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CODIFIED ORDINANCES OF FAIRVIEW PARK
PART SEVEN - BUSINESS REGULATION CODE

CHAPTER 703
Dance Halls and Public Dances

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CROSS REFERENCES

Power to regulate - see Ohio R.C. 715.61
Intoxicating liquor in dance hall - see Ohio R.C. 4399.14
Disorderly conduct - see GEN. OFF. 509.03
Unreasonable noise - see GEN. OFF. 509.10
Amplifying devices - see GEN. OFF. 509.11

703.01 DEFINITIONS.

The terms used in this chapter shall have the meanings herein defined unless another meaning is clearly apparent in the language or context.

- (a) "Public dance" or "public ball" means any dance or ball to which admission can be had by payment of a fee or by the purchase, possession or presentation of a ticket or token obtained for money or other valuable consideration, or in which a charge is made for caring for clothing or other property, or any other dance to which the public generally may gain admission, with or without the payment of a fee, including restaurant dancing or any other dance or party where dancing is held before or after a program of some other nature, and dancing to which any of the public generally may gain admission with or without the payment of a fee.

- (b) "Known" as used in Section 703.08 providing for restrictions, means known to the manager, owner or lessee of a public dance hall, or to the persons conducting a public dance, or to the Police Department.
- (c) "Public dance hall" means any academy, room, place, restaurant or night club in which a public dance or public ball is held or any room, place, hall or academy in which classes in dancing are held or instruction in dancing is given for a fee.
- (d) "Private dancing" means and includes any dance given at any home or by any permanently organized clubs, societies or corporations, where the dancing is restricted to members of the society, club or corporation admitted by invitation only.
- (e) "Home" means and includes only such buildings used exclusively for private dwelling purposes.
- (f) "Dancing" does not mean or include exhibitions or performances in which the persons paying for admission do not participate.
(Ord. 70-29. Passed 6-15-70.)

703.02 LICENSE REQUIRED.

No person shall hold any public dance or public ball or hold classes in dancing, or give instructions in dancing for hire in any public dance hall, academy, room, place or restaurant within the limits of the City until such public dance hall, academy, room, place or restaurant has first been duly licensed for such purpose in the manner herein provided. No person, firm or corporation shall permit any room or building owned or controlled by him, to be used for the purpose of a public dance hall unless the same has been licensed as herein provided.
(Ord. 70-29. Passed 6-15-70.)

703.03 APPLICATION FOR LICENSE; REJECTION; APPEAL.

(a) Every person, society, club, firm or corporation desiring a license to operate a public dance hall shall make application to the Mayor or a designee thereof. Each application shall be in the form prescribed by the Mayor, and shall contain the name, residence, occupation and age of the applicants if individuals, and if a firm or partnership, the name or names, residences and occupations of the manager and each member of the firm or partnership, and if a corporation, the names of its officers and manager. The application shall also contain the location of such public dance hall, academy, room, place or restaurant, the street and number of all entrances, and amount of floor space to be used for dancing. Such application shall be filed at least ten days prior to the time of granting such license. The Police Chief, Fire Chief and the Building Commissioner for such inspection and investigation as they may deem necessary, for the purpose of determining whether such premises may safely be used for the purposes of public assembly and dancing, consider the presence or absence of fire hazards, adequate sanitary facilities and traffic control and regulations, and shall approve or disapprove such application. If the application is approved, the Mayor or a designee thereof shall issue a license on the payment of the proper fee hereinafter provided; but no such application shall be approved if the dance hall, as defined in Section 703.01, does not comply with all Municipal, County and State regulations governing sanitary conditions, fire protection, parking requirements and health regulations.

(b) The application shall be rejected if the reports submitted or facts found show that any of the persons named in the application for a public dance hall for which a license is sought is not of good moral character; or that any of such persons has previously been connected in any substantial capacity with a public dance hall, the license of which has been revoked within the State of Ohio; or that any provision of law with reference to public dance halls has been violated; or that the public dance hall sought to be licensed does not comply with all Municipal, County and State regulations governing sanitation, fire protection, parking requirements and health regulations; or that it is not properly ventilated and supplied with separate and convenient toilet facilities for each sex in the same building; or that it is not a safe and proper place for the purpose for which it is contemplated to be used.

(c) If the application is rejected, the applicant or applicants for the license shall be forthwith notified in writing of such rejection and the reasons therefor and shall have the right of appeal to a board composed of the President of Council, the Law Director and the Finance Director, which board after full hearing, shall have power to affirm, modify or reverse the finding of the Mayor or a designee thereof and the decision of such board shall be final. In case of appeal to such board, the applicant shall, within ten days after notice of such rejection, perfect his appeal by leaving notice in writing of his intention to appeal at the office of the Mayor. Such appeal board shall thereafter set a time and place for such hearing, which shall not be more than ten days after the date of filing notice of such appeal and which shall be public. Appellants may be represented by counsel.

