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ORDINANCE NO. 3254

AN ORDINANCE OF THE CITY OF CARROLLTON, TEXAS AMENDING TITLE IX OF THE CARROLLTON CITY CODE OF ORDINANCES BY CREATING CHAPTER 97 HOTEL CODE TO PROMOTE AND PROTECT HEALTH, SAFETY AND WELFARE; PROVIDING FOR PURPOSES, DEFINITIONS, COMPLIANCE, REQUIRING LODGING LICENSES, CLASSIFICATIONS OF HOTELS, PROCEDURES FOR DENIAL OF LICENSE, PROCEDURES FOR REVOCATION OF LICENSE, PROCEDURES FOR APPEAL PROCESS, LIMITATION ON CONTINUOUS AND CUMULATIVE OCCUPANCY IN A HOTEL ROOM, PREMISE REQUIREMENTS, HOUSEKEEPING AND PREMISE CONDITIONS, ENFORCEMENT INCLUDING ABATEMENT, AND PROVIDING FOR PENALTY; AMENDING TITLE III. ADMINISTRATION BY ADDING SUBSECTION 34.040(C)(6) GRANTING POWER TO CONSTRUCTION ADVISORY AND APPEALS BOARD TO CONDUCT HEARINGS UNDER CHAPTER 97; AMENDING TITLE 1. GENERAL PROVISIONS BY ADDING SUBSECTION 10.99(A)(2)(U) CHAPTER 97. HOTEL CODE TO SECTION 10.99. GENERAL PENALTY PROVISION; AMENDING TITLE III. ADMINISTRATION BY ADDING SUBSECTION 31.01(D)(3) HOTEL CODE TO SECTION 31.01 ESTABLISHMENT OF FEES FOR CITY SERVICES; AND PROVIDING SAVINGS, SEVERABILITY AND AN EFFECTIVE DATE ON AND AFTER PASSAGE AND PUBLICATION.

WHEREAS, excessive levels of criminal activity in hotels are detrimental to human health and welfare and result in impaired health, safety and welfare of tenants of such properties and of people in the surrounding community;

WHEREAS, numerous studies, including those contained on file in the office of the City Secretary and the Police Department, support the premise that criminal activity is harmful to public health and that reducing such activity does improve and promote better public health, and such studies have been considered by the City Council in connection with this ordinance;

WHEREAS, statistics compiled by the Carrollton Police Department indicate growth in the proportion of Calls for Service or crime at the majority of local hotels for the first six months of the current year when compared to the same time period in the previous year, and statistics compiled by the Carrollton Police Department also indicate that Calls for Service or crime has been steadily increasing since 2001;

WHEREAS, there are hotels in the City that have become harborage for various criminal activities including, but not limited to, capital murder, sexual assault, prostitution, robbery, aggravated assault, burglary, narcotics offenses, theft, runaway of minor child, fail to identify, furnishing alcohol to minor and failure to register by sex offender;

WHEREAS, the U.S. Department of Justice's Office of Community Oriented Policing Services (COPS) Problem-Oriented Guide for Police titled "Disorder at Budget Motels" (January 2005) outlines general principles for an effective strategy for reducing crime at

hotels including regulating management practices through calls for service/room ratios and taking action against hotels that have more than 1.0 calls for service/room ratio annually;

WHEREAS, excessive levels of city code violations (such as plumbing, electrical and sanitation) in a hotel are detrimental to human health and welfare and result in impaired health, safety and welfare of tenants of such properties;

WHEREAS, the implementation of a registration requirement for owners of hotels would greatly facilitate the application and enforcement of City health, building and safety codes and ordinances, as well as state laws regulating or affecting the operation of hotels; and

WHEREAS, this ordinance in addition to criminal penalties, implements subchapter C of Chapter 54 of the Texas Local Government Code; and

WHEREAS, the City Council recognizes that it is necessary for the City to apply its available police department resources in accordance with the law enforcement needs of the community at large, and to adjust the application of those resources as necessary to address changes in those needs; and

WHEREAS, in accordance with the Texas Constitution, Section 341.081, Health and Safety Code, V.T.C.A., Section 51.072, Local Government Code, V.T.C.A., and other state laws, home-rule municipalities such as the City of Carrollton are given the authority to enact more stringent ordinances than state laws in matters of sanitation and health protection;

WHEREAS, the City Council, after determining all legal requirements of notice and hearing have been met, has further determined the following addition to the Code of Ordinances would provide for and would be in the best interest of the health, safety, morals and general welfare:

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CARROLLTON, TEXAS

Section 1.

That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as a part of this Ordinance.

Section 2.

