

Title 5

BUSINESS LICENSES AND REGULATIONS

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5.02 - Annual Business License

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5.02.020 Purpose.

The purpose of this chapter is to require the annual licensing and limited regulation of all business conducted within the Town and to provide the Town with necessary information concerning the activities of businesses in order to protect the property, health, welfare, peace, and safety of its citizens, inhabitants and visitors. (Ord. 558 §1, 2009)

5.02.030 Definitions.

For purposes of this chapter, the following definitions shall apply:

“Business.” Any profession, occupation, home occupation, trade, or activity engaged in by a person for profit, gain, benefit or advantage which is conducted within the Town, whether on a temporary, itinerant, or a permanent basis. A business may be conducted under this chapter for a single transaction. Each location of an enterprise, and each enterprise at a location, is a separate business for the purposes of this chapter. (Ord. 603 §2, 2011; Ord. 558 §1, 2009)

“License year.” The license year for a business license shall be the calendar year. (Ord. 558 §1, 2009)

“Licensee.” Any person required to obtain an annual business license. (Ord. 558 §1, 2009)

5.02.040 Licensing requirements.

A. Business License Required: A business license shall be required for any person who is engaged in business in the Town.

- B. If the business includes selling at retail in the Town tangible personal property or services that are taxable which are purchased in the Town and are subject to sales tax pursuant to Chapter 3.08 of this Code, a sales tax license shall be granted and issued in conjunction with the business license on the same application and upon payment of the fee provided in this Chapter 5.02. The sales tax license aspect of the business license shall be subject to all requirements of Chapter 3.08, and any other applicable law, statute, regulation, ordinance or resolution pertaining to sales tax.
- C. Separate Licenses: If engaged in business at two (2) or more separate places by one person, a separate license for each place of business shall be required. If two or more businesses are conducted on the same premises, a separate license for each business shall be required.
- D. License and Tax Additional: The license and tax imposed by this chapter shall be in addition to all other licenses and taxes imposed by law, except as otherwise provided in this chapter.

(Ord. 558 §1, 2009)

5.02.050 License application, fee, payment amount.

- A. Application for a business license shall be upon a form approved by the Town, and shall require disclosure of information including name, state issued identification, permanent address and contact information, business location and statement of nature of business, sales tax and business registration information, and such information as may be necessary to assure the business is lawfully conducted and does not interfere with traffic or use of nearby properties. (Ord. 558 §1, 2009)
- B. The license fee for the business license shall be set by the Board of Trustees per resolution. No refunds shall be considered by the Town. (Ord. 603 §1, 2011)
- C. Payment, term of license: Every business shall obtain an annual business license prior to the commencement of business, and shall pay the license fees specified in subsection B. (Ord. 558 §1, 2009)
- D. Annual Renewal: It shall be the duty of each licensee to obtain an annual renewal of such license by payment of the annual license fee to the Town Clerk on or before January 31st of each year. (Ord. 603 §2, 2011)

5.02.060 Administration.

The administration of the annual business licenses required by this chapter shall be vested in the Town Manager who is authorized to do the following:

- A. Ensure the collection of license fees and the issuance of receipts therefore;
- B. Adopt all forms and prescribe the information to be given therein;
- C. Promulgate and enforce all reasonable rules and regulations necessary to the operation and enforcement of this chapter;
- D. Investigate and determine the eligibility of each applicant for an annual business license;
- E. Investigate, determine and order the revocation or suspension of an annual business license for violation by the licensee of a provision of this Title.

(Ord. 558 §1, 2009)

5.02.070 Requirements of licensee.

Every licensee under this chapter shall do the following:

- A. Ascertain and at all times comply with all laws and regulations applicable to a licensed business including compliance with zoning and land use requirements;
- B. Avoid any illegal, dangerous or harmful practices or conditions which are detrimental to the public property, health, welfare, peace or safety;
- C. Refrain from engaging in business on the licensed premises during any period the license is revoked or suspended.
- D. Posting: The licensee shall post the current business license in a conspicuous place on the licensed premises at all times. If the licensee does not have a place of business, then the license shall be displayed by the licensee when conducting or soliciting business.