(d) No applicant to whom a license has been refused shall make further application until a period of at least six months has elapsed since the last previous rejection, unless he can show that the reason for such rejection no longer exists. No license shall be granted to any person under twenty-one years of age, or to any person who is not a citizen of the United States and the State of Ohio, or renewed without a thorough reinspection of the premises for which the same is applied for. (Ord. 70-29. Passed 6-15-70.)

703.04 MAINTENANCE AND OPERATION.

All public dance halls shall be kept at all times in a clean, healthful and sanitary condition and all stairways and other passages shall be kept clear and well lighted. After a public dance hall license has been granted, it shall be the duty of the Building Commissioner to see that sufficient toilet conveniences, sanitary drinking facilities and adequate ventilating facilities are maintained in such dance halls. It shall be the duty of the Fire Department to see that all fire hazards are immediately removed from such public dance halls. The Police Chief may require the owner or manager of any public dance hall to employ a matron who shall be in attendance at all dances to supervise the conduct and deportment of patrons. No person shall be employed as matron unless first approved by the Police Chief. (Ord. 70-29. Passed 6-15-70.)

703.05 ANNUAL FEE; REFUND; TERM.

Any person, society, club, firm or corporation to which a license is granted, shall upon the granting of such license, pay an annual fee therefor as follows:

For floor space of less than 5,000 square feet, twenty-five dollars (\$25.00); for floor space exceeding 5,000 square feet, fifty dollars (\$50.00). However, upon the voluntary surrender of a dance hall license within 120 days after the issuance of the license, one-half of such fee shall be returned to the owner of the license, payable out of the fund into which such license fee has been paid. All moneys received by way of license fees and permits shall be paid into the general fund of the City. All licenses granted under the provisions of this chapter shall expire on October 1 of each year. A license issued in accordance with the provisions of this chapter shall be displayed at all times in a conspicuous place in the public dance hall for which it is issued. No transfer of any license shall be permitted.

(Ord. 70-29. Passed 6-15-70.)

703.06 REVOCATION OF LICENSE.

The Mayor or a designee thereof may, at any time, suspend and after giving written notice to the licensee and affording him an opportunity to be heard, may revoke, any license granted under the provisions of this chapter for disorderly or immoral conduct on the premises, or upon proof that the public dance hall or public dance given under the auspices of the licensee, was frequented by disorderly or immoral persons; or for the violation of any of the rules, regulations or ordinances governing and applying to public dance halls and dances, or any ordinance regulating, controlling or in any way relating to health, sanitation, fire protection or the public peace, or for the violation of any provision of this chapter. Whenever any license is so revoked, no refund of any portion of the fee paid shall be made, and at least six months shall elapse from the time of such revocation before another license shall be given to conduct a public dance hall or public dance in the same premises. A public record of all such revocations shall be made, containing the date and reasons for such revocation and the name of the owners and managers.

(Ord. 70-29. Passed 6-15-70.)

703.07 HOURS OF CLOSING.

All public dances and all public dance halls shall be closed on or before midnight. However, upon the application of a bona fide responsible person, club, organization, corporation or society and after investigation, the Mayor or a designee thereof may grant such person, club, organization, corporation or society a permit to continue the dance until such time as in his opinion, is reasonable.

(Ord. 70-29. Passed 6-15-70.)

703.08 RESTRICTIONS.

No person, firm, club, society or corporation shall:

- (a) Permit any known prostitute, male or female procurer or vagrant to be present at any public dance or public dance hall;
- (b) Permit on the public dance hall premises any person having in his possession or being under the influence of, selling or offering for sale, giving away or drinking any intoxicating liquors or drugs;
- (c) Permit idlers, loiterers or other hangers-on to be on or about the dance hall premises;
- (d) Permit smoking except in rooms reserved for smoking or in a restaurant or dining room when seated at a table;

- (e) Permit gambling in any form on the premises;
- (f) Permit men to enter the ladies' room or parlor;
- (g) Permit persons to indulge in dancing that is vulgar, suggestive or immoral;
- (h) Permit "moonlight" dances unless there is sufficient light in the dance hall so that the patrons can be easily seen;
- (i) Permit or employ any instructor under the age of twenty-one years to give instructions in dancing to persons of the opposite sex;
- (j) Discriminate between sexes by offering free admission to either sex as inducement to stimulate attendance;
- (k) Permit endurance dancing contests commonly known as marathon dances;
- (l) Permit dancing in restaurants with persons seated at different tables;
- (m) Permit any cabaret or other similar entertainment in a restaurant wherein any entertainers perform their acts by mingling with the audience or traveling about among them. (Ord. 70-29. Passed 6-15-70.)

