

TITLE XI: BUSINESS REGULATIONS

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CHAPTER 110: OCCUPATIONAL LICENSES

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§ 110.01 LICENSE REQUIRED; APPLICATION.

(A) Within the corporate limits of the city, it shall be unlawful for any person to engage in any business, occupation, trade, or profession, or to sell or offer for sale any article of goods, wares, or merchandise named in this chapter without first having procured a license to do so and paying the required license tax therefor. No license will be required for persons under the age of 18 years or of the age of 65 years, or older, to mow yards within the city. ('78 Code, § 7-1)

(B) A person desiring a license required herein shall apply to the City Clerk/Treasurer. ('78 Code, § 7-2)

(C) No person shall be issued a license required herein, unless he or she has first paid all other taxes, assessments, fines, judgments, and/or civil penalties that are due and owing to the city or if the business is operating in violation of any law of the Commonwealth of Kentucky or ordinance of the city at the time application is made to the City Clerk/Treasurer for the license. (Ord., passed 5-4-60; Am. Ord. 91-12, passed 5-8-91; Am. Ord. 92-23, passed 6-23-92; Am. Ord. 07-06, passed 3-26-07; Am. Ord. 09-08, passed 5-11-09; Am. Ord. 2016-11, passed 6-27-16) Penalty, see § 110.99

§ 110.02 LICENSE CERTIFICATE; DISPLAY REQUIRED.

(A) Upon the payment of the proper fee required in § 110.10,

the City Clerk/Treasurer shall issue a license which shall be evidence of the fact that the license tax has been duly paid. The license

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certificate shall be void and of no effect without the signature of the City Clerk/Treasurer.

(B) Every person holding a license required by this chapter shall keep the license certificate posted in his or her business, if any, in a conspicuous place, or if he or she has no particular place of business, shall keep the license on his or her person, so that it may be inspected upon request by the proper authorities.

(C) Each person holding a city license shall produce the license for inspection whenever required to do so by the City Attorney, City Clerk/Treasurer, or other proper agent or officer of the city.

('78 Code, § 7-9) (Ord., passed 5-4-60; Am. Ord., passed 1-14-76; Am. Ord. 91-12, passed 5-8-91) Penalty, see § 110.99

§ 110.03 DUE DATE; EXPIRATION.

All licenses issued under this chapter shall be due on June 1 of each year and shall expire on May 31 of the next year, except as otherwise specified. If, however, a business closes permanently between June 1 and June 30, after having already paid the license fee for that year, the payment shall be refunded except for \$5, the minimum license fee.

('78 Code, § 7-3) (Ord., passed 5-4-60; Am. Ord. 06-18, passed 8-30-06) Penalty, see § 110.99

§ 110.04 PRORATION OF FEE.

Where an applicant for a license required by this chapter was not in business on June 1 of any year, the license fee for that year shall be prorated on a monthly basis with a fraction of a month computed as a full month; provided, however, that the minimum license fee shall be no less than \$5.

('78 Code, § 7-5)(Ord., passed 5-4-60)

§ 110.05 FIRMS AND SEPARATE BUSINESS LOCATIONS.

The license tax provided for in this chapter shall be for each member of a firm where two or more persons are engaged in the practice of the professions. It shall also be required where a person may have separate locations for conducting business and each separate location shall require the license tax according to the business conducted there.

('78 Code, § 7-7)(Ord., passed 5-4-60) Penalty, see § 110.99

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§ 110.06 TRANSFER.

A license issued pursuant to the provisions of this chapter may be transferred after a bona fide sale of the business or occupation is made.

('78 Code, § 7-8)(Ord., passed 5-4-60)

§ 110.07 PENALTY FOR LATE PAYMENT.

A license due on June 1 of any year which is not paid within 30 days from that date shall be assessed a penalty of 20% of the fee required for that particular business, occupation, or profession, which penalty, together with the regular fee or tax, shall be paid before the license is issued.

('78 Code, § 7-6)(Ord., passed 5-4-60; Am. Ord. 06-18, passed 8-30-06)

§ 110.08 USE OF REVENUE.

All revenue received from the payment of fees required by this chapter shall be placed in the General Fund and used for the general operating expenses of the city.

('78 Code, § 7-11)(Ord., passed 5-4-60)

§ 110.09 RESERVED.

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§ 110.10 LICENSE FEE SCHEDULE.

A	
Accountant. Practicing the profession of counseling, keeping books and records, or filing of income tax return	\$ 150
Accounting firm (certified public accountants)	500
Adult entertainment establishment (sexually oriented business)	1,000
Alcoholic beverages	
Beer, distributor	250
Beer, retail	200
Liquor, retail	500
Liquor, by drink	700
Liquor, by drink (club)	350
Wine, retail (only)	200
Amusement and recreation centers. For operating amusement or recreation center for compensation	100
Architect, per year	250
Athletic contests and exhibitions, each	100
Attorney (See "law, practice of")	
Auctioneer	
per year	150
per day	100
Automobile sales	150
B	
Barber shop (for operating a barber shop)	150
Beauty shop (for operating a beauty shop)	150
Bed and breakfast establishments	100
Billiards/pool	100
Bowling alley	100
Building and loan companies (See loan company)	

C	
Carnival. No license shall be issued for the operating of a carnival or street fair in the city limits or within 1/2-mile thereof, except by the City Council in regular or special meeting at which time the license fee is to be fixed	
Carpenters	150
Car wash	100
Chiropractor, per year	150
Circus. For exhibiting a circus or menagerie in the city or within 1/2-mile hereof, including parade, place to be approved as set forth in §§ 71.40 through 71.51	150
Civil engineer, per year	150
Claim agent, per year	150
Clairvoyants	350
Cleaning service	100
Contractors General	200
Subcontractors: painters, plumbers, masons or carpenters, electricians, etc.	150
D	
Dance hall. For operating dance hall (public) for compensation	
Per year	150
Per night	100
Dance school for operating dance school, per year	100
Day care or pre-school	100
Delivery service	100
Dentist	150
Dry cleaning and pressing. For operating a business of cleaning, pressing and dyeing, each location	100
E	
Electrician (See also Contractors)	150
Electrical engineer	150
F	
Farm produce	25
Florist (an established location)	150

G	
Gas depot (See Motor oils, gas depot)	
H	
Hotel (See also Motel). Any establishment renting rooms by the day.	150
I	
Insurance agency	100
J	
Junkyard	150
L	
Laundromat. For operating a self-service laundromat, each location	100
Law, practice of (per lawyer)	150
Law firm	500
Loan company (those that are not federally insured), per year	150
M	
Manufacturing. For operating a plant for the manufacture of any products by processing, assembling or converting (except alcoholic beverages)	300
Massage therapist	150
Medicine, practice of	150
Medical partnership/firm	500

<p>Mercantile establishments. All retail mercantile and service establishments not specifically mentioned in this Title XI shall be assessed in accordance to the volume of business, the assessment to be arrived at from the amount of business done the preceding year, or if the establishment has not been in business for the full year previous to the assessment date, to be arrived at from the proportionate part of the year the establishment has been in business within the city, and to be assessed according to the following:</p>	
<u>Gross sales</u>	<u>Fee</u>
\$200,000 or less	\$100
200,001 and over	.07% of total gross sales with a maximum license payment of \$1,000

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Monuments. Agents soliciting sale of marble or monuments	100
Motel (See also Hotel)	150
Motor oils, gas depot. Operating as wholesale dealer in oil and gasoline products by depot or trucks	100
N	
Newspaper. For publishing a newspaper and job printing	150
Nursing homes	100
O	
Optometrist	150
Osteopathy	150
P	
Painter (See also Contractors)	150
Pawn shop, after approval of Chief of Police	150
Peddlers/solicitors, per year	150
Pest exterminator, per year	150
Photographer. For conducting a photograph gallery	100
Physician	150
Plumber (See also Contractors)	150

Printing	150	
Private investigator	100	
R		
Real estate agent	100	
Rental property All landlords renting or leasing property for monetary or in-kind compensation shall be assessed in accordance to the number of rental units that he or she has available for lease as of June 1 of each year, and in accordance with the following schedule:		
At Least	But no more than:	
1	4	100
5	19	200
20	34	300
35	49	400
50	64	500
65	79	600
80	94	700
95		800
Repair service	100	

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S	
Security service	100
Service station. For operating a service station where gas, oil and accessories are sold, including soft drinks, per year	150
Sewing shop, for alterations and tailoring	100
Solicitors	150
Spa/exercise	100
Stored tobacco (See Tobacco)	
T	
Tattoo parlor	350
Taxicabs Conducting or operating a taxi station	100
With reserved space (sign), each	16.50
Truck business	150

Temporary services agency	150
Theater or motion picture house. To operate moving pictures, theatoriums, vaudevilles, talking or sound pictures, or shows of similar character, each location	100
Tobacco For conducting a tobacco warehouse where sales or purchases are conducted	550
Operating an enterprise where tobacco is stored, priced or rehandled	550
Trailer court	100
Travel agency	150
Tree trimming	100
U	
Undertaker. For conducting the business of undertaker and embalmer, each location	150
V	
Veterinary surgeon	150
W	
Warehouse rental	100
Wholesale distributor	150

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For the purposes of this section, "FARM PRODUCE" is defined as any product which has been produced through agriculture, including farming in all of its branches, including cultivation and tillage of the soil; dairying, production, cultivation, growing and harvesting of any agricultural or horticultural commodity; but excluding livestock.

(`78 Code, § 7-4) (Ord., passed 5-4-60; Am. Ord., passed 4-14-82; Am. Ord., passed 3-13-85; Am. Ord., passed 3-26-86; Am. Ord. 92-29, passed 9-9-92; Am. Ord. 93-02, passed 4-14-93; Am. Ord. 95-03, passed 2-22-95; Am. Ord. 97-18, passed 9-15-97; Am. Ord. 04-02, passed 2-11-04; Am. Ord. 04-12, passed 5-12-04; Am. Ord. 08-02, passed 4-14-08)

§ 110.11 REVOCATION OR SUSPENSION.

(A) Any license may be revoked by the City Council at any time for conditions or considerations which, had they existed at the time of issuance, would have been valid grounds for its denial; for any misrepresentation of a material fact in the application discovered after issuance of the license; for violation of any provision of this chapter or other law or ordinance relating to the operation of the

business or enterprise for which the license has been issued; or upon conviction of a licensee for any federal, state, or municipal law or ordinance involving moral turpitude.

(B) The revocation shall become effective upon notice served upon the licensee or posted upon the premises affected.

(C) As a preliminary to revocation, the City Council may issue an order suspending the license, which shall become effective immediately upon service of written notice to the licensee. This notice shall specify the reason for suspension, and may provide conditions under which reinstatement of the license may be obtained. Upon compliance with these conditions within the time specified, the license may be restored.

§ 110.12 APPEAL AND REVIEW.