(Ord. 558 §1, 2009)

5.02.080 Conditions of license.

- A. Public Streets and Rights-of-Way: It shall be unlawful to conduct any business on the public streets or rights-of-way in the Town unless otherwise permitted by the Town.
- B. License Nontransferable: No license issued pursuant to this chapter shall be transferable.
- C. No business shall be conducted on any premises without the express consent of the property owner.

(Ord. 558 §1, 2009)

5.02.090 License denial, suspension and revocation.

- A. Unless otherwise limited by state or federal law, a license application may be denied, suspended or revoked based on the following grounds:
 - 1. Any applicable provisions of the Kremmling Municipal Code, state and federal law have not been met;
 - 2. The required fees have not been paid;
 - 3. The application is incomplete or contains false, misleading or fraudulent statements;
 - 4. Unsatisfactory character of the applicant based on criminal history, to the extent such character and history are relevant to the license or permit requested by the applicant;
 - 5. Nonconformance of the business, premises, building or land use with this Code;
 - 6. Demand of the business for excessive Town services;
 - 7. Previous revocation or suspension of a similar license held by the applicant;

8. Any reason that would justify cancellation, suspension or revocation of a license; or
 9. The business for which the license is requested, or has been granted, violates or would violate any law, rule or regulation of the Town, the County, the State or the Federal government.
- B. The Town Manager, after notice and a hearing, may suspend or revoke the license of any person found by such person to have violated any provision of this chapter, or state law, or federal law.
- C. Any findings and order of the Town Manager revoking the license of any person shall be subject to review by the district court upon application of the aggrieved party.

(Ord. 558 §1, 2009)

5.02.100 Exemptions.

Persons exempt from the provisions of this chapter are as follows:

- Churches or established religious organizations;
- Charitable corporations;
- Hospitals;
- Schools;
- Governments;
- Persons exempt under federal or Colorado law;
- Special events sales as otherwise permitted by the Town; and
- Yard sales, garage sales or estate sales unless such a sale is subject to the sales and use tax provisions of this Code. This shall not be construed to allow the sale of food, beverages or amusements in conjunction with the sale. No loud speakers, tents, public toilet facilities or other portable structures are permitted.

(Ord. 558 §1, 2009)

5.02.110 Revenue disposition.

The license fees collected by the Town Clerk under this chapter shall be general revenues which shall be credited to the Town's General Fund. (Ord. 558 §1, 2009)

5.02.120 Enforcement.

The Town may seek an injunction to restrain a person from engaging in business within the Town who does not obtain an annual business license under this chapter or whose license is revoked or suspended, and this remedy shall be in addition to all other remedies prescribed in this chapter or by law. (Ord. 558 §1, 2009)

5.02.130 Attorney fees and costs.

In the event it is necessary for the Town to take action for the enforcement of this chapter, there shall be added to any fees due hereunder all reasonable costs and fees incurred by the Town including reasonable attorney fees. (Ord. 558 §1, 2009)

5.03 - Alcoholic Beverages

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5.03.010 Tastings defined.

“Tastings” may be conducted by retail liquor store or liquor-licensed drugstore licensees in accordance with this chapter and pursuant to C.R.S. §12-47-301, as the term “Tastings” is defined in said Section 12-47-301. It is unlawful for any person or licensee to conduct Tastings within the Town unless authorized in accordance with this section. (Ord. 510 §1, 2006)

5.03.020 Alcoholic Beverage Tastings License required.

A retail liquor store or liquor-licensed drugstore licensee may conduct Tastings only pursuant to a valid Alcoholic Beverage Tastings License. (Ord. 510 §1, 2006)

5.03.030 Tasting application and fee.

A retail liquor store or liquor-licensed drugstore licensee who wishes to conduct Tastings shall submit an application to the local liquor licensing authority on forms supplied by the local liquor licensing authority. Such application shall be accompanied by a non-refundable annual fee. The Board of Trustees shall set the fee by resolution. (Ord. 596 §1, 2011; Ord. 510 §1, 2006)