703.09 TEMPORARY PERMIT; FEE.

No person, firm, society, club or corporation shall hold a public dance or public ball in any licensed dance hall within the limits of the City without having first obtained a permit therefor from the Mayor or a designee thereof. Application for such permit must be made at least two days before the dance authorized thereunder is to be held. The fee for such permit is two dollars (\$2.00).

No permit shall be required from the owner of a duly licensed hall, when he personally conducts such dances; but application for such permit shall be made. The person desiring such a permit shall use the form of application which may be obtained from the Mayor. A permit shall not be required where the applicant is a school, fraternal, civic, veteran or church organization. However, an application for such permit shall be made and the requirements set forth in the application shall be adhered to.

703.10 DUTIES OF POLICE CHIEF.

The Police Chief or any officer detailed by him, shall be permitted to have access to all public dance halls at all times. He shall investigate complaints and shall inspect at intervals the dance halls within the City and shall report all violations in writing. The Police Chief shall from time to time formulate rules and regulations not inconsistent with this chapter or any other ordinance governing the conduct of patrons of public dances, stating what dances are permitted and what dances are forbidden, together with correct positions to be assumed by dancers, a copy of which rules and regulations shall be printed in large type and posted at a conspicuous place in any dance hall used for public dances.

Members of the Police Department under the supervision of the Chief of Police shall have access at all times to the public dance halls and public dances. Officers and patrolmen of such Department may be detailed to investigate all complaints and supervise such public dances, and when so detailed shall visit such halls and dances and report any and all violations. Such reports shall be turned over to their superior officers who shall forthwith submit them to the Chief.

The Chief of Police shall have power and it shall be his duty to close or cause to be vacated any academy, room, dance hall, place or restaurant where any public dance is held or being given, whenever any rule or regulation or any provision of any ordinance regulating public dances or public dance halls is being violated.
(Ord. 70-29. Passed 6-15-70.)

703.11 EXCEPTIONS.

In addition to the exceptions set forth in Sections 703.01 and 703.09, a license shall not be required by any church, public or private school building, fraternal or veteran building or any building owned by the City, but the temporary permits required under Section 703.09 shall be mandatory under the provisions of Section 703.09.
(Ord. 70-29. Passed 6-15-70.)

703.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than five hundred dollars (\$500.00) or imprisoned for not more than sixty days, or both.
(Ord. 70-29. Passed 6-15-70.)

CHAPTER 705
Motels and Hotels

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| 705.01 Definition. | 705.03 Access to premises. |
| 705.02 Registration list; contents; penalty. | 705.99 Penalty. |

CROSS REFERENCES

Guests to register - see Ohio R.C. 3503.31
Hotels - see Ohio R.C. Ch. 3731
Innkeepers - see Ohio R.C. Ch. 4721

705.01 DEFINITION.

For the purposes of this chapter, “motel” and “hotel” shall have the same definition as set forth in Section 1105.06(j) and (i) respectively of the Codified Ordinances. (Ord. 93-76. Passed 10-18-93.)

705.02 REGISTRATION LIST; CONTENTS; PENALTY.

(a) The Chief of Police or his designee may require that the manager or person in charge of any motel or hotel shall furnish a list of the persons who have registered at such motel or hotel. The time of arrival of an occupant of each unit shall be noted upon the record to be kept pursuant hereto. In no event shall there be a letting to, or occupancy by, any other person of any such unit within the twenty-four hour period next following the time so noted. No person residing within the Municipality for a period of thirty days, or over, is to be deemed a transient guest under the provisions of this chapter and Chapter 1351 of the Codified Ordinances, nor shall the owner, operator or person in control of any motel or hotel permit any person(s) to occupy any unit therein for a period in excess of thirty days unless such motel or hotel is so licensed by the State of Ohio pursuant to Ohio R.C. Chapter 3731 or any other licensing agency; and is constructed as to be in full compliance with the City, or any other applicable Building Code, as such Code(s) apply to motel or hotel units. (Ord. 04-19. Passed 4-19-04.)

(b) No person shall register for accommodations at any hotel or motel under a false, fictitious, or assumed name, without first making his or her true name known to the person in charge thereof. (Ord. 97-2. Passed 4-21-97.)