In case any applicant has been denied a license, or if his license has been revoked or suspended, the applicant or licensee as the case may be, shall within three business days have the right to appeal to the City Council from the denial, revocation, or suspension. Notice of appeal shall be filed in writing with the Clerk/Secretary who shall fix the time and place for a hearing which shall be held not later than two weeks thereafter. The Clerk/Secretary shall notify the Mayor and all members of the City Council of the time and place of the hearing not less than 24 hours in advance thereof. A majority of the City Council members shall constitute a quorum to hear the appeal. The appellant may appear and be heard in person or by counsel. If, after hearing, a majority of the members of the City Council present at the meeting declare in favor of the applicant, the license shall be issued or fully reinstated as the case may be; otherwise the order appealed from shall become final.

§ 110.13 EXEMPTIONS.

The provisions of this chapter shall not apply to any business, occupation, or profession which is exempt from municipal licensing and/or license taxes pursuant to state or federal law.

§ 110.14 RETURNS TO BE FILED; PAYMENT OF TAX.

(A) Each person subject to the payment of a license tax based on gross revenues under this chapter shall file a business license return with the City Clerk/Treasurer on or before June 1 of each year that the person shall renew or obtain any license subject to the provisions of this chapter.

(B) All business license returns shall be filed on forms to be furnished by the city, which shall be obtained at the office of the City Clerk/Treasurer. Each return shall show:

(1) Each kind of business, profession, occupation, trade, vocation, calling, or activity engaged in or services rendered;

(2) The taxpayer's gross receipts during his last fiscal year ending prior to January 1 (the same year used by the taxpayer in making his income tax return to the state);

(3) The address or addresses of each place of business being licensed;

(4) The exact name shown or to be shown on the taxpayer's income tax return to the state for the same fiscal year being reported on to the city;

(5) Such other information as may be considered necessary by the City Clerk/Treasurer.

(C) In order to ascertain the amount of the license tax to be paid, the following form shall be attached to the business license return: A copy of Federal Form 1040, Schedule C or Kentucky Form 741, 765, or 720, as applicable.

(D) The business license return shall be signed by the owner, manager, or other responsible official representing the person filing the return and the title of the person signed shall be shown.

(E) If the City Clerk/Treasurer determines, on the basis of auditing such returns, that the full amount of the license tax has not been paid, a notice of additional tax due, plus penalty and interest, may be served at any time within five years after the license tax was payable upon the receipt of the notice.

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(F) Any person subject to a license tax under this chapter shall retain all notes, books, and records for a period of five years after the license tax was due based upon data in such notes, books, and records.

(G) The amount of any license tax due under this section shall be payable at the time of filing the return required by this chapter. (Ord. 92-12, passed 5-5-92)

§ 110.15 CONFIDENTIALITY.

The information in returns filed by persons subject to license taxes under § 110.14 shall be confidential as respecting the business of any such person and shall be made available only to officers and employees of the city whose official duties require the use of such information, and on all confidential files under his or her supervision. Any person divulging such information except on order of a court of competent jurisdiction shall, upon conviction, be subject to the penalty provided in § 110.99. The city may publish statistics based on information in such returns in such a manner as not to reveal data respecting the business of any particular person. (Ord. 92-12, passed 5-5-92) Penalty, see § 110.99

§ 110.16 MAXIMUM TAX.

There is a maximum tax that shall be payable by any person, including mercantile establishments, for which there is paid a percentage of the total gross sales which shall be in the sum of \$1,000 per year per taxpayer. (Ord. 92-26, passed 6-10-92; Am. Ord. 04-02, passed 2-11-04)

§ 110.99 PENALTY.

(A) Criminal offenses. Whoever violates any provision of this chapter shall be guilty of a misdemeanor and shall be fined not more than \$500 or imprisoned for not more than 30 days, or both.

(B) Civil penalty. Any violation of this chapter is hereby classified as a civil offense, pursuant to KRS 65.8808, to be enforced by the Code Enforcement Board in accordance with the procedures set forth in Code Enforcement Board Ordinances §§ 35.140 through 35.155. Any person, business, business entity, firm, corporation, partnership or other entity which violates any provision of this chapter shall be subject to a civil penalty as set forth below. Each day of violation shall constitute a separate offense. If the offender does not pay the penalty within 30 days after being cited for the offense, then the civil penalty shall be recovered by the city in a civil action in the nature of a debt.

(1) If a citation for a violation of an ordinance is not contested by the person, business, business entity, firm corporation, partnership or other entity charged with the violation, the penalty shall be \$10: however, the Code Enforcement Board may waive all or any portion of a penalty for an uncontested violation, if in its discretion, the Board determines that such waiver will promote compliance with the ordinance in issue.

(2) If the citation is contested and a hearing before the Board is required, the maximum penalties which may be imposed at the discretion of the Board is \$20.

(C) Injunctive relief. In the event any person, business, business entity, firm, corporation, partnership or other entity fails or refuses for any reason to pay when due any tax or fee imposed or required by this chapter, the City of Carrollton may, upon application to a court of competent jurisdiction, seek injunctive or other extraordinary relief to require said person, business, business entity, firm, corporation, partnership or other entity to cease and desist from operating or conducting in any respect within the corporate limits of the city the business enterprise for which the tax or fee is due, until such time as said tax or fee, plus appropriate penalties and interest, have been paid in full. Should the city be required to pursue such extraordinary relief, the person, business, business entity, firm, corporation, partnership or other entity liable for payment of said tax or fee shall be liable for all court costs incurred by the city, and under appropriate circumstances, reasonable attorney's fees.

(Am. Ord. 15-17, passed 9-28-15; Am. Ord. 2017-04, passed 2-27-17)

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CHAPTER 111: ALCOHOLIC BEVERAGES

Section

General Provisions

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GENERAL PROVISIONS

§ 111.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(A) As used herein the words and phrases defined in KRS 241.010

and 243.010 have the meanings indicated therein.

(B) The following words and phrases have the meanings indicated:

(1) "BOARD." The State Alcoholic Beverage Control Board established pursuant to KRS 241.030.

(2) "CITY ABC ADMINISTRATOR." The person appointed to the office of Alcoholic Beverage Control Administrator created and established by the city pursuant to § 31.37.

(3) "CITY LICENSE." A license established and authorized pursuant to the terms hereof.

(4) "CITY LICENSEE." A person who has been issued a city license pursuant to the terms hereof.

(5) "KRS." Kentucky Revised Statutes.

(6) "PERSON." Any natural person, corporation, partnership, joint venture, or unincorporated association of persons or any combination thereof, and the shareholders, officers, agents, servants, and employees thereof.

(7) "PREMISES." The premises described in the city license issued pursuant to the terms hereof and the application therefor.

(8) "STATE." The Commonwealth of Kentucky.

(9) "STATE LICENSE." A license authorized by KRS 243.030 to 243.670.

(10) "TRAFFIC IN ALCOHOLIC BEVERAGES." Any action, business, or transaction in regard to the production, storage, transportation, distribution, sale, delivery, and transfer of alcoholic beverages.

LICENSES

§ 111.20 CLASSIFICATION OF LICENSES; FEE SCHEDULE.

For provisions concerning the alcoholic beverage licenses, and their fees, required by the city, see § 110.10.

§ 111.21 FORM, CONTENT OF CITY LICENSE.

(A) The city licenses authorized and established under § 110.10, shall each be evidenced by a document, the form and content of which

shall be prescribed by regulation of the City ABC Administrator.

(B) However, the documents must be of the same color and designation as those of the state licenses to which the city licenses correspond and must:

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(1) Comply with all of the provisions for state licenses required by KRS 243.440; and

(2) Contain a declaration that the license authorizes the search of the licensed premises by any peace officer at any time for

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any purpose; the removal therefrom of any evidence of any crime or other violation of any law; and the use thereof in any trial or hearing in regard thereto.

§ 111.22 APPLICATION; ISSUANCE.

Subject to the limitations and restrictions described herein, city licenses shall be originally issued by the City Clerk/Treasurer and renewed by him or her upon the expiration thereof upon receipt of the following documents and fees more than 30 days prior to the effective date of an original license and more than 15 days prior to the expiration date of any license to be renewed:

(A) A written application therefor with the truth of the information, statements, and representations therein attested by the signature and the oath or affirmation of the applicant. The form and content of such application shall be prescribed by regulation of the City ABC Administrator; however, provision for the following information, statements, and representations shall and must be included therein:

(1) All information required by KRS 243.390 to be contained in the application for state licenses.

(2) A consent by the applicant to the search of the licensed premises by any peace officer at any time for any purpose, the removal therefrom of any evidence of any crime or other violation of any law; and the use thereof in any trial or hearing in regard thereto.

(3) The names, addresses, photographs, and fingerprints of the applicant and all shareholders, officers, agents, servants, and employees thereof.

(B) The approval of the applicant, the application, and the premises described therein by the City ABC Administrator.

(C) Documentary evidence of a valid state license which corresponds to the city license for which the application is being made.

(D) The applicable fee, paid in cash or by certified or cashier's check, for the city license which is the subject of the application.

(Am. Ord. 91-07, passed 5-8-91)

§ 111.23 APPROVAL OF APPLICATION.

Within 30 days of the date of the application for an original

city license and 15 days of the date of an application for renewal of a city license, the City ABC Administrator shall, by mail or personal delivery thereof, notify the applicant, in writing, of either the approval thereof or the disapproval thereof and a hearing in regard thereto.

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§ 111.24 DENIAL OF APPLICATION.

As is similarly set forth in KRS 243.450, the City ABC Administrator shall not approve any application for a city license if:

(A) The applicant, the application, or the premises described therein do not fully comply with the provisions of this chapter and all laws in regard to alcoholic beverages;

(B) The applicant and/or any shareholder, officer, agent, servant, or employee thereof has caused, permitted, or engaged in any act for which the revocation of a state or city license is authorized;

(C) The applicant and/or any shareholder, officer, agent, servant, or employee thereof had a state license or city license which was revoked within two years of the date of the application, or the premises described therein were the premises or any portion thereof described in a state license or city license revoked during such time;

(D) Any statement or representation in the application is false;
or

(E) In the exercise of sound discretion, the City ABC Administrator determines any cause or reason for refusing to approve an application reasonably related to the purpose and objective of this chapter and the state laws and regulations of the State Alcoholic Beverage Control Board. Among those factors that the City ABC Administrator shall consider in the exercise of his or her discretion are: public sentiment in the area; number of licensed outlets in the area; potential for future growth; type of area involved; type of transportation available; and financial potential of the area.

§ 111.25 TRANSFER OF LICENSE.

A city licensee shall not assign or transfer any city license to any other person or premises unless that person and/or premises complies with all of the provisions of this chapter; the transfer of the license is approved by the City ABC Administrator; and the transfer of the state license to which the city license corresponds is approved by the state. A transfer fee of \$10 shall be paid to the city for the transfer of the city license.
Penalty, see § 111.99

§ 111.26 PREMISES SELLING GROCERIES, GASOLINE, AND THE LIKE PROHIBITED FROM OBTAINING LICENSE.

