Chapter 5.16

RETAIL MARIJUANA BUSINESSES OCCUPATION TAX

Sections:

5.16.010	Purpose
5.16.020	Definitions
5.16.030	Levy of Tax
5.16.040	Exemptions
5.16.050	Collection of Tax
5.16.060	Audit of Records
5.16.070	Tax Overpayments and Deficiencies
5.16.080	Tax Information Confidential
5.16.090	Forms and Regulations
5.16.100	Enforcement and Penalties
5.16.110	Tax Lien
5.16.120	Recovery of Unpaid Tax
5.16.130	Status of Unpaid Tax in Bankruptcy and Receivership
5.16.140	Hearing, Subpoenas and Witness Fees
5.16.150	Deposition
5.16.160	Limitations on Actions
5.16.170	Exemption From Revenue Limitation

5.16.010 Purpose. The Board of Trustees hereby finds, determines and declares:

A. For the purposes of this Chapter every Retail Marijuana Store, Retail Marijuana Cultivation Facility and Retail Marijuana Products Manufacturer, as such terms are defined in the Retail Marijuana Code, Sections 12-43.4-101 *et. seq.*, C.R.S. that sells or furnishes Retail Marijuana or Retail Marijuana Products within the Town of Eagle for consideration is exercising a taxable privilege. The purpose of this Chapter is to impose a tax which will be paid by every Retail Marijuana Establishment in the Town of Eagle, which tax will provide additional revenue for the Town of Eagle; (Amend. Ord. 09-2016 §1 – 3/22/2016)

B. The provision of Retail Marijuana and Retail Marijuana Products by establishments results in the increased use of Town streets and rights-of-way, increased traffic, increased demands upon municipal services such as police protection and has a substantial affect upon the health, safety and welfare of the citizens of the Town of Eagle and upon the expenditures budgeted by the Town, which is a matter of local concern; and

C. The classification of Retail Marijuana Establishments as separate businesses and occupations is reasonable, proper, uniform and nondiscriminatory; and the taxable amount hereby

levied is reasonable, proper, uniform, nondiscriminatory, and necessary.

5.16.020 Definitions.

When not clearly otherwise indicated by the context, the following words and phrases as used in this Chapter shall have the following meanings:

A. “Person” means an individual, partnership, firm, joint enterprise, limited liability company, corporation, estate or trust, or any group or combination acting as a unit, but shall not include the United States of America, the State of Colorado and any political subdivision thereof.

B. “Retail Marijuana” means “marijuana” or “marihuana” as defined in Section 16 (2)(f) of Article XVIII of the Colorado Constitution that is cultivated, manufactured, distributed, or sold by a licensed Retail Marijuana Establishment that is grown and sold for a purpose authorized by Article XVIII, Section 16 of the Colorado Constitution.

C. “Retail Marijuana Cultivation Facility” has the same meaning as “marijuana cultivation facility” as defined in Section 16 (2)(h) of Article XVIII of the Colorado Constitution.

D. “Retail Marijuana Establishment” or “Retail Marijuana Business” means a Retail Marijuana Store, a Retail Marijuana Cultivation Facility, a Retail Marijuana Products Manufacturer, or a retail marijuana testing facility.

E. “Retail Marijuana Products” means “marijuana products” as defined in Section 16 (2)(k) of Article XVIII of the Colorado Constitution that are produced at a Retail Marijuana Products Manufacturer.

F. “Retail Marijuana Products Manufacturer” has the same meaning as “marijuana product manufacturing facility” as defined in Section 16 (2)(n) of Article XVIII of the Colorado Constitution.

G. “Retail Marijuana Store” has the same meaning as defined in Section 16(2)(n) of Article XVIII of the Colorado Constitution.

H. “Sale” means the furnishing for consideration by any Person of Retail Marijuana, Retail Marijuana Products to another Person within the Town. (Amend. Ord. 09-2016 §3 3/22/2016)

I. “Tax” means the Tax payable by the Vendor or aggregate amount of Taxes due from Vendor during the period for which the Vendor is required to pay the occupation Tax on the sale and purchase of Retail Marijuana or Retail Marijuana Products under this Chapter.