(c) Any owner, operator or person in control of any motel or hotel who allows a violation of or fails to comply with any of the provisions of this section is guilty of a misdemeanor of the fourth degree and shall be fined not more than two hundred fifty dollars (\$250.00) or imprisoned not more than thirty days, or both, for each such offense. A separate offense shall be deemed committed each day during or on which a violation or non-compliance occurs or continues. (Ord. 04-19. Passed 4-19-04.)

705.03 ACCESS TO PREMISES.

The Chief of Police, the Chief of Fire, the Fire Prevention Officer, the Director of Public Service and Development, the Building Commissioner and their respective designees shall, within the scope of their respective enforcement duty and authority, have access to each motel and hotel premises and to any unit thereof at all reasonable times to ascertain that the ordinances of the City and the laws of the State of Ohio are complied with.
(Ord. 93-76. Passed 10-18-93.)

705.99 PENALTY.

Whoever violates any provision of this chapter for which no other penalty is provided is guilty of a misdemeanor of the first degree. Each day's continued violation shall constitute a separate offense.
(Ord. 93-76. Passed 10-18-93.)

CHAPTER 706
Hotel and Motel Tax

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| <p>706.01 Definitions.</p> <p>706.02 Imposition of tax; exemption.</p> <p>706.03 Transient guest to pay tax; proof of exemption.</p> <p>706.04 Refund of illegal or erroneous payments.</p> <p>706.05 Records; inspection; destruction.</p> <p>706.06 Returns required; procedure; forfeit for failure to file.</p> <p>706.07 Liability of vendor; assessment; petition for reassessment; penalties.</p> <p>706.08 Four year limitation for assessment; exceptions.</p> | <p>706.09 Tax to be paid by transient guest; false evidence of tax exempt status prohibited.</p> <p>706.10 Vendor to collect tax; rebate prohibited.</p> <p>706.11 Return must be filed; procedure in a failure to file.</p> <p>706.12 Personal liability of corporate officers or employees.</p> <p>706.13 Intent.</p> <p>706.14 Severability.</p> |
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CROSS REFERENCES

Hotels and motels generally - see BUS. REG. Ch. 705

706.01 DEFINITIONS.

As used in this chapter:

- (a) "Hotel and Motel and Motor Inn" means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered to guests, in which five or more rooms are used for the accommodations of such guests, whether such rooms are in one or several structures.
- (b) "Transient Guest" means natural persons who physically occupy a room or rooms for sleeping accommodations for less than thirty days.
- (c) "Vendor" means the person who is the owner or operator of the hotel and who furnishes the lodging. (Ord. 98-48. Passed 10-5-98.)

706.02 IMPOSITION OF TAX; EXEMPTION.

- (a) For the purpose of providing revenue with which to meet the needs of the City for use exclusively by the Fairview Park Police Department only an excise tax is hereby levied when lodging in a hotel, motel, or motor inn is or is to be furnished to transient guests. Such excise tax to become effective July 1, 1999.

(b) The tax is three percent (3%) of the amount to be paid by, or on behalf of, the transient guest for the lodging. The tax applies and is collectable at the time of the lodging is furnished, regardless of the time when the amount paid for lodging is paid. The tax does not apply to lodging furnished to the State or any of its political subdivisions.

(c) For the proper administration of this chapter and to prevent evasion of the tax, it is presumed that all lodging furnished by the hotels, motels, and motor inns in this City is to be transient guests and is subject to the tax until the contrary is established. (Ord. 98-76. Passed 12-7-98.)

706.03 TRANSIENT GUEST TO PAY TAX; PROOF OF EXEMPTION.

(a) The tax imposed by this chapter shall be paid by the transient guest to the vendor, and each vendor shall collect from the transient guest the full and exact amount of the tax payable on each taxable lodging.

(b) If the transaction is claimed to be exempt, the transient guest must furnish to the vendor, and the vendor must obtain from the transient guest, a certificate specifying the reason that the sale is not legally subject to the tax. If no certification is obtained, it shall be presumed that the tax applies. (Ord. 98-48. Passed 10-5-98.)