(A) As prohibited in KRS 243.230, no city license shall be issued to sell malt beverages at retail within or upon any premises from which gasoline and lubricating oil are sold or from which the servicing and repair of motor vehicles is conducted unless there is continuously maintained an inventory on the premises for sale at

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retail of not less than \$5,000 of food, groceries, and related products valued at cost.

(B) No city license shall be issued to sell distilled spirits or wine at retail by the drink or package from any premises used as or in connection with the operation of any business in which a substantial part of the commercial transaction consists of selling at retail staple groceries, or gasoline or lubricating oil.

SALE OF ALCOHOLIC BEVERAGES

§ 111.40 HOURS AND DAYS.

(A) Any premises in the city to which a license for the sale by the drink ("retail liquor by the drink" or "restaurant by the drink") of malt beverages or distilled spirits or wine, or package sales, has been issued is hereby authorized to open for the sale of such beverages on Monday through Saturday, and may remain open for the sale of such beverages until 2:00 a.m. on those days. This includes 12:01 a.m. to 2:00 a.m. on Sunday morning. All alcohol sales are prohibited during the hours the polls are open for primary, regular, school or special election.

(B) Any premises in the city to which a license for the sale by the drink of malt beverages or distilled spirits or wine has been issued may remain open until 2:30 a.m. for the sale of soft drinks and other non-alcoholic purposes.

(C) (1) On-premises consumption, sales, ("liquor by the drink and restaurant by the drink") and package sales are prohibited after 2:00 a.m. on Sundays, except as provided herein. In accordance with the provisions of KRS 244.290(4) and KRS 244.480, the city may permit the sale of distilled spirits, beer or malt beverages, ("liquor by the drink and restaurant by the drink") on Sundays from 1:00 p.m. until 2:00 a.m. the following Monday.

(2) The city shall have the power and authority to issue a Sunday Sales License upon proper application and the payment of the prescribed fee:

Sunday Sales License, per annum: \$100

(3) The license shall ensure that all patrons shall have vacated the premises by 2:30 a.m. Operators and their employees, engaged in regular and ordinary post closing activities, may be on the premises during the closed hours, provided that the licensee has complied with division (C)(4) below.

(4) If a licensee provides a separate department within his or her licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits and wine, and all fixtures and apparatus connected with his or her business as a licensee, and said department is kept locked during the time mentioned above, he or she shall be deemed to have complied with this section.

(5) Should any portion of this section be declared void or unconstitutional, the remaining provision of this section shall remain in full force and effect.

(D) Mandatory responsible beverage service training.

(1) All persons employed in the selling and serving of alcoholic beverages shall participate in and complete a city-approved responsible beverage training program. For such a program to be approved by the city, it must effectively train participants in the identification of false documents and recognition of characteristics of intoxication. The city will not require enrollment in a specific class, but only that the training be obtained from a recognized program meeting the goals presented in this section.

(2) All persons required to complete training, under division (D)(1) above, shall complete that training within 60 days of the date on which the person first becomes subject to the training requirement. All person completing the training required by this section shall be re-certified in responsible beverage service training, by a city-approved program not less than once every three years thereafter. All new hires shall have 90 days to complete their training.

(3) Each restaurant licensed by this section must at all times that alcoholic beverages are being served have at least one person currently certified in responsible beverage service training, as required in divisions (D)(1) and (D)(2) above, on duty.

(4) The manager of the restaurant shall be responsible for compliance with these requirements and shall require all employees certified in responsible beverage service training to wear a picture identification badge while on duty identifying said employee as one licensed to serve alcohol, and shall keep proof of each employee's attendance at training available for inspection by the city ABC

Administrator.

(E) Adequate record keeping. Every licensee shall keep and maintain adequate books and records of all transactions involved in the

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sale of alcoholic beverages in the same manner required by the rules and regulations of the State Alcoholic Beverage Control Board, or such rules and regulations as may be from time to time promulgated by the City Alcoholic Beverage Control Administrator and approved by a majority of a quorum of the City Council. Where the sales of alcoholic beverages as they relate to other sales are determinative of the licensee's eligibility to retain a license, the licensee shall maintain adequate records to show that relationship. The books and records shall be available at all reasonable times for inspection by the City Alcoholic Beverage Control Administrator or any authorized representative.

(F) Audit requirements. The City Alcoholic Beverage Control Administrator may at his or her discretion require that a licensee make his or her records available to the city for the purpose of conducting an audit to verify compliance with this chapter.

(G) Penalties.

(1) Any person who violates any provision of this section for which no specific penalty is provided shall be guilty of a misdemeanor and shall, in addition to other penalties provided by law, be subject to the following penalties:

(a) For the first offense a fine not to exceed \$500;

(b) For any subsequent offense a fine not to exceed \$500 or confinement in jail not more than six months, or both.

(2) Any proceeding for the revocation of any license issued hereunder shall be governed in accordance with the provisions of KRS 243.480.

(`78 Code, § 9-5) (Am. Ord. 06-10, passed 5-10-06; Am. Ord. 06-11, passed 5-10-06; Am. Ord. 2020-11, passed 9-14-20) Penalty, see § 111.99

Statutory reference:

Authority to regulate hours of sale, see KRS 244.290 and 244.480

§ 111.41 COMPLIANCE WITH REGULATIONS AND PROHIBITIONS.

(A) At all times during which any person has a valid city license issued pursuant to the provisions hereof, that person shall fully comply with all of the rules, regulations, requirements, and prohibitions set forth in this chapter.

(B) A city licensee shall comply fully with all of the provisions hereof and all of the rules and regulations of the City ABC Administrator in regard thereto; all provisions of the state

statutes and the rules and regulations of the State Alcoholic
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Board in regard to the licensed premises and the actions, business, and transactions conducted thereon subsequent to the issuance of a state license therefor and prior to the expiration, revocation, or suspension thereof which are hereby incorporated herein and made applicable to all city licenses corresponding thereto, the premises described therein, and the actions, business, and transactions conducted thereon; and the city licensee shall comply fully therewith.

Penalty, see § 111.99

§ 111.42 MAINTENANCE OF STATE LICENSE.

A city licensee shall maintain the state license to which the city license corresponds and fully comply with all state statutes and the rules and regulations of the State Alcoholic Beverage Control Board in regard thereto.

Penalty, see § 111.99

§ 111.43 DISPLAY OF REQUIRED LICENSES AND CERTAIN SIGNS.

As required by KRS 244.083, a city licensee who has a valid city retail distilled spirits, wine, or malt beverage license shall cause to be displayed in a conspicuous and prominent place on the licensed premises each of the following documents so that they may be seen and observed by all persons entering the licensed premises:

(A) A sign or placard at least eight inches by 11 inches in size with the following message printed or displayed thereon in 30 point or larger type:

"Persons under the age of twenty-one (21) years are subject to a fine up to Five Hundred (\$500.00) Dollars if they:

a. Enter licensed premises to buy or have served or delivered to them any alcoholic beverages; or

b. Possess, purchase or attempt to purchase any alcoholic beverages; or

c. Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages."

(B) All valid city licenses issued therefor and the state licenses to which they correspond. The failure to so display such licenses shall be prima facie evidence that no such valid licenses have been issued or exist and all actions, business, and transactions authorized thereby conducted on such premises are illegal and in violation of the

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provisions hereof and the state statutes and regulations of the State Alcoholic Beverage Control Board in regard thereto.

Penalty, see § 111.99

Statutory reference:

Display of state license required, see KRS 243.620 and 244.270

§ 111.44 CRIMINAL CONDUCT ON PREMISES PROHIBITED.

A city licensee shall not cause, permit, or engage in any conduct upon the licensed premises by either the commission of a prohibited act or the omission of a required act which is a crime or other violation of any law, rule, or regulation of any governmental agency having jurisdiction thereof or any officer or agency thereof.

Penalty, see § 111.99

§ 111.45 CONDUCTING BUSINESS WITH MINOR.

As prohibited by KRS 244.080 and 244.085, no person shall cause, permit, encourage, or engage in any of the following actions in the city:

(A) The possession or consumption of any alcoholic beverages by any person under 21 years of age in or upon any licensed premises or public places; and

(B) The misrepresentation of the name, address, age, or other identification of any person under 21 years of age for the purpose of obtaining alcoholic beverages.

Penalty, see § 111.99

§ 111.46 ILLEGAL SEXUAL CONDUCT, EXPOSURE OF HUMAN BODY.

No person shall cause, permit, encourage, or engage in any of the following activities or display still or motion pictures thereof on licensed premises:

(A) Sexual conduct as defined in KRS 531.010(4).

(B) The appearance of any human being, clothed or unclothed, in such a manner that any portion of the following body members are exposed to view:

(1) The nipple of the female breast.

(2) The female breast below the nipple.

(3) The genitalia.

(4) The pubic hair.

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(5) The anus.
(Ord., passed 11-14-79) Penalty, see § 111.99

Cross-reference:

Sale, use or consumption of alcoholic beverages prohibited in sexually oriented business, see § 116.08

§ 111.47 BUSINESS TO BE CONDUCTED CONTINUOUSLY; EXCEPTIONS.

(A) A city licensee who has a valid city wholesale or retail distilled spirits, wine, or malt beverage license must conduct the actions, business, and transactions authorized thereby upon the licensed premises.

(B) When no such actions, business, or transactions are conducted thereon for a period of 90 consecutive calendar days, the city license therefor shall become null and void and revoked by the City ABC Administrator unless:

(1) The city licensee is unable to continue in business at the premises for which a license is issued due to an act of God; casualty; the acquisition of the premises by any federal, state, city, or other governmental agency under power of eminent domain; acquisition of any private corporation through its power of eminent domain granted to it, whether such acquisition is voluntary or involuntary; or loss of lease through failure of the landlord to renew the existing lease; and

(2) Prior to the discontinuance of business at the licensed premises or immediately thereupon if such is due to an act of God, the city licensee delivers to the City ABC Administrator a written statement signed by the city licensee and verified by the oath or affirmation thereof indicating the discontinuance of business at the licensed premises for any of the causes or reasons described herein.

ADMINISTRATION AND ENFORCEMENT

§ 111.60 ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR.

As required by KRS 241.160 and as set forth in § 31.37, the office of Alcoholic Beverage Control Administrator, also known as the City ABC Administrator, is hereby established.

§ 111.61 RIGHT OF ENTRY; SEARCH AND SEIZURE.

A city licensee shall permit the entry and search of the licensed premises by any peace officer at any time for any purpose, and the seizure and removal therefrom of any evidence of any crime or other violation of law and the use thereof in any trial or hearing in

regard thereto.

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§ 111.62 SUSPENSION, REVOCATION OF LICENSE.