5.03.040 Approval or denial of application.

If the Applicant demonstrates that Applicant is able to conduct Tastings without violating the provisions of this section or C.R.S. §12-47-301(10)(a), and without creating a public safety risk to the neighborhood, the application shall be approved and the Alcoholic Beverage Tastings License issued. Otherwise, the application shall be denied. The Town Clerk is hereby authorized to process and approve Alcoholic Beverage Tastings Licenses. (Ord. 510 §1, 2006)

5.03.050 Annual license.

An Alcoholic Beverage Tastings License shall be valid for one year, and shall run concurrently with the retail liquor store or liquor-licensed drugstore license of the holder of the Alcoholic Beverage Tastings License; provided, however, that the Alcoholic Beverage Tastings License issued to a retail liquor store or liquor-licensed drugstore licensee shall be valid only so long as the licensee holds a valid and active liquor store or liquor-licensed drugstore license. (Ord. 510 §1, 2006)

5.03.060 Limitations on tastings.

- A. Tastings conducted by the holder of an Alcoholic Beverage Tastings License shall be subject to the limitations and requirements set forth in C.R.S. §12-47-301(10)(c), as amended from time-to-time, and limitations set forth in this Section. Compliance with the limitations and requirements set forth in C.R.S. §12-47-301(10)(c), and this Section, shall be a term and condition of any Alcoholic Beverage Tastings License, whether expressly set forth in the Alcoholic Beverage Tastings License or not.
- B. Tastings once authorized shall be subject to the following limitations:
1. Tastings shall be conducted only by a person who has completed a server training program that meets the standards established by the Liquor Enforcement Division in the Department of Revenue and who is either a retail liquor store licensee or a liquor-licensed drugstore licensee, or an employee of a licensee, and only on a licensee's licensed premises.
 2. The alcohol used in Tastings shall be purchased through a licensed wholesaler, licensed brew pub, or winery licensed pursuant to C.R.S. §12-47-403 at a cost that is not less than the laid-in cost of such alcohol.
 3. The size of an individual alcohol sample shall not exceed one ounce of malt or vinous liquor or one-half of one ounce of spirituous liquor.
 4. Tastings shall not exceed a total of five (5) hours in duration per day, which need not be consecutive.
 5. Tastings shall be conducted only during the operating hours in which the licensee on whose premises the Tastings occur is permitted to sell alcoholic beverages, and in no case earlier than 11:00 a.m. or later than 7:00 p.m.
 6. The licensee shall prohibit patrons from leaving the licensed premises with an unconsumed sample.
 7. The licensee shall promptly remove all open and unconsumed alcoholic beverage samples from the licensed premises or shall destroy the samples immediately following the completion of the tasting.
 8. The licensee shall not serve a person who is under twenty-one years of age or who is visibly intoxicated.
 9. The licensee shall not serve more than four (4) individual samples to a patron during a tasting.
 10. Alcohol samples shall be in open containers and shall be provided to a patron free of charge.
 11. Tastings may occur on no more than four (4) of the six (6) days from a Monday to the following Saturday, not to exceed one hundred four (104) days per year.
 12. No manufacturer of spirituous vinous liquors shall induce a licensee through free goods or financial or in-kind assistance to favor the manufacturer's products being sampled at a Tasting. The licensee shall bear the financial and all other responsibility for a Tasting.
 13. A violation of this Code provision or of C.R.S. §12-47-801 by a retail liquor store or liquor-

licensed drugstore licensee, whether by his or her employees, agents, or otherwise, shall be the responsibility of the retail liquor store or liquor-licensed drugstore licensee who is conducting the Tasting.

14. A retail liquor store or liquor-licensed drugstore licensee conducting a Tasting shall be subject to the same revocation, suspension, and enforcement provisions as otherwise apply to the licensee.
15. Nothing in this Code provision shall affect the ability of a Colorado winery licensed pursuant to C.R.S. §§12-47-402 or 12-47-403 to conduct a Tasting pursuant to the authority of C.R.S. §§12-47-402(2) or 12-47-403(2)(e).