706.04 REFUND OF ILLEGAL OR ERRONEOUS PAYMENTS.

The Director of Finance of Fairview Park shall refund to vendors the amount of taxes paid illegally or erroneously or paid on any illegal or erroneous assessment where the vendor has not reimbursed himself from the transient guest. When such illegal or erroneous payment or assessment was not paid to a vendor but was paid by the transient guest directly to the Director of Finance of Fairview Park or his agent, he shall refund the tax to the transient guest. Applications shall be filed with the Director of Finance, on the form prescribed by him, within ninety days from the date it was ascertained that the assessment or payment was illegal or erroneous. However, in any event, an application for refund must be filed with the Director of Finance within four years from the date of the illegal or erroneous payment of the tax. On filing of the application, the Director of Finance shall determine the amount due and certify the amount. The Director of Finance shall draw a warrant for such certified amount to the person claiming such refund. The Director of Finance shall make such payments from a tax refund as established by ordinance. (Ord. 98-48. Passed 10-5-98.)

706.05 RECORDS; INSPECTION; DESTRUCTION.

Each vendor shall keep complete and accurate records of lodgings furnished, together with a record of the tax collected thereon, which shall be the amount due under this chapter and shall keep all invoices, and such other pertinent documents. If the vendor furnishes lodging not subject to the tax, the vendor's records shall show the identity of the transient guest, if the sale was exempted by reason of such identity, or the nature of the transaction if exempted for any other reason. Such records and other documents shall be opened during business hours to the inspection of the Director of Finance of Fairview Park and shall be preserved for a period of four years, unless the Director of Finance, in writing, consents to their destruction within that period of time, or by orders requires that they be kept longer. (Ord. 98-48. Passed 10-5-98.)

706.06 RETURNS REQUIRED; PROCEDURE; FORFEIT FOR FAILURE TO FILE.

(a) Each vendor shall, on or before the twentieth day of each month, make and file an excise tax return of the preceding month, on forms prescribed by the Director of Finance, showing the receipts from furnishing lodging, the amount of tax due from the vendor to the City for the period covered by the return and such other information as the Director of Finance believes necessary for the proper administration of this chapter. The Director of Finance may extend the time for making and filing returns. Returns shall be filed by mailing them to the Director of Finance, together with payment of the amount of tax shown to be due thereon.

(b) The Director of Finance may authorize vendors whose tax liability is not such as to merit monthly returns, as determined by the Director of Finance upon the basis of administrative costs to the City, to make and file returns at less frequent intervals. Such authorization shall be in writing and shall indicate the intervals at which returns are to be filed.

(c) The Director of Finance shall stamp or otherwise mark on each return the date it is received by him and shall also show thereon by stamp or otherwise the amount of payment received with the return. Any vendor who fails to file a return under this chapter shall, for each day he so fails, forfeit and pay into the City treasury the sum of one dollar (\$1.00).

(d) The Director of Finance, if he deems it necessary in order to insure the payment of the tax imposed by this chapter, may require returns and payments be made for other than monthly periods. The returns shall be signed by the vendor or his authorized agent. (Ord. 98-48. Passed 10-5-98.)

706.07 LIABILITY OF VENDOR; ASSESSMENT; PETITION FOR REASSESSMENT; PENALTIES.

(a) If any vendor collects the tax imposed by or pursuant to this chapter and fails to remit the tax to the City as prescribed, he shall be personally liable for any amount collected which he failed to remit. The Director of Finance may make an assessment against the vendor based upon any information in the Director of Finance's possession.

(b) If any vendor fails to collect the tax or any transient guest fails to pay the tax imposed by or pursuant to this chapter on any transaction subject to the tax, such vendor shall be personally liable for the amount of tax applicable to the transaction. The Director of Finance may make an assessment against the vendor, based upon any information in his possession.

(c) An assessment against a vendor in cases where the tax imposed by or pursuant to this chapter has not been collected or paid, shall not discharge the transient guest's liability to reimburse the vendor for the tax applicable to such transaction.

(d) In each case the Director of Finance shall give to the vendor an assessed written notice of the assessment. The notice may be served upon the vendor assessed personally or by registered or certified mail.

(e) The Director of Finance may make an assessment against any vendor who fails to file a return required by this chapter or fails to remit the proper amount of tax in accordance with this chapter. When information in the possession of the Director of Finance indicates that the amount required to be collected is, or should be, greater than the amount indicated remitted by the vendor, the Director of Finance may upon the basis of test checks of a vendor's business for a representative period which are hereby authorized, determine the ratio which the tax requires to be collected under this chapter bears to the hotel's lodgings which determination shall be the basis of an assessment as herein provided in this chapter. Notice of such assessment shall be made in the manner prescribed in this chapter.

(f) Unless the vendor, to whom the notice of assessment is directed, files within thirty days after service thereof, either personally or by registered or certified mail a petition in writing, verified under oath by the vendor, transient guest or his authorized agent having knowledge of the facts, setting forth with particularity the items of assessment objected to, together with the reasons for objections, the assessment shall become conclusive and the amount thereof shall be due and payable, from the vendor so assessed to the Director of Finance of the City of Fairview Park of Fairview Park, Ohio. When a petition for reassessment is filed, the Director of Finance shall assign a time and place for the hearing of the petition and shall notify the petitioner thereof by registered or certified mail, but the Director of Finance may continue the hearings from time to time if necessary.