(A) Pursuant to the procedure set forth in KRS 243.480 through 243.590, city licenses may be either revoked or suspended by the City ABC Administrator upon the occurrence of:

(1) Any violation of the provisions of this chapter or any other alcoholic beverage control ordinance of the city;

(2) Any violation of any provision of state law in regard to alcoholic beverages or the rules and regulations of the State Alcoholic Beverage Control Board in regard thereto; or

(3) Any other cause, reason, or circumstance for which a state license may be revoked or suspended by the Board.

(B) However, city licenses must be revoked by the City ABC Administrator upon the occurrence of any cause or circumstance which requires revocation of state licenses pursuant to KRS 243.500 or the revocation of a state license to which a city license corresponds. Further, with the approval of the City ABC Administrator, a licensee may, as an alternative and in lieu of part or all of the days of any suspension period, pay the following sums to the city as set forth in KRS 243.480: distillers, rectifiers, vintners, brewers, and blenders: \$1,000 per day; wholesale liquor licensees: \$400 per day; wholesale beer licensees: \$100 per day; retail drink liquor licensees: \$25 per day; retail package liquor licensees: \$25 per day; retail beer licensees: \$10 per day; and all remaining licensees: \$10 per day.

(C) The procedure for the revocation or suspension of a city license shall consist of a written notice signed by the City ABC Administrator and mailed to the licensee at the address of the licensed premises by certified mail, describing the cause, circumstance, or occurrence and the time and date thereof for which the city license may be revoked and indicating the time and place of a hearing in regard thereto at least five days thereafter at which the licensee and the representatives thereof shall be heard thereon. The hearing thereon shall be conducted by the City ABC Administrator in the city and according to the procedure prescribed by the State Alcoholic Beverage Control Board for hearings by the Board as supplemented by the regulations of the City ABC Administrator. The City ABC Administrator shall control and make all decisions in regard to the introduction of evidence and shall hear all arguments in regard thereto. At the conclusion of the hearing, the City ABC Administrator shall issue a written decision in regard thereto and mail a certified copy thereof to the licensee at the address of the licensed premises by certified or registered mail.

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§ 111.99 PENALTY.

(A) Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor and shall, upon conviction thereof in a court of competent jurisdiction, be sentenced to pay a fine for each offense or violation of no more than \$500 or be imprisoned for not more than 30 days, or both.

(B) Any person who violates the distillers license fee provision of § 111.20 shall, upon conviction and in accordance with KRS 243.990(2), be guilty of a misdemeanor and shall be sentenced to pay a fine of not less than \$100 nor more than \$200, or sentenced to imprisonment for no more than six months, or both for the first offense. For the second offense, the person shall be fined not less than \$200 nor more than \$500, or sentenced to imprisonment for no more than six months, or both. On the third and each subsequent offense, the person shall be sentenced to pay a fine of not less than \$500 nor more than \$5,000, or sentenced to imprisonment for not more than five years, or both.

(C) Any person who violates any provision of § 111.20 other than as discussed in division (B) above, or any provision of §§ 111.21 through 111.26, 111.40 through 111.42, 111.44, or 111.45(A) shall be guilty of a misdemeanor and shall, upon conviction and in accordance with KRS 243.990(1) and 244.990(1), be fined not less than \$100 nor more than \$200, or be imprisoned for no more than six months, or both for the first offense. On the second and each subsequent offense, the person shall be fined not less than \$200 nor more than \$500, or be imprisoned for no more than six months, or both.

(D) Any person who violates any provision of § 111.43 shall be guilty of a violation and shall, upon conviction and in accordance with KRS 244.990(5), be fined not less than \$10 nor more than \$100.

(E) Any person who violates any provision of § 111.45(B) shall be guilty of a misdemeanor and shall, upon conviction and in accordance with KRS 244.990(5) and (6), be fined not less than \$10 nor more than \$100 for misrepresentation of age. For use of a false, fraudulent, or altered identification card, paper, or other document to purchase, attempt to purchase, or otherwise obtain any alcoholic beverage, the person shall be guilty of a misdemeanor and shall be fined not less than \$50 nor more than \$500 for a first offense. For a second and each subsequent offense, the person shall be fined not less than \$200 nor more than \$2,000.

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CHAPTER 112: INSURANCE PREMIUM TAX

Section

- 112.01 Imposition of license fee
- 112.02 Amount of fee for companies issuing life insurance
- 112.03 Amount of fee for companies issuing policies other than life insurance
- 112.04 Due date; interest
- 112.05 Written breakdown of collections
- 112.06 Time period for filing of returns

§ 112.01 IMPOSITION OF LICENSE FEE.

There is hereby imposed on each insurance company a license fee for the privilege of engaging in the business of insurance within the corporate limits of the city, on a calendar-year basis.
(Ord., passed 11-16-84)

§ 112.02 AMOUNT OF FEE FOR COMPANIES ISSUING LIFE INSURANCE.

The license fee imposed upon each insurance company which issues life insurance policies on the lives of persons residing within the corporate limits of the city shall be 8% of the first year's premiums actually collected within each calendar quarter by reason of the issuance of such policies.
(Ord., passed 11-16-84; Am. Ord. 88-02, passed 4-20-88)

Statutory reference:

Life insurance, see KRS 91A.080(2)

§ 112.03 AMOUNT OF FEE FOR COMPANIES ISSUING POLICIES OTHER THAN LIFE INSURANCE.

The license fee imposed upon each insurance company which issues any insurance policy which is not a life insurance policy shall be 8% of the premiums actually collected within each calendar year by reason of the issuance of such policies on risks located within the corporate limits of the city on those classes of business which such company is authorized to transact, less all premiums returned to policyholders; however, any license fee or tax imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employees, or death caused thereby, under the provisions of the Workers' Compensation Act and shall not include premiums received on policies of group health insurance provided for state employees under KRS 18A.225(2) and 18A.228 or the premiums paid to any state employee benefit fund created pursuant to KRS Chapter 18A.
(Ord., passed 11-16-84; Am. Ord. 88-02, passed 4-20-88)

Statutory reference:

Policies, see KRS 91A.080(3),(10)

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§ 112.04 DUE DATE; INTEREST.

All license fees imposed by this chapter shall be due no later than 30 days after the end of each calendar quarter. License fees which are not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6).
(Ord., passed 11-16-84)

Statutory reference:

Due Date, see KRS 91A.080(8),(9)

§ 112.05 WRITTEN BREAKDOWN OF COLLECTIONS.

Every insurance company subject to the license fees imposed by this chapter shall annually, by March 31, furnish the city a written breakdown of all collections in the preceding calendar year for the following categories of insurance:

- (A) Casualty.
- (B) Automobile.
- (C) Inland marine.
- (D) Fire and allied perils.
- (E) Health.
- (F) Life.

(Ord., passed 11-16-84)

Statutory reference:

Written breakdown, see KRS 91A.080(8)

§ 112.06 TIME PERIOD FOR FILING OF RETURNS.

Any claim for a refund of taxes or fees paid to the city based upon a claim of overpayment, exemption, and inapplicability of the tax or fee, or any other reason, must be filed with the City Clerk within two years of then the tax or fee for which a refund is sought was due. Any amount of tax or fee refunded by the city shall be limited to amounts paid within two years prior to when the refund claim is filed with the city.
(Ord. 07-17, passed 4-23-07)

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Section

- 113.01 Fall Festival Committee
- 113.02 Festival permit required; exceptions
- 113.03 Proceeds from permits
- 113.04 Use of sound amplification systems
- 113.05 Auction sales prohibited

- 113.99 Penalty

§ 113.01 FALL FESTIVAL COMMITTEE.

(A) The official Fall Festival Committee shall be appointed by the Carroll County Chamber of Commerce.

(B) The Fall Festival Committee shall annually select three consecutive days for the Carroll County Tobacco Festival.

(C) The Fall Festival Committee shall have the sole right to issue festival permits to the persons enumerated in § 113.02(B) within the city for the three days of the festival.

(D) The Fall Festival Committee shall have the right to limit the number, type, and location of booths or projects set up by the persons listed in § 113.02(B) within the city for the three days of the festival; the location of booths or projects shall be subject to approval by the Chief of the Fire Department.
(Ord., passed 8-2-78)

§ 113.02 FESTIVAL PERMIT REQUIRED; EXCEPTIONS.

(A) None of the persons listed below shall expose for sale or display any item of personal property or offer to provide any service within the city during the three-day period of the festival without first having obtained a festival permit.

(B) The provisions of this chapter shall apply to the following enumerated persons:

- (1) All groups or organizations selling goods or services;
- (2) Persons selling goods or services at flea markets;
- (3) Persons displaying arts and crafts;
- (4) Persons selling food;
- (5) All other street vendors, hawkers, or solicitors.

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(C) This chapter shall not apply to bona fide local wholesale or retail merchants.

(Ord., passed 8-2-78) Penalty, see § 113.99

§ 113.03 PROCEEDS FROM PERMITS.

In consideration of the labor involved in setting up and monitoring the permits, the Fall Festival Committee shall retain all proceeds derived from the sale of the permits, but the proceeds shall only be used for charitable or civic purposes.

(Ord., passed 8-2-78)

§ 113.04 USE OF SOUND AMPLIFICATION SYSTEMS.

No outdoor use of P.A. or sound amplification systems shall be permitted within the city during the three-day period except as authorized in writing by the Festival Committee.

(Ord., passed 8-2-78) Penalty, see § 113.99

§ 113.05 AUCTION SALES PROHIBITED.

No auction sales shall be permitted within the city during the three-day period of the Tobacco Festival each year.

(Ord., passed - -) Penalty, see § 113.99

§ 113.99 PENALTY.

(A) Any person violating the provisions of this chapter except § 113.05 shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than \$100 nor more than \$500, or by imprisonment not to exceed seven days, or both such fine and imprisonment. Sale of each separate item shall constitute a separate offense. (Ord., passed 8-2-78)

(B) Any person violating the provision of § 113.05 shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than \$50 nor more than \$500. Sale of each separate item shall constitute a separate offense. (Ord., passed - -)

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CHAPTER 114: TRANSIENT ROOM TAX

Section

- 114.01 Definitions
- 114.02 Imposition of tax
- 114.03 Payment of tax; report
- 114.04 Weekly reports and payments by delinquent taxpayers
- 114.05 Penalty and interest on delinquent taxes

- 114.99 Penalty

§ 114.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"COMMISSION." The Carrollton-Carroll County Tourism and Convention Commission which was established by joint action of the City Council of the city and the Carroll County Fiscal Court in January, 1981.

"TAX." The transient room tax levied and imposed by this chapter as authorized by KRS 91A.390.

"TAXPAYER." A person, firm, partnership, corporation (including governmental entities and agencies) who is required by this chapter to collect and remit the tax or upon whom such tax is levied and disposed.