That Title 9 of the Code of Ordinances, City of Carrollton, Texas, is hereby amended by adding a chapter, to be numbered Chapter 97, which said chapter reads as follows:

Chapter 97 Hotel Code

- Section 97.01 Purposes
- Section 97.02 Definitions
- Section 97.03 Lodging License to Operate
- Section 97.04 Classification of Hotel by CFS Room Ratio
- Section 97.05 Lodging License – Grounds for Denial
- Section 97.06 Lodging License – Revocation
- Section 97.07 Appeal Process
- Section 97.08 Limitations on Continuous and Cumulative Occupancy
- Section 97.09 Premises Requirements
- Section 97.10 Housekeeping and Premise Conditions
- Section 97.11 Enforcement
- Section 97.12 Penalty

97.01 PURPOSES

The purpose of this chapter is ensure the continued availability of transient lodging within the City of Carrollton, the maintenance of clean hotels, and to protect health, safety and welfare. The purpose of this chapter is to require the issuance of a Lodging License to operate, conduct, or own a hotel within the City of Carrollton regardless of the date of the hotel’s construction; to establish standards for the issuance of said license; to establish rules and regulations under which such license shall remain in force, be denied or revoked; and providing penalties for violations. This chapter is remedial and essential to the public interest, safety, health, and welfare, and this chapter shall be liberally construed to effectuate its purposes.

97.02 DEFINITIONS

For the purpose of this chapter, the following terms, words, and derivations shall have the meaning given, unless the context clearly indicates or requires a different meaning:

Calls for Service (CFS) – includes but is not limited to any and all calls to emergency services, (police, fire, medical, code enforcement, and building inspection) that result in a city employee being dispatched or directed to the hotel. This shall include any calls for service within the surrounding neighborhood that, through information or investigation, can be attributed or traced to the hotel premises. Calls for service include any self-initiated activity or investigation based on the observation(s) of an emergency services representative that results in a written report. Calls for service shall be measured by one event or occurrence at a hotel. Multiple calls for one discrete event shall count as one call for services. Calls for service are cumulative regardless of ownership. Calls for service include but are not limited to:

1. Commission of crimes that are drug related or drug related arrests;

2. Commission of crimes that are prostitution related or prostitution related arrests;
3. Commission of crimes that are a breach of the peace;
4. All fire alarms at a hotel;
5. Immediate public safety and health issues at a hotel; or
6. Non-compliance with federal law, state law or city codes and ordinances.

Call for Service Room Ratio – is defined as the number of Calls for Service divided by the total number of guest rooms in a hotel over a specified time.

Clean condition means free from:

1. Chemical contamination;
2. Microbial contamination;
3. Insect or rodent contamination;
4. Displaying or undergoing spoilage, putrefaction; or
5. Trash, debris, dirt or refuse.

Code Conviction Limit – is determined by the relationship between the number of convictions of city code violations in a court of law compared to the number of guest rooms in a hotel. The Code Conviction Limit for hotels with less than sixty (60) guest rooms is defined as more than five convictions of city code violations in a court of law within a period of twelve (12) consecutive calendar months. The Code Conviction Limit for hotels with sixty (60) or more guest rooms or more is defined as the number of convictions of city code violations in a court of law equal to 10 percent of the total number of guest rooms rounded to the next highest integer in a hotel within a period of twelve (12) consecutive calendar months.

Commissioned Security Officers – are officers who have successfully undertaken and passed a state and national criminal history check and passed the 30 hour training class provided by the Private Security Bureau of the Texas Department of Public Safety.

Designated city official or *DCO* – The City Manager. The term may include the City Manager's designee or delegated staff or duly authorized representative of the City Manager.

Drug related – includes but is not limited to the manufacture, cultivation, importation into the state, transportation, possession, possession for sale, sale, furnishing, administering, or giving away or providing a place to use or fortification of a place involving any illegal or controlled drug, narcotic or drug paraphernalia.

Hotel – within the meaning of this article, is any hotel, motel, lodging house or inn in the city having three (3) or more rooms where transient guests are fed or lodged for pay.

Hotel room or Room—means the portion of the hotel which may be used by a guest as a temporary residence, including single rooms and suites.

Law—means any federal, state statute, or city ordinance, court decision or regulation.

Let or Let for Occupancy – to permit, provide or offer possession or occupancy of a dwelling unit, rooming unit, building, premise or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to recorded or unrecorded agreement of contract for the sale of land.

Manager – shall mean any person who manages the business operations of any hotel, whose duties may include the collection of rental charges, issuing of keys, direction of maintenance personnel, assigning of rooms to guests, handling guest affairs or overseeing security.

Operator – Any person who is the proprietor of any hotel whether in the capacity of the owner, lessee, receiver, sub-lessee, franchisee, mortgagee in possession, manager or agent of any of the aforementioned, who offers or accepts payment for rooms, guestrooms, sleeping accommodations, or board and lodging, and retains the right of access to, and control of, the dwelling units.

Owner – any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

Person – an individual, corporation, business trust, estate trust, partnership or any other group acting as a unit.

Prostitution related – includes but is not limited to those that involve prostitution or prostitution related crimes such as pimping or pandering in violation of city and/or state codes.

