

ORDINANCE OF THE TOWN COUNCIL OF BASALT, COLORADO, ADDING A NEW ARTICLE V TO CHAPTER 6, BUSINESS LICENSES AND REGULATIONS, OF THE MUNICIPAL CODE OF THE TOWN OF BASALT, COLORADO CONCERNING LICENSE REQUIREMENTS FOR MEDICAL MARIJUANA FACILITIES

**Town of Basalt, Colorado
Ordinance No. 13
Series of 2009**

RECITALS

A. The Town of Basalt ("Town") acting by and through its Town Council has the power to amend the Municipal Code of the Town of Basalt ("Town Code") pursuant to Section 1.3, Home Rule Charter, and Section 1-58, Town Code, and all such amendments shall become a part of the Town Code.

B. At a public meeting of the Basalt Town Council held on August 11, 2009 the Town Council considered the following amendments to the Town Code on first reading and scheduled a public hearing and second reading for this ordinance at a public meeting beginning no earlier than 6:00 pm at the Basalt Town Hall, 101 Midland Avenue, Basalt, Colorado on Tuesday, August 25, 2009. Said public hearing was continued to September 8, 2009.

C. At a public hearing held on September 8, 2009, 2009, the Town Council considered the following amendments to the Town Code on second reading and heard comments from Town Staff and the public.

D. The Town Council finds and determines the amendments contained herein are reasonable and necessary to promote the legitimate public purposes of the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of Basalt, Colorado as follows:

A. Findings. The Town Council hereby conclusively finds and concludes as follows.

1. The Town is authorized and empowered to enact this Ordinance by the Town Home Rule Charter.

2. The provisions of Colorado Constitution Article XVIII § 14; C.R.S. § 18-18-406.3, and C.R.S. § 25-1.5-106 authorize the medical use of marijuana.

Marijuana is considered an illegal drug under Federal Law. The Town is merely acknowledging medical marijuana as authorized under State law and is no way endorsing or taking a position on the use of medical marijuana.

3. The Basalt Town Council finds, determines and concludes that it has a legitimate public purpose in regulating licenses for medical marijuana facilities to protect the health, safety, welfare and quality of life for the citizens of the Town.

4. The Town Council feels that the distribution of medical marijuana should only be permitted in very controlled and secure environments and thereby all medical marijuana dispensing activities must be in secure buildings.

B. Revisions to Town Code.

1. A new Article V entitled "Medical Marijuana Facilities" is hereby added to Chapter 6 of the Basalt Municipal Code, as provided in **Exhibit A**.

C. Miscellaneous

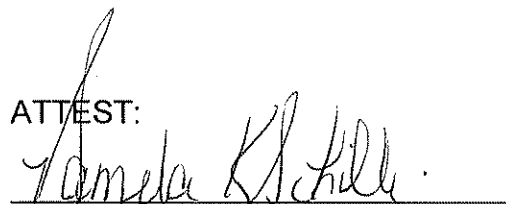
1. This ordinance shall be effective fourteen days after final publication.

2. If any part, section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance and the Town Council hereby declares it would have passed this Ordinance and each part, section, subsection, sentence, clause or phrase thereof regardless of the fact that any one or more parts, sections, subsections, sentences, clauses or phrases be declared invalid.

READ ON FIRST READING, ORDERED PUBLISHED AND SET FOR PUBLIC HEARING TO BE HELD ON August 25, 2009, by a vote of 5 to 0, with 1 abstention on August 11, 2009. Said public hearing on August 25, 2009 was continued to September 8, 2009


READ AND ADOPTED, by a vote of 5 to 0, with 1 abstention on September 8, 2009.

ATTEST:



Pamela Schilling, Town Clerk

TOWN OF BASALT, COLORADO

By: 

Leroy Duroux, Mayor

First Publication on: Thursday, August 20, 2009
Second Publication on: Thursday, September 17, 2009
Effective on: October 1, 2009



Exhibit A
Article V. Medical Marijuana Facilities

Sec. 6-106 Medical Marijuana Facilities.

No person, cooperative or business can grow, sell or produce marijuana or marijuana products for medical purposes within Town limits except in conformance with the requirements of the Town Code and compliance with State Law.