J. “Taxpayer” means the Vendor obligated to pay the Tax under the terms of this Chapter. (Amend. Ord. 09-2016 §4 3/22/2016)

K. ““Vendor” means a person furnishing Retail Marijuana and Retail Marijuana Products to a Person for consideration within the Town. (Ord. 09-2016 §5 – 3/22/2016)

(Ord. 09-2016 Repealed Accessories §2 0 3/22/2106)

5.16.030 Levy of Tax.

Pursuant to the authority granted by the Town’s registered electors voting at the November 5, 2013 coordinated election, effective January 1, 2014 is hereby levied by the Town of Eagle an occupation Tax on the provision of Retail Marijuana and Retail Marijuana Products by Retail Marijuana Stores to Persons; or the provision by Retail Marijuana Cultivation Facilities to Retail Marijuana Stores not owned by the same Person or entity; or the provision of Retail Marijuana by Retail Marijuana Products Manufacturers to Retail Marijuana Stores not owned by the same Person or entity within the Town of Eagle in the amount of one dollar (\$1.00) per sales transaction up to and including \$20 dollars and five dollars (\$5.00) per transaction over \$20 dollars. (Ord. 09-2016 §6 – 3/22/2016)

5.16.040 Exemptions.

This Chapter and the Tax imposed herein shall not be applicable to transactions between Retail Marijuana Establishments owned by the same Person or business entity.

5.16.050 Collection of Tax.

A. Every Vendor providing Retail Marijuana or Retail Marijuana Products taxable under this Chapter shall remit such Tax on or before the tenth (10th) day of each month on account of Retail Marijuana or Retail Marijuana Products transactions in the preceding month. Said payment shall be accompanied by a return which shall contain such information and be in such form as the Town Clerk may prescribe. (Ord. 09-2016 §7 – 3/22/2016)

B. The burden of proving that any transaction is exempt from the Tax shall be upon the Vendor.

C. If the accounting methods regularly employed by the Vendor in the transaction of business, or other conditions, are such that the returns aforesaid made on a calendar month basis will impose unnecessary hardship, the Town Clerk may, upon request of the Vendor, accept returns at such intervals as will, in the Town Clerk’s opinion, better suit the convenience of the Vendor and will not jeopardize the collection of the Tax; provided, however, the Town Clerk may by rule permit a Vendor whose monthly Tax obligation is less than one hundred dollars (\$100.00) to make returns and pay Taxes at intervals not greater than three (3) months.

D. It shall be the duty of every Vendor to maintain, keep and preserve suitable records of all sales made by the Vendor and such other books or accounts as may be required by the Town Clerk in order to determine the amount of the Tax of which the Vendor is liable under this Chapter. It shall be the duty of every such Vendor to keep and preserve for a period of three (3) years all such books, invoices and other records and the same shall be open for examination by the Town Clerk, the Town Finance Director or their designees.

E. The Tax to be paid by a Vendor shall not be stated and charged separately from the sale price of Retail Marijuana or Retail Marijuana Products on any record thereof at the time when the sale is made or at the time when evidence of the sale is issued, provided, a Vendor may indicate the sales price “includes Town of Eagle Retail Marijuana Occupation Tax.” (Ord. 09-2016 §8 – 3/22/2016)

Section 5.16.060 Audit of Records.

A. For the purpose of ascertaining the correct amount of the Occupation Tax on Retail Marijuana and Retail Marijuana Products transactions due from any Person engaged in such Retail Marijuana Business in the Town under this Chapter, the Town Clerk or an authorized agent, may conduct an audit by examining relevant books, accounts and records of such Person. (Ord. 09-2016 §9 – 3/22/2016)

B. All books, invoices, accounts and other records shall be made available within the Town limits and be open at any time during regular business hours for examination by the Town Clerk or an authorized agent. If any Taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the Town Clerk may issue a subpoena to require that the Taxpayer or its representative to attend a hearing or produce any such books, accounts and records for examination. Any such subpoena shall be enforced by the Eagle Municipal Court.