97.03 LODGING LICENSE TO OPERATE

- (A) It shall be unlawful to operate a hotel without a Lodging License. The application shall be submitted with the Lodging License fee, as identified in Chapter 31, Comprehensive Fee Schedule.
- (B) An application for an annual Lodging License shall be filed with the DCO on a yearly basis by the owner or operator of each hotel. The initial deadline for submitting the application shall be within 45 days upon passage of this ordinance. The Lodging License shall be issued or denied within 60 days upon receipt of the completed application. This initial License shall be effective until March 31, 2010 unless it is revoked earlier. Applications thereafter must be submitted no later than January 31st of

each year, or if this date falls on a Saturday or Sunday, on the next business day. The Lodging License shall be issued or denied within 60 days upon receipt of the completed application. All subsequent licenses shall be effective until March 31st of the following year. The operator or owner shall re-apply for additional periods of one (1) year thereafter by January 31st of each year.

(C) In the event that a new hotel applies for a license during the year (after January 31st application deadline), the license will be issued or denied within 60 days and the Lodging License shall be effective until March 31st of the subsequent year. The application fee will be prorated based on the number of months remaining before the March 31st expiration of the license. Any subsequent License shall be applied for in accordance with the January 31st deadline above.

(D) Application for a Lodging License shall be filed on forms provided by the City and containing the following information:

1. Owner and operators name, address, and work and home telephone number, driver license number, or identification card number and state of issuance of the owner.
2. If owner and/or operator is a partnership, the name of all partners, the principal business address, and telephone number of each partner.
3. If owner and/or operator is a corporation, the person registering must state whether it is organized under the laws of this state or is a foreign corporation, and must show the mailing address, business location, telephone number, name of the person in charge of the local office of such corporation, if any, and the names of the registered agent, all officers and directors or trustees of such corporation, and, if a foreign corporation, additionally the place of incorporation;
4. Name, address and telephone number of the property managers and operators and owners.
5. Provide official criminal history from each state of residence documenting for each owner, operator and property manager that has been convicted of or is continuing on or has completed parole or probation for a crime during the last five (5) years which relates directly to the operation of a hotel, whether as an owner, operator, or manager, or from any offense constituting a misdemeanor or felony involving weapons, narcotics, assault, or crimes of moral turpitude.
6. Street address of the hotel.
7. Number of hotel guest rooms.
8. Maximum number of persons who can be accommodated at any given time.
9. Be signed by the owner or operator or the owner or operator's agent.

10. All material contained herein on the application must be maintained current with the city at all times by the owner, operator and property manager.

Any material misrepresentation in the application for the Lodging License or a failure to provide the required information shall be grounds for denial or revocation of the application or Lodging License.

- (E) The application for a Lodging License hereunder shall constitute the consent of the applicant and owner to an inspection of the entire licensed premises at reasonable times by the Code Enforcement Officers, Building Inspectors, Sanitarian Inspectors, Fire Inspectors and other authorized departments of the City of Carrollton for the purpose of determining whether there is any violation on the premises sought to be permitted of any ordinances of the City of Carrollton or any law of the State of Texas.
- (F) Lodging License shall not be transferable or assignable from one person, firm, partnership, corporation or entity to another person, firm, partnership, corporation or entity.
- (G) Whenever a change in the operator or owner occurs at an existing hotel, the new operator or owner shall apply for a Lodging License within ten (10) business days after closing on the sale of the property. If the prior operator's Lodging License for the hotel was denied or revoked, a provisional Lodging License may be issued to the new owner or operator with special conditions designated by the DCO while the new operator or owner's application for License is pending a decision.
- (H) The operator shall display the Lodging License in the hotel in an open and conspicuous public place in the lobby at or near the check in desk.
- (I) Failure to obtain a Lodging License or maintain a Lodging License at all times may result in revocation of the hotel's Certificate of Occupancy.
- (J) Once the Lodging License is obtained, the DCO may routinely inspect:
 1. The exterior of the structures and all of the common grounds of all hotels;
 2. Any or all unoccupied hotel rooms and any and all occupied hotel rooms with permission of the occupant;
 3. Any or all storage areas, community buildings, swimming pools, athletic facilities, club rooms, equipment rooms, and all other portions of the facility;
 4. Any portion or portions of the hotel upon receipt of a complaint from any person, city department, employee, or division that any portion of the premises may be in violation of any applicable law;

5. All hotels in the city to determine whether they are uninhabitable, dangerous, or otherwise in violation of applicable laws.
6. In the event the DCO is denied entry, that denial is a violation of this chapter and the DCO may use the resources provided by law to gain entry.
7. The DCO, upon presentation of proper identification to the occupant in charge of any hotel room, may enter, with the occupant's permission, any hotel room; provided, however, that in cases of emergency where extreme hazards are known to exist which may involve imminent injury to person, loss of life, or severe property damage, the DCO may, after presentation of proper identification enter a hotel room at any time. Whenever the DCO is denied entry to inspect any premises under this provision he may use the resources provided by law to gain entry.

- (K) Continued maintenance and compliance with this chapter are conditions that are necessary to retain a Lodging License and to obtain any renewal of a license.