(g) A penalty of five percent (5%) per month to a maximum of fifty percent (50%) shall be added to the amount of every assessment made under this chapter. The Director of Finance may adopt and promulgate rules and regulations providing for the remission of penalties added to assessments made under this chapter.

(h) When any vendor files a petition for reassessment as provided in this chapter, the assessment made by the Director of Finance together with penalties thereon, shall become due and payable within three days after notice of the finding made at the hearing has been served, either personally or by registered or certified mail upon the party assessed.
(Ord. 98-48. Passed 10-5-98.)

706.08 FOUR YEAR LIMITATION FOR ASSESSMENT; EXCEPTIONS.

No assessment shall be made or issued against a vendor for any tax imposed by or pursuant to this chapter more than four years after the return date for the period in which the lodging was furnished or more than four years after the return for such period is filed, whichever is later. This division does not bar an assessment:

- (a) When the Director of Finance has substantial evidence of amounts of taxes collected by a vendor from transient guest's lodging which were not returned to the City.
- (b) When an assessed vendor failed to file a return as required.
(Ord. 98-48. Passed 10-5-98.)

706.09 TAX TO BE PAID BY TRANSIENT GUEST; FALSE EVIDENCE OF TAX EXEMPT STATUS PROHIBITED.

No transient guest shall refuse to pay the full and exact tax as required by this chapter; no transient guest shall present false evidence to the vendor indicating that the lodging as furnished is not subject to the tax. (Ord. 98-48. Passed 10-5-98.)

706.10 VENDOR TO COLLECT TAX; REBATE PROHIBITED.

No vendor shall fail to collect the full and exact tax as required by this chapter. No vendor shall refund, remit or rebate to a transient guest, either directly or indirectly, any of the tax levied pursuant to this chapter, or make in any form of advertising, verbal or otherwise any statements which might imply that he is absorbing the tax, or paying the tax for the transient guest by an adjustment of prices, or furnishing lodging at a price including the tax, or rebating the tax in any other manner. (Ord. 98-48. Passed 10-5-98.)

706.11 RETURN MUST BE FILED; PROCEDURE IN A FAILURE TO FILE.

(a) No person, including any officer of a corporation or employee of a corporation having control or supervision of or charged with the responsibility of filing returns, shall fail to file any return or report required to be filed by this chapter, or file or cause to be filed any incomplete, false or fraudulent return, report or statement, or aid or abet another in the filing of any false or fraudulent return, report or statement.

(b) If any vendor required to file monthly returns under this chapter fails, in two consecutive months or in three or more months within a twelve-month period, to file such returns when due or to pay the tax thereon, or if any vendor authorized by the Director of Finance to file returns at less frequent intervals, fails on two occasions within a twenty-four month period, to file such returns when due or to pay the tax due thereon, the Director of Finance may require such vendor to furnish security in the amount equal to average tax liability of the vendor for a period of one year, as determined by the Director of Finance from a review of return or other information pertaining to such vendor which amount shall in no event be less than one hundred dollars (\$100.00). The security may be in a form of an advance tax payment to be applied to pay the tax due on subsequent returns, or a corporate surety bond satisfactory to the Director of Finance, conditioned upon payment of the tax due with the returns from the vendor. The surety must be filed within ten days following the vendor's receipt of the notice from the Director of Finance of its requirements.

(c) A corporate surety bond filed under this section shall be returned to the vendor if, for a period of twelve consecutive months following the date the bond was filed, the vendor has filed all returns and remitted payment therewith within the time prescribed in this chapter. (Ord. 98-48. Passed 10-5-98.)

706.12 PERSONAL LIABILITY OF CORPORATE OFFICERS OR EMPLOYEES.

If any vendor corporation required to file returns and to remit tax due to the City under the provisions of this chapter fails for any reason to make such filing or payment, any of its officers or its employees having control or supervision of or charged with the responsibility of filing returns and making payments shall be personally liable for such failure. The dissolution of a corporation shall not discharge an officer's or employee's liability for a prior failure of the corporation to file returns or remit tax due. The sum due for such liability may be collected by assessment in the manner provided in this chapter. (Ord. 98-48. Passed 10-5-98.)