- (a) Definitions. All relevant definitions are contained in Section 16-4 of this Code and are incorporated herein.
- (b) Compliance with Chapter 16, Zoning. Relevant zoning requirements are contained in Chapter 16 of this Code and are incorporated herein.
- (c) Compliance with security measures approved by the Basalt Police Department. A facility shall have adequate security. The application for a license shall include a security plan. All transactions, display and storage shall be located in a secure building. The security plan must be acceptable to the police department before a license is granted. The licensee shall comply with the provisions of the security plan and failure to do so may result in the permit being suspended or revoked.
- (d) License required. No one can grow marijuana within Town limits or dispense or share medical marijuana except as herein provided, and any said operation without a license is unlawful. It shall further be unlawful and a person commits a misdemeanor offense if he or she operates a medical marijuana facility and said person knows or reasonably should know that (1) the facility does not have a medical marijuana facility license; (2) the facility has a license which is under suspension; (3) the facility has a license which has been revoked; or (4) the facility has a license which has expired. Further, any applicant must first obtain zoning approval prior to the issuance of a license, which zoning approval is subject to relevant zoning regulations contained in Chapter 16 of this Code, and said decision of the applicant's zoning request shall be processed in the same manner and course as any other zoning request.

Sec. 6-107 License for Medical Marijuana facilities

- (a) The licensing officer is responsible for granting, denying, revoking, renewing, suspending and canceling medical marijuana facility licenses for medical marijuana facilities. The licensing officer is the Town Manager or his or her designee.
- (b) The Building Inspector is responsible for ascertaining whether a proposed medical marijuana facility for which a license application has been submitted

complies with all location requirements of this Code and the zoning provisions specific to the property.

- (c) The Police Department is responsible for approving the security plan pursuant to Sec. 6-106 and for monitoring the implementation of the security plan. The Clerk's Office is responsible for obtaining information from the Colorado Bureau of Investigation on whether an applicant has been convicted of a specified criminal act during the time periods set forth in Section 6-108(a)(5).
- (d) The Building Inspection Department is responsible for inspecting a proposed Medical Marijuana facility in order to ascertain whether it is in compliance with applicable statutes and ordinances.
- (e) No later than thirty (30) days after the effective date of the ordinance codified herein, all medical marijuana facilities lawfully operating within the Town on or before the effective date of the ordinance codified herein shall apply for Medical Marijuana facility license. If an application is not received within thirty (30) days of the passage of the ordinance codified herein, then such existing medical marijuana facility must cease operations. The applicant is permitted a six-month amortization period from the effective date of the ordinance codified herein. After the expiration of said amortization period, the licensing officer shall approve or deny the license subject to the provisions contained in this Article
- (f) The annual license fee for new medical marijuana facility is included on the Town's Fee Schedule. If no separate fee exists, the fee shall be the same as an additional business fee.
- (g) A license may be issued only for one (1) Medical marijuana facility located at a fixed and certain place. Any person, partnership or corporation which desires to operate more than one (1) medical marijuana facility must have a license for each.

Sec. 6-108. Application and conditions of license.

- (a) The completed application shall contain the following information and shall be accompanied by the following documents:

- (1) If the applicant is an individual, the individual shall state his or her legal name and any aliases and submit satisfactory proof that he or she is at least eighteen (18) years of age.

- (2) If the applicant is a legal entity, the application shall state its complete name; the date and place of its organization; evidence that it is in good standing under the laws of the state in which it is organized, and if it is organized under the laws of a state other than Colorado, that it is registered to operate in Colorado; the names and capacity of all officers, directors, managers and principal owners; and the name of the registered agent and the address of the registered office for service of process.

(3) If the applicant intends to operate the medical marijuana facility under a name other than that of the applicant, he or she must state the medical marijuana facility's fictitious name.

(4) The applicant's driver's license number, social security number and his or her state or federally issued tax identification number.