97.04 CLASSIFICATION OF HOTELS BY CFS ROOM RATIO

- (A) By January 31st of each calendar year, the DCO shall determine the Calls for Service (CFS) Room Ratio of all Hotels located within the City of Carrollton during the previous calendar year, or during actual operations if less than twelve (12) months during the previous calendar year.
- (B) Based upon the CFS Room Ratio determined by the DCO, all Hotels shall be classified during that year according to the following tier system:
 1. Tier 1. Less than or equal to 1.0 CFS/Room/Year, or
 2. Tier 2. Greater than 1.0 CFS/Room/Year.
- (C) A hotel which has not previously operated in Carrollton shall be presumed to be a Tier 1 hotel until the next January 31st registration period or until the DCO classifies it.
- (D) By January 31st of each calendar year the DCO shall notify each hotel owner and/or operator within the City, in writing by personal service, certified mail or other method which provides confirmation of delivery, of the CFS Room Ratio which shall be used as the classification for that Hotel for that ensuing Lodging License year.
- (E) The City may monitor the CFS Room Ratio for each hotel on an ongoing basis. The City may change the status of any Tier 1 hotel during a calendar year upon notice in writing to the owner by personal service, certified mail or other method which provides confirmation of delivery that the CFS Room Ratio of such hotel has increased proportionately such that the CFS

Room Ratio, if annualized, would fall within the Tier 2 level. This notice shall include:

1. The designation assigned to the hotel;
 2. As allowed by law, data specifying the types of CFS identified as having occurred on the property during the period reviewed, including the incident numbers assigned to such CFS, and the date and time of each call to allow the owner to understand the basis of the designation;
 3. The requirement of a mandatory inspection to be conducted by the DCO; and
 4. The opportunity and procedures by which the owner may challenge the data provided to the owner pursuant to this subsection upon which the designation is based.
- (F) Upon such notice of initial classification or reclassification the owner or operator shall have ten days from the date of notice to show proof to the DCO that the revised CFS Room Ratio is erroneous. After receipt of such information from the owner or operator, the DCO shall classify the hotel as a Tier 1 or Tier 2 within ten (10) days of receipt of such information. The owner or operator may appeal the DCO's decision in accordance with this chapter.
- (G) The owner or operator shall have thirty (30) days from the date of notice of tier classification or reclassification (or from the date of the decision of the appeal if there was an appeal) to implement completely the changes in operation required by the revised classification. Failure to comply with this provision may result in revocation of the Lodging License.

97.05 LODGING LICENSE – GROUNDS FOR DENIAL

- (A) The Lodging License shall be denied to Tier 1 and Tier 2 hotels for any of the following reasons the DCO may discover or deem advisable or necessary in the course of the review of the application:
- (1) The hotel as constructed or as proposed to be operated by the applicant does not comply with all applicable laws including, but not limited to, the applicable building, zoning, housing, fire, safety, and health regulations and codes;
 - (2) The owner, operator and/or their property manager is or has been a registered sex offender;
 - (3) The owner, operator and/or their property manager have exceeded the Code Conviction Limit defined by this chapter;
 - (4) The applicant has, within three (3) years immediately preceding the date of filing the application, had a Lodging License suspended or revoked;

- (5) The applicant has knowingly made a material misstatement in the application for the Lodging License;
 - (6) Tier 2 hotels may also be denied a Lodging License if their CFS Room Ratio fails to meet the Tier 1 CFS Room Ratio within twelve (12) months of being notified of their Tier 2 standing.
- (B) Based on the initial CFS Room Ratio determined by the DCO directly after passage of this ordinance, a hotel with a CFS Room Ratio of 2.0 or greater shall be denied a Lodging License.
- (C) The owner or operator may appeal the DCO's decision in accordance with this chapter.

97.06 LODGING LICENSE – REVOCATION

- (A) A Tier 1 or Tier 2 hotel's Lodging License shall be revoked by the Construction Advisory and Appeals Board ("Board") if the owner or operator is convicted of a drug related or prostitution related crimes.
- (B) A Tier 2 hotel Lodging License shall be revoked by the Construction Advisory and Appeals Board ("Board") upon good cause shown that the operation of the hotel is such that it is or has negatively impacted the health, safety and/or welfare of its guests or the neighboring community. Decision for revocation shall be based on, but is not be restricted to, the following:
1. Non-compliance with federal, state and or city codes and ordinances;
 2. Drug related calls for service and/or drug related arrests;
 3. Prostitution related calls for service and/or prostitution related arrests;
 4. Calls for Fire, Police, Emergency Medical service;
 5. The operator and/or the owner have failed to correct a violation within the time period ordered by the City;
 6. Any other conditions, problems, issues, concerns or facts that are deemed relevant to the owner, operator or to the property; and/or
 7. The hotel operator, operator, and/or property manager have exceeded the Code Conviction Limit as defined by this chapter.
- (C) In processing a revocation the DCO shall prepare an Investigation Report that details the circumstances that have led to the request for a revocation. It may include, but not be restricted to, any or all of the following:
1. Frequency or occurrence of violation(s), arrest(s), or call(s) for service;
 2. Seriousness of the violation(s), arrests(s), or call(s) for service;
 3. Alleged or adjudicated code violations;
 4. History of violation(s) of city code(s) or state statute(s), arrest(s), or call(s) for service;

5. Any activity, action or effort taken by the responsible party to obstruct or interfere with correction of the problem;
6. The impact of the violation(s), arrest(s), or call(s) for service on the surrounding property and community; and/or
7. The financial impact to the City.