706.13 INTENT.

It is the intent of this chapter to levy the excise tax of three percent (3%) on transactions by which lodging by a hotel, motel or motor inn is or is to be furnished to transient guests as referred to and authorized by Ohio R.C. 5739.02(c). Accordingly, this chapter shall be construed to effectuate that purpose and so as to be consistent with any requirement of law compliance with which is a prerequisite to the validity of the tax intended to be levied hereby. (Ord. 98-48. Passed 10-5-98.)

706.14 SEVERABILITY.

If any sentence, clause, section or part of this chapter or any tax imposed as specified herein is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof have not been included herein. (Ord. 98-48. Passed 10-5-98.)

CHAPTER 707
Apartment Buildings

| | | | |
|---------------|---------------------------------|---------------|---------------------------------------|
| 707.01 | Definitions. | 707.05 | Right of entry. |
| 707.02 | License required; fee. | 707.06 | Cancellation of license. |
| 707.03 | Application for license. | 707.07 | Responsibility for compliance. |
| 707.04 | Inspections. | 707.99 | Penalty. |

CROSS REFERENCES

Zoning requirements - see P. & Z. Ch. 1121, 1133

Elevator fire regulations - see FIRE PREV. 1501.02 (28.17)

707.01 DEFINITIONS.

(a) For the purpose of this chapter, “apartment building” means any structure containing more than three dwelling units, used wholly for the purpose of leasing or renting rooms or suites to more or less permanent tenants, and being under the common ownership or management of an individual(s), corporation, Limited Liability Companies, Limited Partnerships or Partnerships.

(b) Further “apartment buildings” as herein defined shall include dwelling units individually rented or leased in structures without common entrances, exits, hallways, lobbies or facilities, where located within a complex or cluster arrangement and under the common ownership or management of an individual(s), corporation, Limited Liability Companies, Limited Partnerships or Partnerships.
(Ord. 03-36. Passed 10-6-03.)

707.02 LICENSE REQUIRED; FEE.

(a) No person shall let, rent or lease for occupancy, either as owner, lessor, agent or attorney, any apartment building units or suites within the City without first having obtained a license from the office of the Building Commissioner. The license shall be renewable January 1 of each year during the period of occupancy.

(b) The fee for such license shall be seventy-five dollars (\$75.00) per apartment complex plus an additional five dollars (\$5.00) for the first 100 individual dwelling units to be occupied per building and three dollars (\$3.00) for each unit thereafter.

(c) Upon vacancy of any dwelling unit as hereinbefore defined will have an occupancy inspection for maintenance and repairs prior to any re-occupancy. Fee for this inspection shall be twenty-five dollars (\$25.00) for each vacated unit(s). Any unit inspected prior to the annual license inspection will count toward the required twenty-five percent (25%) for the next license inspection in an apartment building.
(Ord. 03-36. Passed 10-6-03.)

707.03 APPLICATION FOR LICENSE.

Applications for license to let, rent or lease apartments shall be obtained from the Building Commissioner. Such application shall be filed during the month of January of each year commencing with 1990. The fees shall be payable at the time of such application. Such license shall expire December 31 of each year. During this application for license, the owner shall be notified in writing of his duty to post a summarized explanation of the duties and rights of tenants under Ohio R.C. Chapter 5321 approved by the Building Commissioner in an enclosed covering in a conspicuous location above the mailboxes, or other location approved by the Building Commissioner, in each structure of the apartment, every day of the year, so that each tenant shall be notified of his rights and duties under the law.
(Ord. 03-36. Passed 10-6-03.)

707.04 INSPECTIONS.

(a) The Building Commissioner or his representative, prior to the issuance of a license to rent apartment building units or any renewal thereof, shall make an inspection of the premises to ascertain if there are any violations of these Codified Ordinances or State law, permission to enter shall be provided by the occupant or, in the case of unoccupied property, from the owner or his agent. A license shall not be issued or renewed until any violations found on the premises have been corrected. At the time the license is issued, the owner shall sign an agreement stating that he hereby certifies that he shall continue to post and maintain a summarized explanation of the duties and rights of tenants under Ohio R.C. Chapter 5321 approved by the Building Commission in an enclosed covering in a conspicuous location above the mailboxes, or other location approved by the Building Commissioner, in each structure of the apartment, every day of the year, so that each tenant shall be notified of his duties and rights under the law.

(b) The Building Commissioner or his representative is hereby authorized to make or cause to be made inspections to determine the condition of all common areas, inside and out, including garages, and exteriors of building and of the multi-family dwelling, multi-family dwelling units, occupiable structures and premises located within the City in order that he may perform his duty of safeguarding the health and safety of the occupants of the dwelling units and occupiable structures and of the general public and to determine whether they conform to the provisions of this Code. Such inspections may also be made whenever the Building Commissioner has reasonable cause to believe that a violation of this Building Code exists therein or thereon.
(Ord. 03-36. Passed 10-6-03.)

