

## CHAPTER 114: SEXUALLY ORIENTED BUSINESSES

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#### ***Cross-reference:***

*General licensing provisions, see Ch. 110*

*License regulations, see Ch. 111*

## **GENERAL PROVISIONS**

### **§ 114.01 DEFINITIONS.**

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

**OPERATOR.** The owner or operator of a topless establishment.

**TOPLESS EMPLOYEE.** A female person employed by a topless establishment while her dress attire exposes at least the upper 1/2 of her breasts or allows her breasts to be seen through the attire.

**TOPLESS ESTABLISHMENT.** Any business or establishment which employs a topless employee in connection with any properly licensed business activity.

(Ord. passed 4-26-1993)

## **§ 114.02 PURPOSE; SCOPE; EXEMPTIONS.**

To protect public health, safety, welfare and morals, the privilege license provisions and regulations in this chapter are ordained for the privilege of operating a topless establishment.

(Ord. passed 4-26-1993)

## **§ 114.03 LOCATION OF TOPLESS ESTABLISHMENT.**

No topless establishment shall be located within 500 feet of an existing church or school.

(Ord. passed 4-26-1993) Penalty, see § 10.99

## **§ 114.04 HOURS OF OPERATION.**

(A) No topless employee licensed under §§ 114.40 through 114.50 shall be employed in capacity between the hours of 2:00 a.m. and 8:00 a.m., Monday through Saturday, nor between the hours of 2:00 a.m. and 1:00 p.m. on Sunday, prevailing time.

(B) No operator licensed under §§ 114.20 through 114.26 shall admit customers or prospective customers, or remain open for business, or allow or permit or condone any business activity upon the premises between the hours of 2:00 a.m. and 8:00 a.m., Monday through Saturday, nor between the hours of 2:00 a.m. and 1:00 p.m. on Sunday, prevailing time.

(C) No person in charge of managing a topless establishment upon the premises shall allow, permit or condone any business activity on the premises between the hours of 2:00 a.m. and 8:00 a.m., Monday through Saturday, nor between the hours of 2:00 a.m. and 1:00 p.m. on Sunday, prevailing time.

(Ord. passed 4-26-1993) Penalty, see § 10.99

## **§ 114.05 POSTING OF LICENSE.**

(A) Every operator shall post the license required by this subchapter in his or her work area.

(B) Every person licensed under §§ 114.20 through 114.26 below shall display the license in a prominent place.

(Ord. passed 4-26-1993) Penalty, see § 10.99

## **§ 114.06 REVOCATION; NOTICE; HEARING; CONSEQUENCES.**

(A) Before the Town Council revokes a license issued pursuant to this subchapter, Town Council shall cause a written notice to be sent by certified mail to the licensee affected or applicant affected, at the address stated in the license or application.

(B) The notice shall advise the affected party of a right to appear before the Town Council, with or without legal counsel, at a stated time and place, for the purpose of presenting any evidence relevant to the revocation and for the purpose of hearing all evidence submitted and examining or cross-examining any person providing the evidence.

(C) If any person shall have had a topless establishment business operator license issued to him or her or to a partnership, corporation or association in which he or she held a legal or beneficial interest at the time the license was issued or if any person shall have had issued to him or her a license as a topless employee and either of the licenses is subsequently revoked pursuant to any provision of this chapter, he or she shall be ineligible to apply for either a topless establishment operator license or a license as a topless employee or a renewal of either for a period of 3 years from the date of the revocation.

(D) (1) If any person holds both a topless establishment operator license and a license as a topless employee, then the revocation of either the license pursuant to any provision of this chapter shall be grounds for the simultaneous revocation of the other simultaneously held license.

(2) The person shall be ineligible to apply for either a topless establishment operator license or a license as a topless employee or a renewal of either for a period of 3 years from the date of the revocation.

(Ord. passed 4-26-1993)

## **BUSINESS LICENSE**

### **§ 114.20 REQUIRED.**

No person shall operate a topless establishment unless the person shall have first received the privilege license for same.

(Ord. passed 4-26-1993) Penalty, see § 10.99

### **§ 114.21 APPLICATION.**

Every application for the privilege license required by this subchapter shall be upon a form approved by the Town Manager and shall be filed with the Town Tax Collector. Every application shall be made under oath and shall contain the following information:

(A) If the applicant is a person, the name and residence address of that person. If the applicant is a partnership, corporation or association, the name and residence address of all persons having any legal or beneficial interest in the applicant;

(B) The address of the premises where the topless establishment shall be located;

(C) A complete statement of all convictions of any person whose name is required to be given in division (A) above for any felony, or prostitution or any violation of any law relative to prostitution;

(D) A complete statement of any revocation, by any governmental unit, of any license to operate a topless establishment held by any person whose name is required to be given in division (A) above;

(E) A complete statement of any conviction of any person whose name is required to be given in division (A) above, for violation of any statute, law, ordinance or regulation of any government concerning the operation of a topless establishment or the sale of any alcoholic beverage;

(F) The name and address of any topless establishment owned or operated by any person whose name is required to be given in division (A) above; and

(G) A description of any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant.