(Ord. 510 §1, 2006)

5.03.070 Written notice to the Town of Kremmling Police Department required.

A written notice to the Town of Kremmling's Police Department must be provided at least seventy-two (72) hours before a licensee is allowed to conduct a Tasting. The notice shall include the name of the liquor licensed premises, the person who is submitting the notice and shall indicate the date and time the Tasting is to take place. (Ord. 510 §1, 2006)

5.03.080 Proof of qualifications of persons conducting tastings.

Upon the request of any peace officer, the holder of an Alcoholic Beverage Tastings License shall provide proof that Tastings are to be conducted only by a person who has completed a server training program that meets the standards established by the Liquor Enforcement Division in the Department of Revenue of the State of Colorado, and who is either the retail liquor store licensee or a liquor-licensed drugstore licensee, or an employee of such licensee. (Ord. 510 §1, 2006)

5.03.090 Distance restriction modified.

The distance restriction contained in C.R.S. § 12-47-313(d)(III) of five hundred (500) feet minimum distance between public or parochial schools and the premises in which malt, vinous or spirituous liquors to be sold shall not apply to the West Grand School District properties lying between Seventh and Ninth Streets, between Central Avenue and Eagle Avenue.

This modification of the restriction against alcoholic beverage licensed premises and school property shall apply only as to the property described herein, and shall not constitute a waiver or reduction or elimination of the distance requirements for any other public or parochial school property. (Ord. 525 §1, 2007)

5.03.100 Local license fees.

Local license fees shall be paid to the Town of Kremmling as set forth in C.R.S. § 12-47-505. (Ord. 596 §2, 2011; Ord. 526 §2, 2007)

5.03.103 Liquor license application fees.

Each application for a liquor license shall be accompanied by an application fee in an amount set by the Board of Trustees by resolution. (Ord. 596 §3, 2011; Ord. 538 §2, 2008; Ord. 526 §3, 2007)

5.03.105 Entity applicant background investigation fees.

Where a corporate applicant or a limited liability company applicant has not already undergone a background investigation by and paid a fee to the state licensing authority, such corporate applicant or limited liability company applicant shall pay a fee in an amount set by the Board of Trustees by resolution for the cost of each fingerprint analysis and background investigation undertaken to qualify

new officers, directors, stockholders, members, or managers as required by C.R.S. §12-47-307(3). (Ord. 596 §4, 2011; Ord. 526 §4, 2007)

5.03.110 Fee must be tendered.

No application for any license action for which a fee is provided in this Part 100 shall be accepted, and no processing of such application shall occur unless the fee provided is tendered at the same time as the application submitted. In the event the fee tendered is not paid or honored, or is withdrawn, the application shall be returned to the applicant or licensee and no further action taken until a complete application including the fee is received. (Ord. 526 §5, 2007)

5.03.120 Educational requirements.

- A. Each holder of a license to sell fermented malt beverages or malt, vinous, or spirituous liquor and each registered manager shall obtain a certificate of completion from an educational program of training for intervention procedures for servers of alcohol within one hundred twenty (120) days of obtaining a license or entering into such employment or occupation.
- B. All persons occupied selling, serving or delivering fermented malt beverages or malt, vinous, or spirituous liquor shall obtain a certificate of completion from an educational program of training for intervention procedures for servers of alcohol. Such certificate must be obtained within the first one hundred twenty (120) days of such employment or occupation.
- C. Upon submitting an application for renewal of license, the applicant shall produce a copy of such certificate for each person required by this Section 5.03.120 to hold such certificate, and shall list all employees who are engaged in selling, serving or delivering fermented malt beverages, or malt, vinous, or spirituous liquor but have not obtained such certificate, along with the employee's length of employment. Within 130 days of obtaining a new license, the licensee shall demonstrate compliance with this Section 5.03.120 by submitting such records and list to the Town. Upon the request of the Town, a licensee shall display copies of certificates for the holder, registered manager, and each other person required by this Section 5.03.120 to hold such certificate.
- D. A certificate of completion issued through educational programs offered as "TIPS" programs, and any program meeting the requirements of Colorado Department of Revenue Regulation 47-605, "Responsible Alcohol Beverage Vendor and Permitted Tastings by Retail Liquor Stores and Liquor Licensed Drugstores," shall be accepted as compliance with this Section.