(5) Whether the applicant or any of the other individuals listed pursuant to Subsection (1) or (2) above has been convicted of a specified criminal activity for which:

a. Less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the latter date, if the conviction is a misdemeanor offense;

b. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the latter date, if the conviction is a felony offense; or

c. Less than five (5) years have elapsed since the date of the last conviction and the date of release from confinement for the last conviction, whichever is the latter date, if the convictions are of two (2) or more misdemeanor offenses or a combination of misdemeanor offenses occurring within any twenty-four-month period.

The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

(6) Whether the applicant or any of the other individuals listed pursuant to Subsection (1) or (2) above has had a previous license under this or other similar medical marijuana facility ordinances from another town or county denied, suspended or revoked and, if so, the name and location of the medical marijuana facility for which the license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation.

(7) Whether the applicant or any of the other individuals listed pursuant to Subsection (1) or (2) above has been a principal owner of a legal entity whose license has previously been denied, suspended or revoked and, if so, the name and location of the medical marijuana facility for which the license was denied, suspended or revoked, as well as the date of denial, suspension or revocation.

(8) Whether the applicant or any of the other individuals listed pursuant to Subsection (1) or (2) above holds any other permits and/or licenses under this Chapter or other similar medical marijuana facility ordinance from another town or county and, if so, the names and locations of such other permitted operations.

(9) The location of the proposed medical marijuana facility, including a legal description of the property, the name of the property owner (including the information

required by Subsection (2) above if the property owner is a legal entity), street address and telephone number, if any, and a copy of any lease agreement or document evidencing the right to use the property for its intended purpose for the term of the license requested.

(10) The single medical marijuana facility classification of license for which the applicant is filing.

(11) The mailing address and residential address of the applicant or any other individual listed pursuant to Subsection (1) or (2) above.

(12) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the operation. The sketch or diagram need not be professionally prepared, but it must be oriented to the north or to some designated street or object and shall 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 (6) inches. The sketch must show the location of where the medical marijuana is to be displayed, grown, stored or produced as requested. The diagram shall show the locations of the security cameras. 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.

(13) A written description of the security plan for the medical marijuana facility. Physical elements of the security plan shall be depicted on the sketch or diagram required above.

(14) If a person who wishes to operate a medical marijuana facility is an individual, he or she must sign the application for a license as applicant. If a person who wishes to operate a medical marijuana facility is other than an individual, each principal owner of the applicant must sign the application for a license as applicant.

In the event that the licensing officer determines or learns at any time that the applicant has improperly or inaccurately completed the application for a proposed medical marijuana facility, he or she shall promptly notify the applicant of such fact and allow the applicant ten (10) days to properly or accurately complete the application. The time period for granting or denying a license shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application. The failure to correct the application in a timely manner shall be grounds for denial.

(b) The fact that a person possesses other types of state or Town permits and/or licenses does not exempt him or her from the requirement of obtaining a medical marijuana facility license.

Sec. 6-109. Duty to supplement application.

Applicants for a license under this Article shall have a continuing duty to promptly supplement application information required by that section in the event that said

information changes in any way from what is stated on the application. The failure to comply with said continuing duty within thirty (30) days from the date of such change shall be grounds for suspension of a license.

Sec. 6-110. Investigation and application.

(a) Upon receipt of an application for a medical marijuana facility license properly filed with the licensing officer and upon payment of the nonrefundable application fee, the licensing officer shall immediately stamp the application as received and send photocopies of the application to the Building and Zoning Department, Police Department, Clerk's Office and any other agency responsible under law for investigating compliance, such as health inspection services or Fire Department. Each department or agency shall promptly conduct an investigation of the applicant, application and the proposed medical marijuana facility in accordance with its responsibilities under law. Said investigations shall be completed by the Building and Zoning Department, Police Department, Building Inspection Department and any other agency within forty-five (45) days of receipt of the application by the licensing officer. At the conclusion of its investigation, each department or agency shall indicate on the photocopy of the application its approval or disapproval of the application, date it, sign it and, in the event it disapproves, state the reasons therefore. The Police Department shall provide the information specified herein and any information required by Chapter 16, Zoning, concerning this type of facility to the licensing officer. The Police Department shall disapprove the application if it finds that the security plan is not adequate.