(D) Upon good cause shown in the revocation Investigation Report, the DCO shall file a written Revocation Request at the office of the city building official containing the following:

1. A heading in the words: "Before the Construction Advisory and Appeals Board of the City of Carrollton"
2. A caption reading: "Revocation of a Lodging License," giving the names and addresses of owners and operators (as shown on the most recent license application) and the physical address of the hotel.
3. A brief statement in ordinary and concise language of why the license should be revoked together with any material facts claimed to support the contentions of the DCO.
4. The signature of the DCO and his official mailing address.

(E) **Processing of Revocation.** Upon receipt of any Revocation Request filed pursuant to this section, the building official shall present it at the next regular or special meeting of the Construction Advisory and Appeals Board.

(F) **Scheduling and Noticing for Revocation Hearing.**

1. *Notice of hearing.*
 - (a) Notice of the hearing before the Board shall be delivered to the owner, operator, and any lienholder or mortgagee that can be discovered with a reasonably diligent search of the instruments on file in the office of the County Clerk of the County where the property is located.
 - (b) Notice shall be by one of the following methods at least 15 days prior to the hearing:
 1. Personal service;
 2. Certified mail, return receipt requested, and regular mail. Notice shall be sufficient if the return receipt is returned; or unsigned for any reason, and the regular mail is not returned;
 3. If the owner, operator or lienholder of interest in the property cannot be located, by publication in a newspaper of general circulation in the city.
2. *Contents of notice.* The notice of hearing shall contain the following:
 - (a) The street address or a legal description of the property.
 - (b) The place, date, and time of the hearing.

- (c) A statement that the owner, operator, lienholders, or mortgagee will be required to submit proof at the hearing of the scope of work that may be required to comply with the ordinances of the city and the time it will take to reasonably perform the work.
- (d) A brief summary of the action of the DCO related to the property including a copy of his filed Revocation Request and the Investigation Report on this hotel.

(G) Hearing.

1. The DCO shall present evidence to the Board of the condition of the property, the codes violated, the extent of danger or hazard to health, safety and welfare, and all other evidence that supports his request for the revocation of the Lodging License.
2. The owner of any interest in the property may present evidence on relevant issues and has the burden to demonstrate the scope of any work that may be required to comply with city ordinances and the time it will reasonably take to perform the work.
3. Any party may examine or cross-examine any witness before the Board. Strict rules of evidence or procedure are not required, but the Board has the authority to enforce strict decorum and may cause the removal of anyone who causes a disruption.

(H) Enforcement of the denial for a Lodging License or reclassification of a hotel shall be stayed during the pendency of a revocation hearing and decision.

(I) Findings and orders of the Board.

After hearing evidence from any interested party the Board may:

1. Find that the Lodging License is revoked; or
2. Deny the DCO's request to revoke the Lodging License.

(J) Upon a confirmation and final decision issued by the Construction Advisory and Appeals Board, the DCO shall post on the hotel premises a copy or copies of the revocation of the Lodging License of the hotel. The notice shall be sent by certified mail to the owners and operator indicating the decision of the Construction Advisory and Appeals Board.

(K) Upon a confirmation and final decision issued by the Board, the DCO shall file in the office of the County Clerk of the County where the property is located a certificate describing the hotel property and the final action of the Board revoking the Lodging License.

(L) A posted notice of the revocation of the Lodging License may only be removed by an authorized DCO. Any removal, covering, defacing, altering or tampering by unauthorized person(s) may be prosecuted as a misdemeanor violation of this chapter.

- (M) Whenever a Lodging License has been revoked by the City, the operator and/or owner of the hotel for which the Lodging License was issued shall surrender such license to the city. The operations of the hotel shall cease within ten (10) days of the posting of the notice of revocation of the Lodging License.

97.07 APPEAL PROCESS

- (A) **Filing Appeal.** Any owner or operator of a hotel that has been denied a Lodging License by the DCO or who has undergone tier classification by the DCO may appeal this action of the DCO to the Construction Advisory and Appeals Board. The owner or operator must file at the office of the city building official a written appeal containing the following:
1. A heading in the words: "Before the Construction Advisory and Appeals Board of the City of Carrollton."
 2. A caption reading: "Appeal of Denial for a Lodging License" or "Appeal of Tier Classification", giving the names of all appellants participating in the appeal.
 3. A brief statement setting forth the legal interest of each of the appellants in the hotel involved in the denial or classification change of a Lodging License.
 4. A brief statement in ordinary and concise language of that action protested, together with any material facts claimed to support the contentions of the appellant.
 5. A brief statement in ordinary and concise language of the relief sought and reasons why it is claimed the denial or classification change should be reversed, modified or otherwise set aside.
 6. The signatures of all parties named as appellants and their official mailing addresses.
 7. The verification (by declaration under penalty or perjury) of at least one appellant as to the truth of the matters stated in the appeal.
 8. Produce all documents that they relied upon.

The appeal shall be filed within twenty (20) days from receipt of the denial or classification change by the DCO.