C. Any exempt Person claiming an exemption under the provisions of this Chapter is subject to audit in the same manner as any other Person engaged in the sale of Retail Marijuana and Retail Marijuana Products in the Town. (Ord. 09-2016 §10 – 3/22/2016)

Section 5.16.070 Tax Overpayments and Deficiencies.

An application for refund of Tax monies paid in error or by mistake shall be made within three (3) years after the date of payment for which the refund is claimed. If the Town Clerk determines that within three (3) years of the due date a Vendor overpaid the occupation Tax on the provision of Retail Marijuana or Retail Marijuana Products, he/she shall process a refund or allow a credit against a future remittance from the same Taxpayer. If at any time the Town Clerk determines the amount paid is less than the amount due under this Chapter, the difference together with the interest shall be paid by the Retail Marijuana Establishment within ten (10) days after receiving written notice and demand from the Town Clerk. The Town Clerk may

extend that time for good cause. (Ord. 09-2016 §11 – 3/22/2016)

Section 5.16.080 Tax Information Confidential.

A. All specific information gained under the provisions of this Chapter which is used to determine the Tax due from a Taxpayer, whether furnished by the Taxpayer or obtained through audit, shall be treated by the Town and its officers, employees or legal representatives as confidential. Except as directed by judicial order or as provided in this Chapter, no Town officer, employee, or legal representative shall divulge any confidential information. If directed by judicial order, the officials charged with the custody of such confidential information shall be required to provide only such information as is directly involved in the action or proceeding. Any Town officer or employee who shall knowingly divulge any information classified herein as confidential, in any manner, except in accordance with proper judicial order, or as otherwise provided in this Chapter or by law, shall be guilty of a violation hereof.

B. The Town Clerk may furnish to officials of any other governmental entity who may be owed sales Tax any confidential information, provided that said jurisdiction enters into an agreement with the Town to grant reciprocal privileges to the Town.

C. Nothing contained in this Section shall be construed to prohibit the delivery to a Taxpayer or its duly authorized representative a copy of such confidential information relating to such Taxpayer, the publication of statistics so classified as to prevent the identification of particular Taxpayers, or the inspection of such confidential information by an officer, employee, or legal representative of the Town.

Section 5.16.090 Forms and Regulations.

The Town Clerk is hereby authorized to prescribe forms and promulgate rules and regulations to aid in the making of returns, the ascertainment, assessment and collection of said occupation Tax on the provisions of Retail Marijuana or Retail Marijuana Products and in particular and without limiting the general language of this Chapter, to provide for:

A. Form of report on the provision of Retail Marijuana and Retail Marijuana Products which shall be supplied to all Vendors; and

B. The records which Retail Marijuana Establishments providing Retail Marijuana and Retail Marijuana Products are to keep concerning the Tax imposed by this Chapter. (Ord. 09-2016 §12 – 3/22/2016)

Section 5.16.100 Enforcement and Penalties.

A. It shall be unlawful for any Person to intentionally, knowingly, or recklessly fail to

pay the Tax imposed by this Chapter, or to make any false or fraudulent return, or for any Person to otherwise violate any provisions of this Chapter. Any person convicted of a violation of this Chapter shall be deemed guilty of a Class A municipal offense. Each day, or portion thereof, that any violation of this Chapter continues shall constitute a separate offense.

B. A penalty in the amount of ten percent (10%) of the Tax due or the sum of ten dollars (\$10.00), whichever is greater, shall be imposed upon the Retail Marijuana Establishment and become due in the event the Tax is not remitted by the tenth (10th) day of the month as required by this Chapter, or such other date as prescribed by the Town Clerk, and one and one-half percent (1.5%) interest shall accrue each month on the unpaid balance. The Town Clerk is hereby authorized to waive, for good cause shown, any penalty assessed.

C. If any part of a deficiency is due to negligence or intentional disregard of regulations, but without intent to defraud, there shall be added ten percent (10%) of the total amount of the deficiency, and interest, from the Retail Marijuana Establishment required to file a return. If any part of the deficiency is due to fraud with the intent to evade the Tax, then there shall be added fifty percent (50%) of the total amount of the deficiency together with interest and in such case, the whole amount of the unpaid Tax, including the additions, shall become due and payable ten (10) days after written notice and demand by the Town Clerk.