(b) The Building and Zoning Department or other agency shall disapprove an application if it finds that the proposed medical marijuana facility will be in violation of any provision of any statute, code, ordinance, regulation or other law in effect in the Town. After its indication of approval or disapproval, each department or agency shall immediately return the photocopy of the application to the licensing officer.

Sec. 6-111. Issuance of license.

(a) The licensing officer shall grant or deny an application for a license within sixty (60) days from the date of its proper filing. The Town Manager, or his or her designee, shall be the licensing officer. Upon the expiration of the sixtieth day, unless the applicant requests and is granted a reasonable extension of time, the application shall be deemed granted, unless the licensing officer notifies the applicant of a denial of the application in writing and states the reason for that denial.

(b) Grant of Application for License.

(1) The licensing officer shall grant the application unless one (1) or more of the criteria set forth in Subsection (c) below is present.

(2) The license, if granted, shall state on its face the name of the person to whom it is granted, the expiration date and the address of the medical marijuana facility. The license shall be posted in a conspicuous place at or near the entrance to the medical marijuana facility so that it can be easily read at any time.

(c) Denial of Application for License.

(1) The licensing officer shall deny the application for any of the following reasons:

a. An applicant is under eighteen (18) years of age.

b. An applicant is overdue on his or her payment to the Town of taxes, fees, fines or penalties assessed against him or her or imposed upon him or her in relation to a medical marijuana facility.

c. An applicant has failed to provide information required by this Article for the issuance of the license or has falsely answered a question or request for information on the application form.

d. The premises to be used for the medical marijuana facility have been disapproved by an inspecting agency pursuant to the provisions of Sections 6-120 through 6-122.

e. The application or license fees have not been paid.

f. An applicant or the proposed operation is in violation of, or is not in compliance with, any of the provisions of this Chapter or any pertinent provisions of this Code including, but not limited to, the zoning requirements for a medical marijuana facility set forth in Chapter 16 of this Code.

g. The granting of the application would violate a statute, ordinance or court order.

h. The applicant has a license under this Chapter which has been suspended or revoked within the previous twelve (12) months.

i. An applicant has been convicted of a specified criminal act within the times set forth in Section 6-108(a)(5).

j. An applicant knowingly has in his or her employ an employee who does not have a valid license as required in this Article.

k. An applicant is not of good moral character, as *good moral character* is defined in Section 16-4, Chapter 16, of this Code for adult entertainment establishment license facilities.

l. The applicant has not demonstrated a legal right to use the premises for the term of the proposed license.

(2) If the licensing officer denies the application, he or she shall notify the applicant of the denial and state the reason for the denial pursuant to the time periods set forth in Sections 6-110 and 6-111.

(3) Whenever an application is denied, the licensing officer shall advise the applicant in writing of the reasons for such action. The applicant must appeal any adverse decision by a licensing officer by requesting a hearing before the Town Council within ten (10) days of receipt of notification of the denial if the applicant disagrees with the denial. A public hearing on said denial shall be held by the Town Council within forty-five (45) days thereafter unless the applicant agrees in writing to an extension of the time on said public hearing.

(4) Failure or refusal of the applicant to give any information relevant to the investigation of the application or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application, or his or her refusal to submit to or cooperate with any investigation required by this Article, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the licensing officer.

Sec. 6-112. Expiration of license.

(a) Each license shall expire one (1) year from the date of issuance, unless suspended or revoked, and may be renewed only by making application as provided in this Article (for renewals, filing of original survey may be sufficient). Application for renewal of a license shall be made at least thirty (30) days before the expiration date of the license. If a renewal application is made fewer than thirty (30) days before the expiration date of a license, the expiration of the license will not be affected.

(b) If, subsequent to denial of renewal, the licensing officer finds that the basis for denial of the renewal of the license has been corrected, the applicant shall be granted a license if at least ninety (90) days have elapsed since the date denial became final.

Sec. 6-113. Suspension of license.