- (B) **Processing of Appeal.** Upon receipt of any appeal filed pursuant to this section, the building official shall present it at the next available regular or special meeting of the Construction Advisory and Appeals Board.
1. *Notice of hearing.*
 - (a) Notice of the hearing before the Board shall be delivered to the owner and operator as listed on the application, and any lienholder or mortgagee that can be discovered with a reasonably diligent search

of the instruments on file in the office of the County Clerk of the County where the property is located.

- (b) Notice shall be by one of the following methods at least 15 days prior to the hearing:
 - 1. Personal service delivered; or
 - 2. Certified mail, return receipt requested, and regular mail. Notice shall be sufficient if the return receipt is returned; or unsigned for any reason, and the regular mail is not returned;
 - 3. If the owner, operator or lienholders of interest in the property cannot be located, by publication in a newspaper of general circulation in the city.

- 2. *Contents of notice.* The notice of hearing shall contain the following:
 - (a) The street address or a legal description of the property.
 - (b) The place, date, and time of the hearing.
 - (c) A statement that the owner, operator, lienholders, or mortgagee will be required to submit proof at the hearing of the scope of work that may be required to comply with the ordinances of the city and the time it will take to reasonably perform the work.
 - (d) A brief summary of the action of the DCO related to the property.

(C) Hearing.

- 1. The DCO shall present to the Board evidence of the property condition, the codes violated, the extent of danger or hazard to health, safety and welfare, and all other evidence that supports denial of the license or change in classification of tier.
- 2. The owner of any interest in the property may present evidence on relevant issues and has the burden of proof to demonstrate the scope of any work that may be required to comply with city ordinances and the time it will reasonably take to perform the work.
- 3. Any party may examine or cross-examine any witness before the Board. Strict rules of evidence or procedure are not required, but the Board has the authority to enforce strict decorum and may cause the removal of anyone who causes a disruption.

(D) Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.

(E) Enforcement of the denial for a Lodging License or reclassification of a hotel shall be stayed during the pendency of an appeal there from that is properly and timely filed.

(F) Findings and orders of the Board.

After hearing evidence from any interested party the Board may:

- (1) Find that the Lodging License is denied or is granted; or

- (2) Find that the hotel is classified as a Tier 1 or a Tier 2 for the remainder of the current license year.
- (G) At the conclusion of the appeal or after the time allowed to appeal the decision of the DCO has elapsed without an appeal, the DCO shall file in the office of the County Clerk of the County where the property is located a certificate describing the hotel property and the final action of the Board or of the DCO if no appeal was filed.
- (H) The action of the Board may be appealed to a District Court of the County in which the property, which is the subject of the action, is located if such appeal is filed within twenty (20) days of the Board's action. Such appeal shall be decided based on whether there was substantial evidence to support the Board's determination(s).

97.08 LIMITATION ON CONTINUOUS AND CUMULATIVE OCCUPANCY

- (A) The sleeping accommodations of a hotel shall be let only for the use of transient occupants and shall not be used or occupied under any permanent basis, and no such occupant shall be deemed to be a resident of the hotel.
- (B) It shall be unlawful for a Tier 1 hotel to let or otherwise provide any room therein to any person for more than 365 consecutive days.
- (C) It shall be unlawful for a Tier 2 hotel to let or otherwise provide any room therein to any person for more than 60 days in any 180 consecutive day period.
- (D) It shall be unlawful for the owner, operator, or property manager, to allow registration under a different name in order to avoid the continuous and cumulative occupancy provision defined in this chapter.
- (E) Any property left in a room by a person or party that has checked out shall be removed by the operator of the hotel before the room may be occupied by another party and be stored or disposed of in accordance with applicable laws.

97.09 PREMISES REQUIREMENTS

- (A) Each property owner, operator, or property manager shall cause to be maintained a complete register for each person to whom any room at a hotel is let. The register shall contain the following information:
 - 1. Correct name and permanent address, designating street and number, city, state and country;
 - 2. Actual dates of occupancy indicating check-in-time, checkout time and room number;

3. Correct license or registration number, state of registration and make of any vehicle or conveyance;
 4. Number of individuals staying in the room;
 5. Amount of the bill and method of payment; and
 6. Register records shall be maintained for a period of two (2) years for each person who lets any room at a hotel.
- (B) Tier 2 property owners, operators, or property managers shall require any person to whom any room at a hotel is let to provide evidence of his or her identity and address of residence, and, in addition thereto, the full and true name and address of each member of his party.
- (C) No Tier 2 property owner, operator, or property manager shall allow or permit any hourly charge for any room within said establishment.
- (D) No Tier 2 property owner, operator, or property manager shall allow or permit any room or rooms within the hotel to be rented more than twice in any 24-hour period commencing at 12:01 a.m.
- (E) No owner, operator, or property manager shall knowingly let, allow or permit any room on the premises to be used for any illegal purpose including but not limited to:
1. Prostitution,
 2. Gambling,
 3. Drug use, sale or manufacture of drugs,
 4. Sale of alcoholic beverages.
- (F) Providing false information to city authorities regarding the identity of and hours of occupancy by any occupant shall be prima facie evidence of knowledge of premises being used for illegal purposes including but not limited to:
1. Prostitution,
 2. Gambling,
 3. Drug use, sale or manufacture of drugs,
 4. Sale of alcoholic beverages.
- (G) Room rates shall be posted in a prominent location in all guest rooms. Guests shall not be charged in excess of posted rates. A range of rates is acceptable in the posting.
- (H) For guest complaints the telephone number and address for the DCO shall be posted in a prominent location in all guest rooms and public reception area.
- (I) A representative of the owner, operator or manager shall be present and accessible to the DCO in person, on a twenty-four (24) hour basis.
- (J) Tier 2 hotels are required to have twenty-four (24) hour on-site security provided by commissioned security officers.