(Ord., passed 3-11-81; Am. Ord. 96-24, passed 8-27-96)

§ 114.02 IMPOSITION OF TAX.

There is imposed a transient room tax of 3% of the rent for every occupancy of a suite, room, or rooms, charged by all persons, companies, corporation, or other like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or like or similar accommodations businesses in the city. At the option of the taxpayer, the tax may be added to the rent. Whether or not the tax is added to the rent, it shall be the property of the city and the Recreational, Tourist, and Convention Commission from and after the time the rent is collected. The purpose for which this tax is imposed and levied is to provide funds for the lawful operations of the Commission.

(Ord., passed 3-11-81)

§ 114.03 PAYMENT OF TAX; REPORT.

(A) The total of the taxes collected during any one calendar month shall be paid by the taxpayers to the Treasurer of the

Recreational, Tourist, and Convention Commission on or before the tenth day of the next succeeding month or, if such date is a Saturday, Sunday, or legal holiday, on or before the next succeeding

day which is not a Saturday, Sunday, or legal holiday. The remittance of the tax shall be accompanied by a report. The report shall contain the information as the Commission determines is necessary to insure proper enforcement of the tax, shall be in such form as prescribed by the Commission, and shall be signed.

(B) The information contained in the report shall be confidential. However, the information contained in all reports received by the Commission may be set down separately in statistical form. The statistical compilation shall not be confidential so long as it contains no information by means of which it would be possible to determine the gross receipts or other business information for an individual taxpayer. The statistical report may list the names of all taxpayers as a group, if there are more than three such taxpayers in the group.

(C) Each taxpayer may deduct and retain 2% of the first \$1,000 of tax due and 1.25% of the tax due in excess of \$1,000, per month, as reimbursement for the cost of collecting and remitting the tax. (Ord., passed 3-11-81) Penalty, see § 114.99

§ 114.04 WEEKLY REPORTS AND PAYMENTS BY DELINQUENT TAXPAYERS.

If a taxpayer fails to file the monthly report when due or to make the monthly remittance of the tax when due, then the Recreational, Tourist, and Convention Commission at its discretion may require the taxpayer to make weekly reports and weekly remittance of the tax. Such taxpayer shall continue to make such weekly reports and weekly remittances of the tax until the Commission is reasonably satisfied that there will be no further delinquency in the filing of a monthly report and the monthly remittance of the tax. When weekly reports and remittances of the tax are required by the Commission, they shall be due on Thursday of each week for the previous week ending on, and including Saturday.

(Ord., passed 3-11-81) Penalty, see § 114.99

§ 114.05 PENALTY AND INTEREST ON DELINQUENT TAXES.

Any taxes which are not paid by the date they are due shall be subject to a penalty of 10%; and the total of taxes and penalty shall bear interest at the rate of 8% per year from the first day of the month in which such taxes were due until paid (or, in the case the taxpayer required to make weekly remittances, from the first day of the week in which such taxes were due until paid). In addition, the taxpayer shall not be entitled to retain the collection fee otherwise authorized by § 114.03(C) from the amount of such delinquent taxes. (Ord., passed 3-11-81)

§ 114.99 PENALTY.

Any taxpayer who fails to timely file the report required by this chapter shall be subject to the same penalty for a class A

misdemeanor as provided in the Kentucky Penal Code (KRS Chapter 500 et seq.). The failure to make timely remittance and payment of the tax to the Treasurer of the Recreational, Tourist, and Convention Commission is, and shall be considered to be, a theft by failure to make required disposition of property as proscribed by KRS 514.070.

CHAPTER 115: TAXICABS

Section

- 115.01 Taxicab defined
- 115.02 City license required
- 115.03 City license fee
- 115.04 Issuance of license; display
- 115.05 License to operate, information required, duties of driver
- 115.06 Law violators prohibited from driving
- 115.07 Revocation or suspension of license
- 115.08 Right of passenger to secure driver's information
- 115.09 Conduct of passengers
- 115.10 Fares and rates to be displayed
- 115.11 Conditions of issuance of licenses
- 115.12 Appeal and review
- 115.13 Taxicabs subject to laws; other regulations
- 115.14 Annual renewal of license
- 115.15 Transfer

- 115.99 Penalty

§ 115.01 TAXICAB DEFINED.

For the purpose of this chapter, the term "taxicab" shall be construed to include motor vehicles, except those usually defined as a bus, ambulance, funeral car, school bus, or similar type vehicles, used within the city limits for public hire and to carry passengers for hire along or over public streets, avenues, or other highways in the city where a charge is made for such service, and the destination or route of which is under the direction of a passenger transported thereon. The motor vehicle that is to be used for this purpose shall have no fewer than four doors.

(Ord. 97-13, passed 8-13-97)

§ 115.02 CITY LICENSE REQUIRED.

(A) Any person, firm or corporation desiring to operate a taxicab or taxicabs in the city shall, before undertaking to do so, file a signed, written application for a license, duly sworn to by the applicant, with the City Clerk/Treasurer, which shall include the following information:

(1) The name of the person, firm or corporation desiring the license. If a partnership, the full name of each partner.

(2) The place of residence of the person, firm or corporation desiring the license and principal place of business of the applicant, as well as a statement of the prior residence(s) of

applicant(s) during the past five years prior to licensing.

(3) A statement of the name and address of employers or principal occupation of the person, firm or corporation desiring the

license for a period of two years immediately preceding received within the last ten years, misdemeanor and/or felony, by the person, or any member of the firm or corporation desiring such a license.

(4) A detailed explanation of the prior experience of the person, firm or corporation in the business of transportation for hire, as well as production for photocopying of all documentation evincing state certification for such.

(5) A disclosure as to financial responsibility, together with a certificate demonstrating that each cab has insurance coverage of, at a minimum, \$100,000 per person, \$300,000 per occurrence bodily injury, and \$10,000 property damage, by a reputable insurance carrier, which insurance shall cover passengers and the general public. In addition, a copy of said insurance policy shall be filed with the City Clerk/Treasurer and said policy shall show the City as an additional insured under said policy.

(6) Description of each vehicle to be operated as a taxicab, including vehicle identification number (VIN).

(7) The name and address of each proposed driver or operator.

(8) The location of the main office and, if any, the location of any cab stand.

(B) Additionally, the principal place of business of any person, firm or corporation which is located within the limits of the city and seeking such a license must be located in a properly zoned area, unless such principal place of business is a solely owned and operated business which has previously obtained the proper review of the Variance Board.

(Ord. 97-13, passed 8-13-97)

§ 115.03 CITY LICENSE FEE.

Each applicant shall also, at the time of filing of the application, pay to the City Clerk/Treasurer as an annual fee \$25.00 per taxicab proposed to be used within the city limits, due and payable by the first day of June of the year of licensing since the city's licensing year operates from June 1 to May 31. Any city license issued shall be effective from June 1st of the year of licensing or the date on which the license is actually paid if during the year of requested licensing, until 12:00 midnight on May 31st of that year.

(Ord. 97-13, passed 8-13-97)

§ 115.04 ISSUANCE OF LICENSE; DISPLAY.

Upon the filing of the application and payment of the licensing fee established in this section, the City Clerk/Treasurer shall issue to the applicant a license permitting the operation of the taxicab, with said license reflecting the expiration date of May 31, same year

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license issued. The City Clerk/Treasurer shall also issue to the applicant a separate license card for each vehicle, which card shall be prominently displayed in the vehicle for which it was issued. (Ord. 97-13, passed 8-13-97)

§ 115.05 LICENSE TO OPERATE, INFORMATION REQUIRED, DUTIES OF DRIVER.

(A) No person shall operate a taxicab as a driver within the city without first having secured a license to be issued by the City Clerk/ Treasurer. Each person shall carry the license on his or her person at all times when operating a taxicab and shall be prepared to exhibit such to any law enforcement officer upon request. Each person desiring to operate a taxicab shall file an application for a license to operate with the Clerk/Treasurer, and pay a \$12.00 annual fee upon the issuance of same. The license, after issued, shall expire at midnight on the 31st day of May of the year it was issued. The application to be filed by any person desiring to operate a taxicab within the city limits shall contain, at a minimum, the following information:

(1) Name and address of applicant.

(2) Residence of applicant during the past five years prior to licensing.

(3) Name and address of employers for a period of two years immediately preceding application.

(4) Applicant's complete experience in automobile operation, including, but not limited to, a disclosure of all traffic violations received or accidents in which the applicant was involved.

(5) A disclosure as to whether or not the applicant uses alcoholic beverages or controlled substances of any type.

(6) Any criminal conviction received within the last ten years, misdemeanor and/or felony.

(7) Proof of state taxicab certification, to be photocopied and attached to application.

(8) Two current, passport type photographs of the applicant, one of which shall be attached to application and the other to serve the purpose set forth below in subsection "C."

(9) Valid Kentucky operator's license to be presented at the time of application for photocopying, a copy of which shall be attached to application.

(10) A written consent by the applicant to the search of the vehicle by any peace officer at any time for any purpose, the removal therefrom of any evidence of any crime or other violation of law, and the use thereof in any trial or hearing in regards thereto. However, in no way is this subsection meant to infringe in anyway upon the privacy interests of the passengers absent probable cause to do so, or the efficient operations of the taxicabs.

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(B) At the city's request, the Chief of Police or his designated agent may examine the driving history of the applicant, or the applicant himself/herself as to his/her driving ability and as to his/her knowledge of traffic laws in the State of Kentucky.

(C) Each driver, after having been issued a license to operate, shall provide at the time of application two current passport-type photographs of the applicant, one of which shall be attached to the application, and the other of which shall at all times be displayed in the taxicab he or she is operating, along with the driver's name. The name shall be in legible print or type which, along with the driver's photograph, shall be visible from the backseat of the taxicab.

(Ord. 97-13, passed 8-13-97)

§ 115.06 LAW VIOLATORS PROHIBITED FROM DRIVING.

No taxicab driver's license shall be issued to any applicant whose application or police verification demonstrates that he/she has been convicted of any felony, or has been convicted of any violation involving the use of alcohol or intoxicating substance while operating a motor vehicle, of any state, or has been convicted three or more times of any moving traffic violation, in any state, within six years prior to the date of application, without securing the approval of the City Council, Chief of Police and the state regulatory authority.

(Ord. 97-13, passed 8-13-97)

§ 115.07 REVOCATION OR SUSPENSION OF LICENSE.

(A) Any person having a license to operate a taxicab within the city shall have said license revoked upon a conviction of any of the following:

(1) Any felony offense in any state.

(2) Any charge of operating a motor vehicle while under the influence of alcohol or intoxicating substances, in any state.

(3) Three or more moving traffic violations in any state.

(4) Any showing that the license was obtained by use of false information contained in the application.

(B) After a person's license has been revoked, they shall not operate a taxicab within the city limits without having obtained a new license by filing of applications as previously set forth in this section.