(a) The licensing officer shall suspend a license for a period not to exceed thirty (30) days if he or she determines that a licensee, or an employee of a licensee, has:

(1) Violated or is not in compliance with any section of this Article or Chapter 16 zoning of this Code, including but not limited to any conditions of the license or the approved security plan;

(2) Refused to allow an inspection of the medical marijuana facility premises as authorized by this Article;

(3) Operated the medical marijuana facility in violation of a building, fire, health or zoning statute, code, ordinance or regulation, whether federal, state or local, said determination being based on investigation by the division, department or agency charged with enforcing said rules. In the event of such a statute, code, ordinance or regulation violation, the licensing officer shall promptly notify the licensee of the violation and shall allow the licensee a seven-day period in which to correct the violation. If the licensee fails to correct the violation before the expiration of the

seven-day period, the licensing officer shall forthwith suspend the license and shall notify the licensee of the suspension;

(4) Engaged in a license transfer contrary to Section 6-115. In the event that the licensing officer suspends a license on the ground that a licensee engaged in a license transfer contrary to Section 6-115, the licensing officer shall forthwith notify the licensee of the suspension. The suspension shall remain in effect until the applicable section of this Chapter has been satisfied;

(5) Operated the medical marijuana facility in violation of the hours of operation specified in any approvals by the Town of Basalt.

(6) Where the licensing officer has reason to believe that a violation of this Article has occurred in a deliberate or willful manner, or that the public health, safety and welfare require immediate action on the part of the licensing officer, the licensing officer may summarily suspend the license of an Medical Marijuana establishment or an employee, and said notice of suspension shall contain notice that the marijuana establishment or employee may request a hearing to contest the suspension. Should the medical marijuana facility, within ten (10) days after service of the suspension notice, request in writing a hearing on the suspension, the licensing officer shall set a hearing date within forty-five (45) days. No suspension shall exceed sixty (60) days unless prior to expiration of the sixty day suspension a revocation proceeding is commenced; or

(7) The licensing officer may impose a civil penalty against the licensee for any violations meriting a suspension or revocation, as provided in Section 6-125. If the licensee fails to pay the civil penalty, the licensing officer may provide that at the end of the period of suspension, if the civil penalty remaining at the time is still unpaid, the license shall be revoked.

(b) The suspension shall remain in effect until the violation of the statute, code, ordinance or regulation in question has been corrected.

Sec. 6-114. Revocation of license.

(a) The licensing officer shall revoke a medical marijuana facility license upon determining that:

(1) A cause of suspension in Section 6-113 of this Article Suspension of license occurs and the license has been suspended within the preceding twelve (12) months;

(2) A licensee gave false or misleading information in the material submitted during the application process that enhanced the applicant's opportunity to obtain a license;

(3) A licensee or an employee has knowingly allowed possession, use or sale of controlled substances (as defined in Part 3 of Article 22 of Title 12, C.R.S.) on the premises;

(4) A licensee or an employee knowingly operated the medical marijuana facility during a period of time when the licensee's license was suspended;

(5) A licensee has been convicted of a specified criminal act for which the time period set forth in Section 6-108(a)(5) has not elapsed;

(6) On two (2) or more occasions within a twelve-month period, a person committed an offense, occurring in or on the licensed premises, constituting a specified criminal act for which a conviction has been obtained, and the person or persons were employees of the medical marijuana facility at the time the offenses were committed. The fact that a conviction is being appealed shall have no effect on the revocation of the license;

(7) A licensee is delinquent in payment to the Town or State for any taxes or fees;

(8) The licensee has operated more than one (1) medical marijuana facility within the same building, structure or portion thereof.

(9) When the licensing officer revokes a license, the revocation shall continue for one (1) year, and the licensee shall not be issued a medical marijuana facility license for one (1) year from the date revocation became effective.

Sec. 6-115. Transfer of license.

(a) A licensee shall not operate a medical marijuana facility under the authority of a license at any place other than the address designated in the application for license.

A licensee shall not transfer his or her license to another person or entity.

(b) A licensee shall not transfer his or her license to another location.

(c) Any attempt to transfer a license either directly or indirectly in violation of this Section is hereby declared void, and the license shall be deemed revoked.

Sec. 6-116. Judicial review of license denial, suspension or revocation.