- (K) All commissioned security officers while working for a Tier 2 hotel must be in uniform and must be registered with the Private Security Bureau of the Texas Department of Public Safety.
- (L) Commissioned security officers working for a Tier 2 hotel must have a Class B Security Contractor License issued from the Private Security Bureau of the Texas Department of Public Safety.

97.10 HOUSEKEEPING AND PREMISES CONDITIONS

- (A) The hotel premises and guest rooms shall fully comply with all City of Carrollton Construction, Fire, and Health, Safety and Property Maintenance Codes.
- (B) **Mattress Condition/Cleanliness.** Mattresses shall be free of stains, holes, rips or odors in excess of normal wear and tear, and maintained in a sanitary, non-defective condition (e.g. without broken springs, indentations, sags, etc.)
- (C) **Linen Condition/Cleanliness.** Linens shall be free of stains, holes, rips or odors in excess of normal wear and tear and shall be cleaned upon each change of occupancy or at least once a week when occupancy does not change. Linens shall be cleaned with appropriate sanitizing material to insure disinfection.
- (D) **Bathroom Conditions/Cleanliness.** Bathroom fixtures (e.g. toilet, bathtub, sink, shower, mirror) shall be maintained without cracks, chips, or stains. Floors shall be washed with water and a sanitizer at change of occupancy or at least once a week when occupancy does not change. Daily cleaning schedules shall be maintained in the manager's office.
- (E) **Carpet Condition/Cleanliness.** Carpeting shall be free of stains, holes, rips or odors in excess of normal wear and tear, and maintained in a sanitary, non-defective condition.
- (F) **Floor Condition/Cleanliness.** Non-carpeted floor surfaces shall be made of non-absorbent material. All surfaces and tile grouting shall be maintained without cracks, rips or missing elements.
- (G) **Wall Condition/Cleanliness.** Wall surfaces shall be maintained without spots, stains, flakes, chips, holes, etc. and be maintained in a clean and sanitary condition.
- (H) **Mold/Mildew.** All surfaces, including carpeting and flooring, and fixtures shall be free from mold and mildew.

- (I) Electrical Equipment. For the purpose of this chapter, electrical equipment shall include furniture items installed by the property owner, operator or property manager, including televisions, lamps, etc. All electrical items must be properly maintained and be in operable condition.
- (J) Furniture Condition. All furniture items shall be maintained in proper working condition, without defects, chips, holes, etc.
- (K) Shades, draperies or blinds shall be appropriately hung to cover all windows and appropriate light fixtures. All shades, draperies, blinds, shall be free of stains, holes, rips or odors in excess of normal wear and tear, and be maintained in a sanitary, non-defective condition.
- (L) Storage Rooms. No more than 10 percent of designed guest rooms may be used for storage room purposes.
- (M) A minimum of 90 percent of all guest rooms must be available or in use for occupancy at all times.
- (N) All windows designed to be opened shall be operable and have an operable window security or locking device.
- (O) Viewports. Each door shall have a viewport or window convenient to the door.
- (P) All rooms are required to be outfitted with exterior electronic/magnetic locks for guests to gain access to their rooms or by locks that meet with the approval of the DCO.
- (Q) Exterior Lighting. The exterior of the hotel property, including adjacent public sidewalks and parking lots under the control of the operator, shall be illuminated at least between one hour after sundown and one-half hour before sunrise. Illumination shall be a minimum of one-tenth (0.1) of one (1) footcandle throughout the property and shall not exceed four-tenths (0.4) of one (1) footcandle of light measured at the property line.
- (R) All hotel premises shall be treated for insects at least once a year by an exterminator licensed by the State.
- (S) All hotel premises shall be maintained so that they are free from rodents, insects, and vermin and free from conditions that encourage or harbor rodents, insects, and vermin.

97.11 ENFORCEMENT

- (A) Each violation of this chapter shall constitute a separate offense.