(Ord. passed 4-26-1993)

#### **§ 114.22 INVESTIGATION.**

(A) The Town Tax Collector shall transmit a copy of the application for the license required by this subchapter to the Police Department for an investigative report; to the Building Inspector to determine compliance with all zoning and building regulations and ordinances; and to the Fire Department to determine compliance with any law relating to fire protection.

(B) The Police and Fire Departments and the Building Inspector shall, within a reasonable time, not to exceed 30 days, report the results of their examinations to the Town Tax Collector.

(Ord. passed 4-26-1993)

#### **§ 114.23 ISSUANCE STANDARDS.**

An application for the license required by this subchapter in proper form, accompanied by all reports required by this subchapter, shall be approved by the town Tax Collector if:

(A) The application contains no misstatement of fact;

(B) The applicant, or any person having any legal or beneficial ownership interest in the applicant, has not been convicted of any crime involving sexual misconduct, including but not limited to G.S. §§ 14-177 *et seq.* or 14-203 *et seq.* or of any provision of this code, or of any federal statute relating to prostitution, or of any violation of any law or ordinance of any governmental unit concerning the sale of alcoholic beverages, or concerning the operation of a topless establishment;

(C) The applicant conforms to all requirements of applicable zoning, building and fire prevention codes; and

(D) The applicant or any person having a legal or beneficial ownership interest in the applicant has not, for the 3-year period preceding the application, had a previously issued license for operating a topless establishment revoked.

(Ord. passed 4-26-1993)

#### **§ 114.24 ISSUANCE AND FEE.**

Upon approval of the application for the license required by this subchapter and upon receipt of a the license fee per the Town of Liberty fee schedule, the Town Tax Collector shall issue a privilege license to the applicant.

(Ord. passed 4-26-1993)

#### **§ 114.25 DENIAL AND APPEAL.**

(A) In the event the applicant for the license required by this subchapter does not meet all of the conditions for issuance of the license, then the application shall be denied by the Town Tax Collector.

(B) Thereafter, the applicant shall have 10 days in which to file an appeal and request a hearing before the Town Council. Upon appeal, the Town Council shall, within 30 days, hold a hearing on the appeal and make a final determination thereof with respect to the application for a license.

(Ord. passed 4-26-1993)

#### **§ 114.26 PATRONAGE OF TOPLESS ESTABLISHMENTS BY MINORS AND EMPLOYMENT OF MINORS.**

(A) No person licensed as a topless employee under §§ 114.40 through 114.50 shall serve or entertain in any manner any person under the age of 18 upon the licensed premises. A violation of this section shall be grounds for revocation of any license issued to the violator pursuant to this subchapter.

(B) No person licensed as an operator shall allow, permit or condone any person under the age of 18 upon the licensed premises. A violation of this section shall be grounds for revocation of any license issued to the violator pursuant to this subchapter.

(C) No person licensed as an operator pursuant this chapter nor any agent or employee of the operator shall employ any person under the age of 18 years in the operation of the business on the licensed premises.

(Ord. passed 4-26-1993)

## **LICENSES; EMPLOYEES**

### **§ 114.40 EMPLOYER TO USE ONLY LICENSED EMPLOYEES.**

(A) No person licensed under this chapter shall allow or permit the employment of any topless employee on the licensed premises unless the topless employee has complied with all requirements of licensing under this section through § 114.50 below.

(B) Violation of this section shall be grounds for revocation of the license issued to the violator pursuant to this subchapter.

(Ord. passed 4-26-1993)

### **§ 114.41 TERM; DUE DATE.**

The licenses required by this subchapter are annual privilege licenses. The licenses shall be due and payable in the same manner as prescribed for other privilege licenses issued by the Town Tax Collector pursuant to the license and privilege tax ordinance of the town.

(Ord. passed 4-26-1993)

#### **Statutory reference:**

*Privilege licenses, see G.S. §§ 160A-211 et seq.*

### **§ 114.42 TRANSFERS AND THE LIKE.**

Any person who buys a topless establishment from a former owner or other person having an ownership interest in a business does so subject to any pending criminal charges which are grounds for revocation and which involve the same business premises; upon any conviction resulting from the charges, the new owner or operator shall be ineligible for a business license at the same premises for a period of 3 years, and any topless establishment operator license for the premises held by any person at the time of the conviction shall be subject to revocation to the same extent as the former license would have been.