After denial of an application, or denial of a renewal of an application, or suspension or revocation of a license and a hearing before the Town Council as set forth in Section 6-111, the applicant may seek prompt judicial review of such administrative action in any court of competent jurisdiction.

Sec. 6-117 Employees; general requirements.

(a) Qualifications. Employees of medical marijuana facility shall be not less than eighteen (18) years of age. Every employee shall be of good moral character as defined in Section 16-4 of this Code.

(b) Approval for Employment. Before any person may work on a licensed premises, he or she shall first obtain a employee license as set forth in Section 6-118 *et. seq.*

(c) Violation of the provisions of this Code or the rules and regulations of the licensing officer shall subject an employee to suspension or revocation of the employee's license.

Sec. 6-118. Marijuana Facility employees; license required.

It shall be unlawful, and a person commits a misdemeanor, if he or she works as an employee of a marijuana facility without first obtaining an employee's license.

Sec. 6-119 Application for employee's license.

(a) An employee shall submit an application for an employee's license on a form to be provided by the licensing officer. The application shall contain the applicant's name, address, date of birth, phone number and the information required in Sections 6-108 through 6-111.

(b) The licensing officer shall refer the employee license application to the Police Department and the Clerk's Office for investigation to be made of such information as is contained on the application. The application process shall be completed within ten (10) days from the date the completed application is filed. After the investigation, the licensing officer shall issue a license unless:

(1) The applicant has knowingly made any false, misleading or fraudulent statement of a material fact in the application for a license, or in any report or record required to be filed with the Police Department or other department of the Town;

(2) The applicant is under age eighteen (18);

(3) The applicant has failed to provide the information required by this Section;

(4) The applicant has been convicted of a specified criminal act within the times set forth in Section 6-108(a)(5);

(5) The employee license is to be used for employment in a facility prohibited by local or state law, statute, rule or regulation, or prohibited by particular provisions of this Article or Chapter 16 of this Code;

(6) The applicant has had a marijuana facility employee license revoked by the Town within two (2) years of the date of the current application.

(c) A license granted pursuant to this Section shall be subject to annual renewal by the licensing officer upon the written application of the applicant and a finding by the licensing officer, the Clerk's Office and the Police Department that the applicant has not been convicted of any specified criminal act or committed any act during the existence of the previous license period which would be grounds to deny the initial permit application.

(d) The employee license shall not be subject to a fee.

Sec. 6-120. Inspection.

(a) An applicant or licensee shall permit representatives of the Police Department, licensing officer, Building Inspection Department, Health Department and Fire Department to inspect the premises for the purpose of ensuring compliance with the law, at any time it is occupied or at other times by mutual agreement.

(b) A person who operates a marijuana facility or his or her agent commits a misdemeanor if he or she refuses to permit such lawful inspection of the premises at any time that it is occupied.

Sec. 6-121. Records and reports; authority to promulgate.

(a) Each licensee shall keep such records and make such reports as may be required by the licensing officer and the Fire Chief of the Fire Department to implement this Article and carry out its purpose. By applying for a license under this Article, an individual, partnership or corporation shall be deemed to have consented to the provisions of this Article and to the exercise by the licensing officer of the powers given herein in the manner herein specified.

(b) The licensing officer is authorized to promulgate rules and regulations not inconsistent with this Article or this Code as are necessary to carry out the provisions of this Article.

Sec. 6-122. General requirements.

In addition to the special requirements contained in Chapter 16, each licensed facility shall:

(1) Conform to all other Provisions of the Town Code and ordinances of the Town, including all fees, fines, sales tax, and other taxes.

(2) A medical marijuana dispensing facility shall conduct all activities within a building. The distribution of medical marijuana to patients outside of the medical marijuana dispensary is not permitted. In order to provide proper security for medical marijuana, it shall be illegal for the medical marijuana dispensary to offer a delivery service. The Town Manager may waive delivery for a marijuana dispensing facility to a patient for a specified time period upon demonstration that there is a physical

limitation that prevents the specific patient from reasonable access to the medical marijuana dispensary.

Sec. 6-123. Immunity from prosecution.

All officers and employees of the Town who are acting within the scope of their authority and duties under this Article shall be immune from prosecution, civil and criminal, for trespass upon real property.