- (B) Allegation and evidence of a culpable mental state is not required for proof of an offense defined by this chapter except where expressly required by this chapter.
- (C) Any condition which is reasonably believed to be imminently dangerous to the life, limb, health or safety of the occupants of the property or to the public, upon reasonable notice provided to the owner, operator or manager or other responsible person, may be immediately abated by the DCO.
- (D) Actions taken to abate the imminently dangerous conditions may include, but are not limited to, repair or removal of the condition creating the danger and/or the restriction from use of occupancy of the property on which the dangerous condition exists or any other abatement action determined by the DCO to be necessary. In the event use of occupancy is restricted, the owner, operator or the property manager shall discontinue the use within the time prescribed by the DCO after receipt of such notice.
- (E) If entry onto the property and access to rooms or units constituting an imminently dangerous condition in violation of this chapter is denied to the DCO by the owner, operator or manager of the property, the DCO may seek a court order and/or inspection and abatement warrant from a court of competent jurisdiction to authorized the immediate abatement of the imminently dangerous conditions.
- (F) Costs for any abatement performed by, or on behalf of the city, including the cost of police services provided and including the relocation of occupants of the property shall be recoverable by the city.
- (G) Expenses incurred pursuant to this chapter shall be charged against the real estate and attached as a lien on which the work is done or improvements made, and charged to the owner of the property for the same.
- (H) At the option of the City, the City may proceed under the alternative procedure set forth in V.T.C.A., Local Government Code, Section 54.044, or as it may be amended, and the remainder of V.T.C.A., Local Government Code, Chapter 54 Enforcement of Municipal Ordinances, Subchapter C Quasi-Judicial Enforcement of Health and Safety Ordinances. The hearing must be held within 30 days after notice of the hearing and shall be conducted in accordance with the statute. Notice of the hearing shall be in accordance with V.T.C.A., Local Government Code, Section 54.035, as amended. The DCO shall act as the hearing officer who shall have the authority granted by the statute including the authority to set the amount and disposition of the administrative penalties, costs and fees. The hearing officer shall take all action required by statute in these proceedings. Each violation of this chapter shall constitute a separate violation for each day or part of a day during which the violation is committed, continued or permitted, unless otherwise provided. The civil penalty for a violation of a provision of this chapter may not exceed \$1,000. Administrative costs and fees

shall be established by the City on an actual incurred basis for that specific case. The order of the hearing officer shall comply with Section 54.044(h), as amended. Anyone aggrieved by an order may seek judicial review in accordance with Section 54.044(k), as amended.

97.12 PENALTY

An operator, owner, manager or responsible person who violates any provisions of this chapter is guilty of a misdemeanor, and upon conviction is punishable as set forth in Section 10.99 for each act of violation and for each day or part of a day during which the violation is committed, continued or licensed.

The provisions herein are cumulative of all other remedies including, but not limited to, injunctions and other extraordinary writs. Section 10.99 shall govern all penalties for any violation of this Code, notwithstanding any language to the contrary contained in any other section of this Code.

Section 3.

That the Code of Ordinance, City of Carrollton, Texas is hereby amended by adding a subsection, to be numbered Subsection 34.040(C)(6), which said subsection reads as follows:

CONSTRUCTION ADVISORY AND APPEALS BOARD

Sec. 34.040. Creation; composition; powers and duties.

(C) *Scope and authority of Board.*

- (6) The Board shall conduct the hearings provided in Chapter 97. Hotel Code of this Code and shall have the authority after hearing to order denial or revocation of a Lodging License, determine tier classification and assess expenses and civil penalties as allowed by law.

Section 4.

That the Code of Ordinance, City of Carrollton, Texas is hereby amended by adding a subsection, to be numbered Subsection 10.99(A)(2)(u), which said subsection reads as follows:

Sec. 10.99. General penalty.

(A) The conviction of a violation of a provision of this Code or any ordinance, rule, or regulation of the city, is punishable as follows:

(2) Not to exceed \$2,000.00 if the provisions violated govern fire safety, zoning, or public health and sanitation provisions, as follows:

- (u) Chapter 97 (Hotel Code).

Section 5.

That the Code of Ordinance, City of Carrollton, Texas is hereby amended by adding a subsection, to be numbered Subsection 31.01(D)(3), which said subsection reads as follows:

Sec. 31.01. Establishment of fees for city services.

The following fee schedule is hereby established and the following fees shall be charged for various services rendered by the city. The fees listed shall include sales tax if applicable.

(D) Environmental Services Department.

(3) Hotel Code.

Lodging License Fee, per year, for each unit on premises, minimum of \$250.00 per year . . . \$13.00

Reinspection fee during license period, per hour, two hour minimum . . . \$45.00

Appeal to Construction Advisory and Appeals Board . . . \$200.00

Section 6. Savings

All rights and remedies of the City are expressly saved as to any and all violations of the provisions of any other ordinances or statutes affecting hotel regulations which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

Section 7. Severability

It is hereby declared to be the intention of the City Council that in accordance with Section 10.07 of the Carrollton City Code, the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 8. Effective Date

This ordinance shall be in full force and effect from and after its passage and publication.

PASSED AND APPROVED on the ____ day of _____, 2008.

CITY OF CARROLLTON

By: *R F Branson*
Ronald F. Branson, Mayor



ATTEST:

Ashley Mitchell
Ashley Mitchell, City Secretary

APPROVED AS TO FORM AND LEGALITY:

R. Clayton Hutchins
R. Clayton Hutchins
City Attorney

APPROVED TO CONTENT

Scott Hudson
Scott Hudson
Director, Environmental Services