(Ord. passed 4-26-1993)

### **§ 114.43 REVOCATION OR TERMINATION.**

(A) A license issued pursuant to this subchapter shall be revoked by action of the Town Council if the Town Council finds that:

(1) The licensee has violated any provision of this chapter;

(2) The licensee, or any agent of the licensee, employs or permits to be on the premises of the applicant's topless establishment any topless employee who has not been issued the privilege required by §§ 114.40 through 114.50, or whose license under this subchapter has been revoked;

(3) The licensee, or the legal or beneficial owner of any interest in the licensee is convicted of violating any regulation of the Alcoholic Beverage Control Board or is convicted of any crime involving sexual misconduct, including but not limited to G.S. §§ 14-177 *et seq.* or 14-203 *et seq.*;

(4) Any employee of the licensee is convicted of any felony in connection with his or her employment, or is convicted of any crime involving sexual misconduct, including, but not limited to G.S. §§ 14-177 *et seq.* or 14-203 *et seq.* or of any provision of this code; or

(5) The licensee violates any Zoning, Building or Fire Prevention Chapters.

(B) (1) A license issued pursuant to this subchapter is void if the licensee moves or ceases operating a topless establishment at the location required to be stated in the application for the license.

(2) Any person whose business license would have been subject to revocation under any provision of this chapter for conduct which originated during the time the license was held and which is pending criminal trial at the time the license is surrendered or lapses may not receive a new license for operating a topless establishment for a period of 3 years from the date of any pertinent conviction, and any topless establishment operator license presently held by the person shall be subject to revocation on the basis of the conviction.

(Ord. passed 4-26-1993)

#### **§ 114.44 EMPLOYEE LICENSE REQUIRED.**

No person shall be employed as a topless employee unless that person shall have first received a privilege license for same.

(Ord. passed 4-26-1993) Penalty, see § 10.99

#### **§ 114.45 APPLICATION.**

(A) The application for the license required by this subchapter shall be upon a form approved by the Town Manager and shall be filed with the Town Tax Collector.

(B) The application shall be given under oath and shall contain the following information:

(1) The name, age and residence address of the applicant;

(2) A complete statement of the previous business or occupation of the applicant for the 2 years immediately preceding the date of application, including any employment or association with a topless establishment;

(3) A complete statement of all convictions of the applicant for any felony or misdemeanor or violation of a local ordinance; and

(4) The date and place of applicant's birth, the name of applicant's parents and the residence address or addresses of the applicant for the 5 years immediately preceding the date of application.

(Ord. passed 4-26-1993)

#### **§ 114.46 INVESTIGATION.**

(A) The Town Tax Collector shall transmit a copy of the application for the license required by this subchapter to the Police Department for an investigative report.

(B) The Police Department shall, within a reasonable time, not to exceed 30 days, report the results of its investigation to the Town Tax Collector.

(Ord. passed 4-26-1993)

#### **§ 114.47 ISSUANCE STANDARDS.**

An application for the license required by this subchapter in proper form accompanied by all required reports shall be approved by the Town Tax Collector if:

(A) The applicant is at least 18 years of age;

(B) The application contains no misstatements of fact;

(C) The applicant has not been convicted of any crime involving sexual misconduct, including, but not limited to G.S. §§ 14-177 *et seq.* or 14-203 *et seq.*, or of any provision of this code, or of any federal statute relating to prostitution, or for violation of any law or ordinance of any governmental unit concerning or related to a topless establishment;

(D) The applicant has not, for the 3-year period preceding the application, had a previously issued license as a topless employee revoked; and

(E) The applicant has not been previously convicted of any violation of any provision of this chapter.

(Ord. passed 4-26-1993)

#### **§ 114.48 FEE AND ISSUANCE.**

Upon the approval of the application for the license required by this division and upon receipt the license fee per the Town of Liberty fee schedule, the Town Tax Collector shall issue a privilege license to the applicant.

(Ord. passed 4-26-1993)

#### **§ 114.49 DENIAL; APPEAL.**

(A) In the event the applicant does not meet all of the conditions for the license required by this subchapter, then the application shall be denied by the Tax Collector.

(B) Thereafter, the applicant shall have 10 days in which to file an appeal and request a hearing before the Town Council.

(C) Upon appeal, the Town Council shall, within 30 days, hold a hearing on the appeal and make a final determination thereof with respect to the application for a license.

(Ord. passed 4-26-1993)

#### **§ 114.50 REVOCATION.**

A license issued pursuant to this subchapter shall be revoked by action of the Town Council if the Town Council finds:

(A) The licensee has violated any provision of this chapter; and/or

(B) The licensee has been convicted of a felony, or any crime involving sexual misconduct, including, but not limited to G.S. §§ 14-177 *et seq.* or 14-203 *et seq.*, or of violating any provision of this code, or under any federal statute relating to prostitution, or for violation of any law or ordinance of any governmental unit related to a topless establishment.

(Ord. passed 4-26-1993)