(C) Any license may be suspended or revoked by the Mayor at any time for conditions or considerations which, had they existed at the time of issuance, would have been valid grounds for its denial, for any misrepresentation of a material fact in the application discovered after issuance of the license; for violation of any provision of this

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section or any other law or ordinance which would have impacted the decision to issue such license had the condition existed at the time of application.

(D) The Chief of Police is authorized to suspend any taxicab driver's license at any time for a period of 20 days upon reasonable suspicion that a violation of any federal, state or local law or regulation, including the provisions of this section. After presentation of information pertaining to such to the City Council, the Council may issue an order suspending the license, which shall become effective immediately upon service of written notice to the owner and/or operator. This notice shall specify the reason for suspension, and may provide conditions under which reinstatement of the license may be obtained. Upon compliance with these conditions within the time specified, the license may be specified.
(Ord. 97-13, passed 8-13-97)

§ 115.08 RIGHT OF PASSENGER TO SECURE DRIVER'S INFORMATION.

Every driver of a taxicab, upon being requested to do so by any person who is, or has been, or is about to become a passenger in such vehicle, shall give to such person his/her name, his/her taxicab driver's license number, proof of his/her state certification, and the license number of such vehicle.
(Ord. 97-13, passed 8-13-97)

§ 115.09 CONDUCT OF PASSENGERS.

Any person who, while a passenger in any taxicab regulated by this chapter, violates any state law, city ordinance, or regulation, or conducts himself or herself in an unseemly manner, or uses vile or profane language, may be ejected from such vehicle by the driver. Should an operator fail to do so, and can be shown to have condoned or participated in any criminal activity occurring during use of or patronage of said taxicab, said failure, participation or condoning of such shall serve as immediate grounds for suspension of or possible revocation of the taxicab driver's license.
(Ord. 97-13, passed 8-13-97)

§ 115.10 FARES AND RATES TO BE DISPLAYED.

Each taxicab shall have the fares and rates of transportation displayed in such a manner that they can be easily seen and read by any passenger in the taxicab.
(Ord. 97-13, passed 8-13-97)

§ 115.11 CONDITIONS OF ISSUANCE OF LICENSES.

No license as herein provided for taxicabs shall be issued for

any vehicle until it has been inspected and found to be in good repair and in a clean and sanitary condition. The Chief of Police or any person designated by him/her, shall inspect any and all taxicabs at reasonable intervals to ensure that all licensing, photograph and signage

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requirements are met. The time and place of such inspection shall be named by the Chief, and if any expense for said inspection should occur, the cost of the inspection shall be paid by the person, firm or corporation that is applying for the license. If a license is granted for any vehicle that is over five model years in age, such vehicle shall be inspected every six months at a minimum by a certified mechanic, a copy of the report of whom shall be kept on record and a copy of which provided to the Chief, if requested. If any vehicle fails to pass an inspection, the vehicle will be immediately taken out of service and the license for that vehicle will be revoked. In the event the same vehicle can be re-inspected and passes the re-inspection, at a later date, another license shall be issued for that vehicle.

(A) For the purposes of this section, a CERTIFIED MECHANIC is a person whose primary occupation is the diagnosis and repair of defects or problems associated with motor vehicles.
(Ord. 97-13, passed 8-13-97; Am. Ord. 98-01, passed 1-14-98)

§ 115.12 APPEAL AND REVIEW.

In any case in which an applicant has been denied a license, or if his license has been revoked or suspended, the applicant or licensee as the case may be, shall within three business days have the right to appeal to the City Council from the denial, revocation, or suspension. Notice of the appeal shall be filed in writing with the Clerk/Treasurer who shall fix the time and place for a hearing which shall be held not later than two weeks thereafter. The Clerk/Treasurer shall notify the Mayor and all members of the City Council of the time and place of the hearing not less than 24 hours in advance thereof. A majority of the City Council members shall constitute a quorum to hear the appeal. The appellant may appear and be heard in person or by counsel. If, after hearing, a majority of the members of the members of the City Council present at the meeting declare in favor of the appellant, the license shall be issued or fully reinstated as the case may be; otherwise, the order appealed from shall become final.

(Ord. 97-13, passed 8-13-97)

§ 115.13 TAXICABS SUBJECT TO LAWS; OTHER REGULATIONS.

(A) The operation of all taxicabs operated within the city shall be subject to all state and local laws and/or ordinances of the city.

(B) A copy of the registration for each taxicab shall at all times be on file with the Carrollton City Clerk/Treasurer and the Carrollton Police Department.

(C) Taxicab owners properly licensed within the city shall not

discontinue their services to the public on holidays or other occasions without giving due notice in the press at least 48 hours in advance, with the exclusion of discontinuation of services due to inclement weather.

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(D) Every taxicab shall be identified by having painted thereon in letters of not less than three inches in height, the name of the owner or the trade name under which it does business, on each side and the rear of the vehicle. If the name of the owner or the trade name does not include the words "taxicab," "taxi," or "cab," then the word

"taxicab" shall be painted, in letters no less than three inches in height, on each side and on the rear of the taxicab. The City of Carrollton license number issued to each taxicab shall be painted on the rear of each cab, in the same manner as set forth above. In addition, each taxicab shall have an illuminated top light with the words "taxi" printed thereon.

(Ord. 97-13, passed 8-13-97)

§ 115.14 ANNUAL RENEWAL OF LICENSE.

Every license issued to any vehicle to be operated as a taxicab and every license issued to any person to operate a taxicab within the city, shall expire at midnight on the last day in May of the licensing year since the city's licensing year operates from June 1 to May 31. Any person holding a valid license may apply for the next year's license anytime during the month of May, and if the new license is issued, the fees and any and all paperwork involved shall be based as if the license was issued on June 1st of the oncoming year.

(Ord. 97-13, passed 8-13-97)

§ 115.15 TRANSFER.

No license shall be transferred from one company to another, even if by terms of a bona fide sale of the business and/or substantially all of its assets without the completion of the applications and compliance with the sections as set forth above by the new person, firm, company or corporation purchasing such as set forth above.

(Ord. 97-13, passed 8-13-97)

§ 115.99 PENALTY.

Failure to comply with any provision of this chapter shall constitute a misdemeanor, punishable by a period of imprisonment of up to 30 days and/or a fine not to exceed \$500.00, and may result in revocation or suspension of license.

(Ord. 97-13, passed 8-13-97)

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CHAPTER 116: SEXUALLY ORIENTED BUSINESSES

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GENERAL PROVISIONS

§ 116.01 PURPOSE.

It is the purpose of this chapter to regulate sexually oriented businesses in order to promote the health, safety, morals and general

welfare of the citizens of the city, and to establish reasonable and

uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the city. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.

(Ord. 04-01, passed 1-19-04; Am. Ord. 04-11, passed 5-12-04)

§ 116.02 FINDINGS.

Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the City of Carrollton City Council, and on findings incorporated in the cases of City of Renton v. Playtime Theatres, Inc., 475 U.S. 42 (1986), Young v. American Mini Theatres, 426 U.S. 50 (1976), and Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991), and on studies in other communities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; and Beaumont, Texas; and also on findings from the Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota), the City Council of the City of Carrollton finds:

(A) Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make the owners of these establishments responsible for the activities that occur on their premises.

(B) Communicable diseases may be spread by activities occurring in sexually oriented businesses, including but not limited to, venereal disease and human immunodeficiency virus infection (AIDS-HIV).

(C) Since 1981 and to the present, there have been an increasing cumulative number of persons testing positive for the HIV antibody test in Kentucky.

(D) The number of cases of gonorrhea and other sexually transmitted diseases in the United States reported annually remains

at a high level.

(E) The Surgeon General of the United States in his report of October 22, 1986, has advised the American public that AIDS and HIV

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infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.

(F) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.

(G) Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the facilities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.

(H) The findings noted in divisions (A) through (G) above raise substantial governmental concerns.

(I) Sexually oriented businesses have operation characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.

(J) A reasonable licensing procedure is an appropriate mechanism to place the burden of the reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place a heretofore nonexistent incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the City of Carrollton. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.

(K) Removal of doors on adult booths and requiring sufficient lighting on premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activities occurring in adult theatres.

(L) Requiring licensees of sexually oriented businesses to keep information regarding current employees and certain past employees will help reduce the incidence of certain types of criminal behavior

by facilitating the identification of potential witnesses or suspects and by preventing minors from working in such establishments.

(M) The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the sexually oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases.

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(N) It is desirable in the prevention of the spread of communicable diseases to obtain a limited amount of information regarding certain employees who may engage in the conduct which this chapter is designed to prevent or who are likely to be witnesses to such activity.

(O) The fact that an applicant for an adult use license had been convicted of a sexually related crime leads to the rational assumption that the applicant may engage in that conduct in contravention of this chapter.

(P) The barring of such individuals from the management of adult uses for a period of years serves as a deterrent to and prevents conduct which leads to the transmission of sexually transmitted diseases.

(Q) The general welfare, health, morals and safety of the citizens of the City of Carrollton will be promoted by the enhancement of this chapter.

(Ord. 04-01, passed 1-19-04; Am. Ord. 04-11, passed 5-12-04)

§ 116.03 TERRITORIAL APPLICATION.

The provisions of this chapter shall apply to and within the entirety of the city limits of the City of Carrollton, Kentucky.

(Ord. 04-01, passed 1-19-04; Am. Ord. 04-11, passed 5-12-04)

§ 116.04 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"ADULT ARCADE." Any place to which the public is permitted or invited wherein coin-operated, slug-operated, or any form of consideration, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or

laser disc players, or other image-producing devices are maintained to show images to five 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.

"ADULT BOOKSTORE," "ADULT NOVELTY STORE" or "ADULT VIDEO STORE."

(1) A commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, digital video discs, slides, or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

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(2) A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as "ADULT BOOK STORE," "ADULT NOVELTY STORE" or "ADULT VIDEO STORE." Such other business purposes will not serve to exempt such commercial establishments from being categorized as an "ADULT BOOK STORE," "ADULT NOVELTY STORE" or "ADULT VIDEO STORE" so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

"ADULT CABARET." A nightclub, bar, restaurant, or similar commercial establishment which regularly features:

(1) Persons who appear in a state of nudity or semi-nude;

(2) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or

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

"ADULT MOTEL." A hotel, motel or similar commercial establishment which:

(1) Offers accommodations to the public for any form of

consideration; provides patrons with closed circuit television transmissions, 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; and has a visible sign from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or

(2) Offers a sleeping room for rent for a period of time that is less than ten hours; or

(3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten hours.

"ADULT MOTION PICTURE THEATER." A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, digital video discs, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

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"ADULT THEATER." A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude, or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

"EMPLOYEE." A person who performs any service on the premises of a sexually oriented business on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not the person is paid salary, wage or other compensation by the operator of the business. "EMPLOYEE" does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

"ESCORT." A person who, for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform striptease for another person.