Sec. 6-124 Violations.

Any person who knowingly and willfully:

(1) Operates, or procures or acquiesces in the operation of, an unlicensed premises contrary to the relevant requirements of this Code;

shall be guilty of a violation of this Code. For violations that are of a continuing nature, each day that the violation continues shall be a separate offense.

Sec. 6-125. Civil penalties.

In addition to or in lieu of the penalties that may be otherwise imposed, the licensing officer may assess the following civil penalties:

(1) A person who operates or attempts to operate without having first obtained a license under this Article may be assessed a civil penalty as shown on the Town's fee schedule. If no specific civil penalty exists under this section, the penalty shall be as shown under Section 1-82 for violations not otherwise specifically provided in the code or fee schedule .

(2) An applicant for a license under this Article, and any officer, director, partner, agent or attorney of such an applicant, who knowingly makes a false statement or provides false information on any document or paper accompanying and forming a part of such application, shall be assessed a civil penalty of a fine as shown on the Town's fee schedule. If no specific civil penalty exists under this section, the penalty shall be as shown under Section 1-82 for violations not otherwise specifically provided in the code or fee schedule .

(3) A licensee or employee who fails or refuses to renew his or her license within the period granted herein may be assessed a civil penalty as shown on the Town's Fee Schedule. If no specific civil penalty exists under this section, the penalty shall be as shown under Section 1-82 for violations not otherwise specifically provided in the code or fee schedule .

(4) A licensee, and any agent, officer, servant or employee of a licensee, who maintains a nuisance on the licensed premises or permits the licensed premises to be unsanitary or unsafe may be assessed a civil penalty as shown on the Town's fee schedule. If no specific civil penalty exists under this section, the penalty shall be as

shown under Section 1-82 for violations not otherwise specifically provided in the code or fee schedule.

(5) A licensee who moves his or her licensed premises without approval by the licensing officer or who changes the name of his or her facility without notifying the licensing officer may be assessed a civil penalty as shown on the Town's Fee Schedule. If no specific civil penalty exists under this section, the penalty shall be as shown under Section 1-82 for violations not otherwise specifically provided in the code or fee schedule.

(6) A licensee or employee who does not keep the records and make the reports required by any of the agencies herein may be assessed a civil penalty as shown on the Town's fee schedule. If no specific civil penalty exists under this section, the penalty shall be as shown under Section 1-82 for violations not otherwise specifically provided in the code or fee schedule.

(7) A licensee, or any agent, officer, servant or employee of a licensee, who fails to correct violations of the general and applicable special requirements for the licensed premises may be assessed a civil penalty as shown on the Town's Fee Schedule. If no specific civil penalty exists under this section, the penalty shall be as shown under Section 1-82 for violations not otherwise specifically provided in the code or fee schedule.

(8) Any person who aids or participates in a violation for which a civil penalty may be assessed under this Article shall be considered a principal in the violation and may be assessed a civil penalty of up to the maximum amount prescribed for that violation. If no specific civil penalty exists under this section, the penalty shall be as shown under Section 1-82 for violations not otherwise specifically provided in the code or fee schedule.

(9) Nothing herein contained shall prevent or restrict the Town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any violation or noncompliance. Such other lawful actions shall include but shall not be limited to an equitable action for injunctive relief or an action at law for damages. All remedies and penalties provided for herein shall be cumulative and independently available to the Town, and the Town shall be authorized to pursue any and all remedies set forth in this Section to the full extent allowed by law.

Sec. 6-126 Assessment and recovery of civil penalty.

Civil penalties shall be assessed by the licensing officer, based upon findings certified by the Building Official, the Police Department, health inspection services or the Fire Chief.

Sec. 6-127. Criminal penalties.

If any person fails or refuses to obey or comply with or violates any of the criminal provisions contained in this Article, such person upon conviction of such offense shall be guilty of a misdemeanor and shall be punished by a fine as shown on the Town's Fee Schedule. If no specific criminal penalty exists under this section, the penalty shall as shown under Section 1-82 for violations not otherwise specifically provided in the code or fee schedule.