D. If any Retail Marijuana Business fails to make a return and pay the Tax imposed by this Chapter, the Town may make an estimate, based upon available information of the amount of Tax due and add the penalty and interest provided above. The Town shall mail notice of such estimate, by certified mail, to the Retail Marijuana Business at its address as indicated in the Town records. Such estimate shall thereupon become an assessment, and such assessment shall be final and due and payable from the Taxpayer to the Town Clerk ten (10) days from the date of service of the notice or the date of mailing by certified mail; provided, however, that within the ten (10) day period such delinquent Taxpayer may petition the Town Clerk for a revision or modification of such assessment and shall, within such ten (10) day period, furnish the Town Clerk the documents, facts and figures showing the correct amount of such Taxes due and owing.

E. Such petition shall be in writing and the facts and figures submitted shall be submitted either in writing or orally, and shall be given by the Taxpayer under penalty of perjury. Thereupon, the Town Clerk may modify such assessment in accordance with the facts submitted in order to effectuate the provisions of this Chapter. Such assessment shall be considered the final order of the Town Clerk, and may be reviewed by a Court of competent jurisdiction under the Rule 106(a)(4) of the Colorado Rules of Civil Procedure, provided that the Taxpayer gives written notice to the Town Clerk of such intention within ten (10) days after receipt of the final order of assessment.

Section 5.16.110 Tax Lien.

A. The Tax imposed by this Chapter, together with the interest and penalties herein provided and the costs of collection which may be incurred, shall be, and until paid, remain a first and prior lien superior to all other liens on all of the tangible personal property of a Taxpayer within the Town and may be foreclosed by seizing under distraint warrant and selling so much thereof as may be necessary to discharge the lien. Such distraint warrant may be issued by the Town Clerk whenever the Taxpayer is in default in the payment of the tax, interest, penalty or costs. Such warrant may be served and the goods subject to such lien seized by any Town peace officer, the Eagle County Sheriff or any duly authorized employee of the Town. The property so seized may be sold by the agency seizing the same or by the Town Clerk at public auction after ten (10) days have passed following an advertised notice in a legal newspaper circulated in the Town, in the same manner as is prescribed by law in respect to executions against property upon judgment of a court of record, and the remedies of garnishment shall apply.

B. The Tax imposed by this Chapter shall be, and remain, a first and prior lien superior to all other liens on the real property and appurtenant premises at which the Taxable transactions occurred.

Section 5.16.120 Recovery of Unpaid Tax.

A. The Town Clerk may also treat any such taxes, penalties, costs or interest due and unpaid as a debt due the Town from the Taxpayer.

B. In case of failure to pay the Taxes, or any portion thereof, or any penalty, costs or interest thereon, when due, the Town Clerk may recover at law the amount of such Taxes, penalties, costs, the reasonable value of any salaried attorney's time, including legal assistant's time, or the reasonable attorney's fees, including legal assistant's fees, charged by the Town's contract attorney, plus interest, in any county or district court of the county wherein the Taxpayer resides or had a principal place of business (at the time the Tax became due) having jurisdiction of the amount sought to be collected.

C. The return of the Taxpayer or the assessment made by the Town Clerk shall be prima facie proof of the amount due.

D. Such actions may be actions in attachment, and writs of attachment may be issued to the Eagle Police Department or Eagle County Sheriff, as the case may be, and in any such proceeding no bond shall be required of the Town Clerk, nor shall any Town peace officer or sheriff require of the Town Clerk an indemnifying bond for executing the writ of attachment or writ of execution upon any judgment entered in such proceedings. The Town Clerk may prosecute appeals in such cases without the necessity of providing a bond therefor.

E. It shall be the duty of the Town Attorney, when requested by the Town Clerk, to commence an action for the recovery of Taxes due under this Chapter and this remedy shall be in

addition to all other existing remedies, or remedies provided in this Chapter.