(Ord. 537 §1, 2008)

5.03.130 Special event permits.

- A. The Board of Trustees, acting as the local licensing authority, may issue a special event permit for the sale, by drink only, of malt, spirituous, or vinous liquor to organizations qualifying under C.R.S. § 12-48-101, et seq.
- B. The Board of Trustees, acting as the local liquor licensing authority, elects not to obtain the state licensing authority's approval or disapproval of applications for special event permits.
- C. The Town Clerk shall report to the Colorado Liquor Enforcement Division, within ten (10) days after the Town issues any special event permit, the name of the organization to which the permit was issued, the address of the permitted location, and the permitted dates of alcohol beverage service.

- D. Upon receipt of an application for a special event permit, the Town Clerk shall access information made available on the web site of the state licensing authority to determine the statewide permitting activity of the organization applying for the permit. Before approving an application, the Town shall consider compliance with the provisions of C.R.S. § 12-48-105(3), which prohibits the state and local licensing authorities from issuing a special event permit to any organization for more than fifteen (15) days in one calendar year.
- E. Each application for a special event permit shall be accompanied by a special event permit fee as set forth in C.R.S. § 12-48-104 and an application fee in an amount set by the Board of Trustees by resolution.

(Ord. 596 §5, 2011)

5.03.200 Violations - Penalty.

- A. Any person who violates any provision of any section of this chapter commits an offense. Any person convicted of violation of any section of this chapter shall be punished as provided in Kremmling Municipal Code Section 1.16.010.
- B. Violation of any section of this chapter by any person may be grounds for license suspension, revocation, non-renewal or denial. (Ord. 537 §2, 2008)

5.05 - Medical Marijuana Dispensaries

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5.05.010 Medical Marijuana Dispensaries defined.

Medical Marijuana Dispensary shall mean the use of a property or structure, whether for profit or otherwise, to cultivate, sell, distribute, transmit, give, dispense, or otherwise engage in the business of providing medical marijuana in any usable form and in any manner in accordance with Section 14 of Article XVII of the Colorado Constitution and the implementing state statues and administrative regulations.

5.05.020 Medical Marijuana Dispensary prohibited.

Medical Marijuana Dispensaries are prohibited within the Town of Kremmling. It shall be unlawful for any person to establish, operate, maintain or otherwise engage in the business, whether or not for pecuniary gain, of a Medical Marijuana Dispensary within the limits of the Town.

5.05.200 Penalty.

Any person who violates any provision of any section of this chapter commits an offense. Any person convicted of any section of this chapter shall be punished as provided in Kremmling Municipal Code Section 1.16.010.

(Ord. 569 §1, 2010)

5.06 - Marijuana Establishments Prohibited

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5.06.010 Purpose.

The purpose of this ordinance is to promote the general welfare and safety throughout the Town of Kremmling by prohibiting the operation of marijuana establishments, as defined herein, within the Town.

5.06.020 Definitions.

For the purposes of this Chapter 5.06, the following terms shall have the following meanings:

“Marijuana” means all parts of the plant of the genus *cannabis* whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. “*Marijuana*” does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant that is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

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

“Marijuana club” means a business, occupation, or other commercial enterprise that allows members and their guests to consume marijuana or marijuana products on the premises.

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

“Marijuana establishment” means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, a retail marijuana store, or a marijuana club.

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

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

“Marijuana testing facility” means an entity licensed to analyze and certify the safety and potency of marijuana.

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

“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.

5.06.030 Marijuana establishments prohibited.

It is unlawful for any person to operate, cause to be operated, or permit to be operated, any marijuana establishment within the Town, and all such users are hereby prohibited in an location within the Town, including any area hereinafter annexed to the Town.

5.06.040 Penalty.

In addition to any other penalties that may exist under state, federal and local laws, any person charged with a violation of this ordinance, upon conviction thereof, shall be subject to the general penalty provisions in Section 1.16.010 of this Code, which provides for the incarceration for a period not to exceed one (1) year, a fine not to exceed one thousand dollars (\$1,000.00), or both such fine and imprisonment. As provided in Section 1.16.010.B, each and every day during any portion of which any violation is committed, continued or permitted shall be a separate violation, and the violator shall be punished accordingly.

(Ord. 634, 2013)