"ESCORT AGENCY." A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

"ESTABLISHMENT." Includes any of the following:

(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 additions of any sexually oriented business to any other existing sexually oriented business; or

(4) The relocation of any sexually oriented business.

"LICENSEE." A person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a sexually oriented business.

"MISDEMEANOR." A criminal offense punishable by a fine not to exceed \$500 or imprisonment for a term not to exceed 365 days or both. The term "OFFENSE" is synonymous with "MISDEMEANOR."

"NUDE MODEL STUDIO." Any place where a person who appears semi-nude, in a state of nudity, or who displays specified anatomical areas and is provided to be observed, sketched, drawn, painted,

sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. A nude model studio shall not include a proprietary school licensed by the State of Kentucky or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

(1) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and

(2) Where in order to participate in a class a student must enroll at least three days in advance of the class; and

(3) Where no more than one nude or semi-nude model is on the premises at any one time.

"NUDITY" or "STATE OF NUDITY." The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

"PERSON." An individual, proprietorship, partnership, corporation, association, or other legal entity.

"SEMI-NUDE" or "IN A SEMI-NUDE CONDITION." The showing of the female breast below the horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit or other wearing apparel provided the areola is not exposed in whole or in part.

"SEXUAL ENCOUNTER CENTER." A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

(1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

"SEXUALLY ORIENTED BUSINESS." An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel,

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adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

"SPECIFIED ANATOMICAL AREAS."

(1) The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

(2) Less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.

"SPECIFIED CRIMINAL ACTIVITY." Any of the following unlawful activities:

(1) Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of the states or countries;

(2) For which:

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

(b) Less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offence; or

(c) Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.

(3) The fact that a conviction is being appealed shall have

no effect on the disqualification of the applicant or a person residing with the applicant.

"SPECIFIED SEXUAL ACTIVITIES." Any of the following:

(1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;

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(2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or

(3) Excretory functions as part of or in connections with any of the activities set forth in (1) through (2) above.

"SUBSTANTIAL ENLARGEMENT OF A SEXUALLY ORIENTED BUSINESS." The increase in floor areas occupied by the business by more than 25%, as the floor areas exist on the date this chapter takes effect.

"TRANSFER OF OWNERSHIP OR CONTROL OF A SEXUALLY ORIENTED BUSINESS." Includes any of the following:

(1) The sale, lease or sublease of the business;

(2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means; or

(3) The establishment of a trust, gift or similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(Ord. 04-01, passed 1-19-04; Am. Ord. 04-11, passed 5-12-04)

§ 116.05 CLASSIFICATION.

Sexually oriented businesses are classified as follows:

(A) Adult arcades;

(B) Adult bookstores, adult novelty stores or adult video stores;

(C) Adult cabarets;

(D) Adult motels;

(E) Adult motion picture theaters;

(F) Adult theaters;

(G) Escort agencies;

(H) Nude model studios; and

(I) Sexual encounter centers.

(Ord. 04-01, passed 1-19-04; Am. Ord. 04-11, passed 5-12-04)

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§ 116.06 LOCATION OF SEXUALLY ORIENTED BUSINESSES.

(A) No person, corporation, partnership, limited liability, company or other entity, shall operate or cause to be operated a sexually oriented business within 500 feet of the following establishments. A person commits a misdemeanor if the person operates or causes to be operated a sexually oriented business within 500 feet of:

(1) A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;

(2) A public or private educational facility including, but not limited to, child day care facilities, nursery schools, preschools, kindergarten, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;

(3) A public park or recreational area which has been designated for park or recreational activities including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the City of Carrollton which is under the control, operation, or management of the city, City of Carrollton or state park and recreation authorities;

(4) The property line of a lot devoted to a residential use;

(5) An entertainment business which is oriented primarily towards children or family entertainment; or

(6) An establishment licensed pursuant to the alcoholic beverage control regulations of the state.

(B) A person commits a misdemeanor if that person causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within 500 feet of another sexually oriented business.

(C) A person commits a misdemeanor if that person causes or permits the operation, establishment or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof

containing another sexually oriented business.

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(D) For the purpose of division (A) above, measurement shall be made in a straight line without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in division (A). Presence of a city, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this section.

(E) For purposes of division (B) above, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.

(F) Any sexually oriented business lawfully operating on the effective date of this chapter that is in violation of divisions (A) through (E) above shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed one year, unless sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more. The nonconforming uses shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 500 feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later established business(es) is/are nonconforming.

(G) A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a use listed in division (A) above within 500 feet of the sexually oriented business. This provision applies only to the renewal of a valid license, and does not apply when an application for a license is submitted after a license has been expired or been revoked.

(Ord. 04-01, passed 1-19-04; Am. Ord. 04-11, passed 5-12-04; Am. Ord. 2011-02, passed 2-28-11) Penalty, see § 116.99

§ 116.07 PROHIBITION AGAINST CHILDREN IN SEXUALLY ORIENTED BUSINESS.

A person commits a misdemeanor if the person knowingly allows a person under the age of 18 years on the premises of a sexually oriented business.

(Ord. 04-01, passed 1-19-04; Am. Ord. 04-11, passed 5-12-04) Penalty, see § 116.99

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§ 116.08 SALE, USE OR CONSUMPTION OF ALCOHOLIC BEVERAGES PROHIBITED.

(A) The sale, use or consumption of alcoholic beverages on the premises of a sexually oriented business is prohibited.

(B) Any violation of this section shall constitute a violation. (Ord. 04-01, passed 1-19-04; Am. Ord. 04-11, passed 5-12-04) Penalty, see § 116.99

Cross-reference:

Illegal sexual conduct, exposure of human body on licensed premises, prohibited, see § 111.46

§ 116.09 HOURS OF OPERATION.

No sexually oriented business, except for an adult motel, may remain open at any time between the hours of 1:00 a.m. and 8:00 a.m. on weekdays and Saturdays, and 1:00 a.m. and 12:00 p.m. on Sundays.

(Ord. 04-01, passed 1-19-04; Am. Ord. 04-11, passed 5-12-04) Penalty, see § 116.99

LICENSING

§ 116.20 LICENSE REQUIRED.

(A) It is unlawful and shall constitute a misdemeanor:

(1) For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the City of Carrollton pursuant to this chapter.

(2) For any person who operates a sexually oriented business to employ a person to work for the sexually oriented business who is not licensed as a sexually oriented business employee by the City of Carrollton pursuant to this chapter.

(3) For any person to obtain employment with a sexually oriented business without having secured a sexually oriented business employee license pursuant to this chapter.

(B) An application for a license must be made on a form provided by the City of Carrollton.

(C) All applicants must be qualified according to the provisions of this chapter. The application may request and the applicant shall provide such information (including fingerprints) as to enable the City of Carrollton to determine whether the applicant meets the qualifications established in the chapter.

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(D) If a person who wishes to operate a sexually oriented business is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has 20% or greater interest in the business must sign the application for a

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license as applicant. Each applicant must be qualified under § 116.21 and each applicant shall be considered a licensee if a license is granted.

(E) The completed application for a sexually oriented business license shall contain the following information and shall be accompanied by the following documents:

(1) If the applicant is:

(a) An individual, the individual shall state his or her legal name and any aliases and submit proof that he or she is 18 years of age or older;

(b) A partnership, the partnership shall state its complete name, and the names of all partners whether the partnership is general or limited, and a copy of the partnership agreement, if any;

(c) A limited liability company, the company shall state its complete name, the names of all members and managers, the name and address of the registered agent for service of process, a copy of its articles of organization and a copy of the operating agreement, if any;

(d) A corporation, the corporation shall state its complete name, a copy of its articles of incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and principal stockholders, and the name and address of the registered agent for service of process.

(2) If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, he or she must state:

(a) The sexually oriented business' fictitious name; and

(b) Submit the required registration documents.

(3) Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined in this chapter, and, if so, the specified criminal activity involved, the date, place, and jurisdiction of each.

(4) Whether the applicant, or a person residing with the applicant, has had a previous license under this chapter or other similar sexually oriented business ordinances from another city or county denied, suspended or revoked, including the name and location

of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership, a member or manager in

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a limited liability company, or an officer, director or principal stockholder of a corporation that is licensed under this chapter whose license has been previously denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.

(5) Whether the applicant or a person residing with the applicant holds any other license under this chapter or another similar sexually oriented business ordinance from another city or county and, if so, the names and locations of such other licensed businesses.

(6) The single classification of license for which the applicant is filing.

(7) The location of the proposed sexually oriented business, including a legal description of the property, street address, and telephone number(s), if any.

(8) The applicant's mailing address and residential address.

(9) A recent photograph of the applicant(s).

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

(11) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but it 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.

(12) A current certificate and straight-line drawing prepared within 30 days prior to the application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within 250 feet of the property to be certified; the property lines of an established religious institution/synagogue, school, or public park or recreation area within 250 feet of the property to be certified. For purposes of this

section, a use shall be considered existing and established if it is in existence at the time an application is submitted.

(13) If an applicant wishes to operate a sexually oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than 150 square feet of floor space, films, video cassettes, digital video discs, or other video reproductions, or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth in § 116.36.

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(F) Before any applicant may be issued a sexually oriented business employee license, the applicant shall submit on a form to be provided by the City of Carrollton the following information:

(1) The applicant's name or any other name (including "stage" names) or aliases used by the individual;

(2) Age, date, and place of birth;

(3) Height, weight, hair and eye color;

(4) Present residence address and telephone number;

(5) Present business address and telephone number;

(6) Date, issuing state and number of driver's permit or other identification card information;

(7) Social security number; and

(8) Proof that the individual is at least 18 years of age.

(G) Attached to the application form for a sexually oriented business employee license as provided above, shall be the following:

(1) A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the Police Department. Any fees for the photographs and fingerprints shall be paid by the applicant.

(2) A statement detailing the license history of the applicant for the five years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate, in this or any other city, county, state or country, whether such applicant has ever had a license, permit or authorization to do business denied, revoked or suspended, or had any professional or vocational license or permit

denied, revoked or suspended. In the event of any such denial, revocation or suspension, state the name, the name of the issuing or denying jurisdiction, and describe in full the reason for the denial, revocation or suspension. A copy of any order of denial, revocation or suspension shall be attached to the application.

(3) A statement whether the applicant has been convicted of a specified criminal activity as defined in this chapter and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.

(Ord. 04-01, passed 1-19-04; Am. Ord. 04-11, passed 5-12-04) Penalty, see § 116.99

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§ 116.21 ISSUANCE OF LICENSE.

(A) Upon the filing of an application for a sexually oriented business employee license, the City of Carrollton shall issue a temporary license to the applicant. The application shall then be referred to the appropriate city offices for an investigation to be made on such information as is contained on the application. The application process shall be completed within 30 days from the date the completed application is filed. After the investigation, the city shall issue a license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

(1) The 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; or has failed to pay the required fee.