F. The Town may certify the amount of any delinquent Tax, plus interest, penalties and the costs of collection, as a charge against the property at which the Taxable transaction occurred to the County Treasurer for collection in the same manner as delinquent ad valorem Taxes pursuant to Section 31-20-105, C.R.S.

Section 5.16.130 Status of Unpaid Tax in Bankruptcy and Receivership.

Whenever the business or property of a Taxpayer subject to this Chapter shall be placed in receivership, bankruptcy or assignment for the benefit of creditors, or seized under distraint for taxes, all Taxes, penalties and interest imposed by this Chapter and for which the Taxpayer is in any way liable under the terms of this Chapter shall be a prior and preferred lien against all the property of the Taxpayer, except as to other Tax liens which have attached prior to the filing of the notice, and no sheriff, receiver, assignee or other officer shall sell the property of any Person subject to this Chapter under process or order of any court, without first ascertaining from the Town Clerk the amount of any Taxes due and payable under this Chapter, and if there be any such Taxes due, owing and unpaid, it shall be the duty of such officer to first pay the amount of the Taxes out of the proceeds of such sale before making payment of any monies to any judgment creditor or other claimants of whatsoever kind or nature, except the costs of the proceedings and other preexisting Tax liens as above provided.

Section 5.16.140 Hearings, Subpoenas and Witness Fees.

A. Hearings before the Town Clerk pursuant to provisions in this Chapter shall be held in a manner that provides due process of law and as provided in Chapter 2.20 of the Eagle Municipal Code. Any subpoena issued pursuant to this Chapter may be enforced by the Eagle Municipal Judge pursuant to Section 13-10-112(2), C.R.S. The fees of witnesses for attendance at hearings shall be the same as the fees of witnesses before the district court, such fees to be paid when the witness is excused from further attendance. When the witness is subpoenaed at the instance of the Town Clerk, such fees shall be paid in the same manner as other expenses under the terms of this Chapter, and when a witness is subpoenaed at the instance of any party to any such proceeding, the Town Clerk may require that the cost of service of the subpoena and the fee of the witness be borne by the party at whose instance the witness is summoned. In such case, the Town Clerk, at her discretion, may require a deposit to cover the cost of such service and witness fees. A subpoena issued pursuant to this Section shall be served in the same manner as a subpoena issued out of a court of record.

B. The Eagle Municipal Judge, upon the application of the Town Clerk, may compel the attendance of witnesses, the production of books, papers, records or memoranda, and the giving of testimony before the Town Clerk or any duly authorized hearing officers, by an action for contempt, or otherwise, in the same manner as production of evidence may be compelled before the Court.

Section 5.16.150 Depositions.

The Town Clerk or any party in an investigation or hearing before the Town Clerk may cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil actions in courts of this State and to that end compel the attendance of witnesses and the production of books, papers, records or memoranda.

Section 5.16.160 Limitation on Actions.

A. Except as otherwise provided in this Section, the Taxes for any period, together with interest thereon and penalties with respect thereto, imposed by this Chapter shall not be assessed, nor shall a notice of lien be filed, or distraint warrant be issued, or suit for collection be instituted, or any other action to collect the same be commenced, more than three (3) years after the date on which the Tax was or is payable, nor shall any lien continue after such period, except for Taxes assessed before the expiration of such three (3) year period when the notice of lien with respect to which has been filed prior to the expiration of such period.

B. In case of a false or fraudulent return with intent to evade Taxation, the Tax, together with interest and penalties thereon, may be assessed, or proceedings for the collection of such Taxes may be commenced at any time.

C. Before the expiration of such period of limitation, the Taxpayer and the Town Clerk may agree in writing to an extension thereof, and the period so agreed on may be extended by subsequent agreements in writing.

Section 5.16.170 Exemption From Revenue Limitation.

In accordance with the approval of the registered electors voting at the November 5, 2013 coordinated election, the revenues derived from the Tax imposed by this Chapter shall be collected and spent as a voter approved revenue change, notwithstanding any revenue or expenditure limitations contained in Article X, Section 20, of the Colorado Constitution.

(Ord. 26 §1, 2013)