(2) The applicant is under the age of 18 years;

(3) The applicant has been convicted of a specified criminal activity as defined in this chapter;

(4) The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by a particular provision of this chapter; or

(5) The applicant has had a sexually oriented business employee license revoked by the City of Carrollton within two years of the date of the current application.

(6) If the sexually oriented business employee license is denied, the temporary license previously issued is immediately deemed

null and void. Denial, suspension, or revocation of a license issued pursuant to this division (A) shall be subject to appeal as set forth in § 116.26.

(B) A license granted pursuant to this section shall be subject to annual renewal upon the written application of the applicant and a finding by the City of Carrollton that the applicant has not been convicted of any specified criminal activity as defined in this chapter or committed any act during the existence of the previous license, which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in § 116.22.

(C) Within 30 days after the receipt of a completed sexually oriented business application, the City of Carrollton shall approve or deny the issuance of a license to an applicant. The City of Carrollton shall approve the issuance of a license to an applicant unless it is

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determined by a preponderance of the evidence that one or more of the following findings is true:

(1) An applicant is under 18 years of age.

(2) An applicant or a person with whom applicant is residing is overdue in payment to the City of Carrollton of taxes, fees, fines, or penalties assessed against or imposed upon him or her in relation to any business.

(3) 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.

(4) An applicant or a person with whom the applicant is residing has been denied a license by the City of Carrollton to operate a sexually oriented business within the preceding 12 months or whose license to operate a sexually oriented business has been revoked within the preceding 12 months.

(5) An applicant or a person with whom the applicant is residing has been convicted of a specified criminal activity defined in this chapter.

(6) The premises to be used for the sexually oriented business have not been approved by the Health Department, Fire Department, and the Building Inspector/Code Enforcement Officer as

being in compliance with applicable laws and ordinances.

(7) The license fee required by this chapter has not been paid.

(8) An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this chapter.

(D) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business and the classification for which the license is issued pursuant to § 116.05. All licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.

(E) The Health Department, Fire Department, and the Building Inspector/Code Enforcement Officer shall complete their certification that the premises are in compliance or not in compliance within 20 days of receipt of the application by the City of Carrollton.

(F) A sexually oriented business license shall issue for only one classification as found in § 116.05.
(Ord. 04-01, passed 1-19-04; Am. Ord. 04-11, passed 5-12-04)

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§ 116.22 FEES.

(A) Every application for a sexually oriented business license (whether for a new license or for renewal of an existing license) shall be accompanied by a \$500 non-refundable application and investigation fee.

(B) In addition to the application and investigation fee required above, every sexually oriented business that is granted a license (new or renewal) shall pay to the city an annual non-refundable business license fee of \$1,000 within 30 days of license issuance or renewal.

(C) Every application for a sexually oriented business employee license (whether for a new license or for renewal of an existing license) shall be accompanied by an annual \$250 non-refundable application, investigation, and employee license fee.

(D) All license applications and fees shall be submitted to the office of the Mayor of the City of Carrollton.

(Ord. 04-01, passed 1-19-04; Am. Ord. 04-11, passed 5-12-04)

§ 116.23 INSPECTION.

(A) An applicant or licensee shall permit representatives of the Police Department, Health Department, Fire Department or other city departments, offices, or agencies to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.

(B) A person who operates a sexually oriented business or his or her agent or employee commits a misdemeanor if he or she refuses to permit such lawful inspection of the premises at any time it is open for business.

(Ord. 04-01, passed 1-19-04; Am. Ord. 04-11, passed 5-12-04) Penalty, see § 116.99

§ 116.24 EXPIRATION OF LICENSE.

(A) Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in § 116.20. Application for renewal shall be made at least 30 days before the expiration date, and when made less than 30 days before the expiration date, the expiration of the license will not be affected.

(B) When the City of Carrollton denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If subsequent to denial, the City of Carrollton finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final.

(Ord. 04-01, passed 1-19-04; Am. Ord. 04-11, passed 5-12-04)

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§ 116.25 SUSPENSION.

The City of Carrollton shall suspend a license for a period not to exceed 30 days if it determines that a licensee or an employee of a licensee has:

(A) Violated or is not in compliance with any section of this chapter;

(B) Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter.

(Ord. 04-01, passed 1-19-04; Am. Ord. 04-11, passed 5-12-04)

§ 116.26 REVOCATION.

(A) The City of Carrollton shall revoke a license if a cause of suspension in § 116.25 occurs and the license has been suspended within the preceding 12 months.

(B) The City of Carrollton shall revoke a license if it determines that:

(1) A licensee gave false or misleading information in the material submitted during the application process;

(2) A licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;

(3) A licensee has knowingly allowed prostitution on the premises;

(4) A licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;

(5) Except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises; or

(6) A licensee is delinquent in payment to the city, county or state for any taxes or fees past due.

(C) When the City of Carrollton revokes a license, the revocation shall continue for one year, and the licensee shall not be issued a sexually oriented business license for one year from the date the revocation became effective. If, subsequent to revocation, the City of Carrollton finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective.

(D) After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction. The filing of an action in court contesting the action of the City of Carrollton with respect to a license shall stay the action of the City of Carrollton and the status quo relative to the matter contested shall be preserved during the pendency of the action. It shall be the duty of the City of Carrollton to timely provide the court with the record of pertinent proceedings conducted before it.

(Ord. 04-01, passed 1-19-04; Am. Ord. 04-11, passed 5-12-04)

§ 116.27 TRANSFER OF LICENSE.

A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

(Ord. 04-01, passed 1-19-04; Am. Ord. 04-11, passed 5-12-04) Penalty, see § 116.99

ADDITIONAL REGULATIONS

§ 116.35 ADDITIONAL REGULATIONS FOR ADULT MOTELS.

(A) Evidence that a sleeping room in a hotel, motel, or a similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this chapter.

(B) A person commits a misdemeanor if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented business license, he or she rents or sub-rents a sleeping room to a person and, within ten hours from the time the room is rented, he or she rents or sub-rents the same sleeping room again.

(C) For the purposes of division (B) of this section, the terms "RENT" or "SUB-RENT" mean the act of permitting a room to be occupied for any form of consideration.

(Ord. 04-01, passed 1-19-04; Am. Ord. 04-11, passed 5-12-04) Penalty, see § 116.99

§ 116.36 REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS, VIDEOS OR LIVE ENTERTAINMENT IN VIEWING ROOMS.

(A) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than 150 square feet of floor space, a film, video cassette, digital video disc, live entertainment, or

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other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

(1) Upon application for a sexually oriented business

license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The City of Carrollton 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.

(2) The application shall be sworn to be true and correct by the applicant.

(3) No alteration in the configuration or location of a manager's station may be made without the prior approval of the City of Carrollton.

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

(5) 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 video reproduction equipment. If the premises has two or more manager's stations designated, 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 division (A)(5) must be by direct line of sight from the manager's station.

(6) It shall be the duty of the licensee to ensure that the view area specified in division (A)(5) remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and, at all times, to ensure that no patron is permitted

access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to division (A)(1) of this section.

(7) No viewing room may be occupied by more than one person at a time.

(8) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than 5.0 foot candles as measured at the floor level.

(9) It shall be the duty of the licensee to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

(10) No licensee shall allow openings of any kind to exist between viewing rooms or booths.

(11) No person shall make or attempt to make an opening of any kind between viewing booths or rooms.

(12) The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.

(13) The licensee shall cause all floor coverings in viewing booths to be non-porous, easily cleanable surfaces, with no rugs or carpeting.

(14) The licensee shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, non-porous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within 48 inches of the floor.

(B) A person having a duty under division (A)(1) through (14) above commits a misdemeanor if he or she knowingly fails to fulfill that duty.

(Ord. 04-01, passed 1-19-04; Am. Ord. 04-11, passed 5-12-04) Penalty, see § 116.99

§ 116.37 ADDITIONAL REGULATIONS FOR ESCORT AGENCIES.

(A) An escort agency shall not employ any person under the age of 18 years.

(B) A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of 18 years.

(Ord. 04-01, passed 1-19-04; Am. Ord. 04-11, passed 5-12-04) Penalty, see § 116.99

§ 116.38 ADDITIONAL REGULATIONS FOR NUDE MODEL STUDIOS.

(A) A nude model studio shall not employ any person under the age of 18 years.

(B) A person under the age of 18 years commits an offense if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this division (B) if the person under 18 years was in a restroom not open to public view or visible to any other person.

(C) A person commits a misdemeanor offense if the person appears in a state of nudity, or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.

(D) A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.
(Ord. 04-01, passed 1-19-04; Am. Ord. 04-11, passed 5-12-04) Penalty, see § 116.99

§ 116.39 ADDITIONAL REGULATIONS CONCERNING PUBLIC NUDITY.

(A) It shall be a misdemeanor for a person who knowingly and intentionally, in a sexually oriented business, appears in a state of nudity or depicts specified sexual activities.

(B) It shall be a misdemeanor for a person who knowingly or intentionally in a sexually oriented business appears in a semi-nude condition unless the person is an employee who, while semi-nude, shall be at least ten feet from any patron or customer and on a stage at least two feet from the floor.

(C) It shall be a misdemeanor for any employee, while semi-nude in a sexually oriented business, to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity to any employee, while the employee is semi-nude in a sexually oriented business.

(D) It shall be a misdemeanor for an employee, while semi-nude, to touch a customer or the clothing of a customer.
(Ord. 04-01, passed 1-19-04; Am. Ord. 04-11, passed 5-12-04) Penalty, see § 116.99

§ 116.50 EXEMPTIONS.

It is a defense to prosecution under § 116.39 that a person appearing in a state of nudity did so in a modeling class operated:

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(A) By a proprietary school, licensed by the State of Kentucky, a college, junior college, or university supported entirely or partly by taxation;

(B) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

(C) In a structure:

(1) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing;

(2) Where, in order to participate in a class a student must enroll at least three days in advance of the class; and

(3) Where no more than one nude model is on the premises at any one time.

(Ord. 04-01, passed 1-19-04; Am. Ord. 04-11, passed 5-12-04)

§ 116.51 INJUNCTION.

A person who operates or causes to be operated a sexually oriented business without a valid license or in violation of § 116.06 of this chapter is subject to a suit for injunction as well as prosecution for criminal violations. Each day a sexually oriented business so operates is a separate offense or violation.

(Ord. 04-01, passed 1-19-04; Am. Ord. 04-11, passed 5-12-04) Penalty, see § 116.99

§ 116.99 PENALTY.

Any person who violates any of the provisions of this chapter for which a separate penalty is not set forth shall be guilty of a misdemeanor and shall, upon conviction thereof in a court of competent jurisdiction, be sentenced to pay a fine of up to \$500 for each violation or be imprisoned for not more than 365 days, or both.

(Ord. 04-01, passed 1-19-04; Am. Ord. 04-11, passed 5-12-04)

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