707.05 RIGHT OF ENTRY.

(a) For the purpose of making such inspections, the Building Commissioner, upon presentation of proper credentials, is authorized to enter, examine and survey at all reasonable times a minimum of twenty-five percent (25%) of all multi-family dwellings, multi-family dwelling units, rooming units, occupiable structures, structures and premises provided for in this Code. The owner and occupant of every such multi-family dwelling, multi-family dwelling unit, rooming unit, occupiable structures, structures and premises and the person in charge thereof shall give such official free access to such multi-family dwelling, multi-family dwelling unit, rooming unit, occupiable structure, structures and premises at all reasonable times for the purpose of such inspection, examination and survey.

(b) Every occupant of a multi-family dwelling, multi-family dwelling unit, or occupiable structure shall give the owner thereof or his agents and employees access to any part of such multi-family dwelling, multi-family dwelling unit, occupiable structure or their premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this Code.

(c) Except in emergency situations, no penalty under the penalty provisions of this Code shall apply against any owner who refuses the right of entry hereunder until a search warrant is obtained.

(Ord. 03-36. Passed 10-6-03.)

707.06 CANCELLATION OF LICENSE.

(a) The Building Commissioner is authorized to revoke the Housing License of any property to which they are denied access to make an inspection.

(b) The Building Commissioner may cancel any license issued hereunder and withdraw a certificate of occupancy for any apartment when a violation of a State law or a City ordinance has been found to exist on the premises in excess of sixty (60) days after notice has been sent to the owner of the apartment. Notification, for the purpose of this section, shall be by certified or registered mail to the owner at the address shown on the County tax duplicate records.

(Ord. 03-36. Passed 10-6-03.)

707.07 RESPONSIBILITY FOR COMPLIANCE.

The owner as defined in this Code shall be responsible for compliance with all of the provisions of this Code except where the responsibility therefor is specifically placed elsewhere.

(Ord. 03-36. Passed 10-6-03.)

707.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six (6) months, or both. Each day's continued violation shall constitute a separate offense.

(Ord. 03-36. Passed 10-6-03.)

CHAPTER 708
Rental Dwelling License

| | | | |
|---------------|---------------------------------|---------------|---|
| 708.01 | Definitions. | 708.06 | Right of entry. |
| 708.02 | License required; fee. | 708.07 | Cancellation or revocation of license. |
| 708.03 | Application for license. | 708.99 | Penalties. |
| 708.04 | Change in ownership. | | |
| 708.05 | Inspections. | | |

708.01 DEFINITIONS.

For the purpose of this chapter:

- (a) "Rental Dwelling Unit" means any single-family home or one (1) independent living quarter, that is non-owner occupied, which provides for living, sleeping, cooking, eating and sanitation within any condominium, townhouse, duplex or three family housing located in the City of Fairview Park.
- (b) "Building Commissioner" means the duly appointed Building Official of the City of Fairview Park or any licensed or authorized building inspector.
- (c) "Rental Dwelling Unit License" means the certificate issued by the Building Commissioner which authorizes the operation of a rental dwelling.
- (d) "License Fee" means a nonrefundable yearly rental license fee paid to the City for a license to operate a Rental Dwelling Unit.
(Ord. 08-57. Passed 11-3-08.)

708.02 LICENSE REQUIRED; FEE.

(a) No person shall let, rent or lease for occupancy, either as owner, lessor, agent or attorney, any rental dwelling unit within the City of Fairview Park without first having obtained a license from the Office of the Building Commissioner. The License shall be renewable by July 1st of each year for the following year and for each year during the period of occupancy. Any license issued shall be non-transferable.

(b) The fee for a rental dwelling license shall be one hundred dollars (\$100.00) per year per rental dwelling unit. Beginning immediately upon adoption of this ordinance, rental dwelling units will be required to apply for a Rental Dwelling Unit License at a fee of fifty dollars (\$50.00) to cover the period between implementation of this ordinance and July 1, 2009.

(c) Should payment not be made within thirty (30) days of its due date, a late fee of fifty dollars (\$50.00) shall be imposed upon the licensee.

(d) Should the rental dwelling unit require a reinspection to demonstrate compliance with all laws and ordinances or correction of any citation(s) issued by the Building Commissioner, the reinspection fee shall be twenty-five dollars (\$25.00) for each reinspection, said fees to be paid prior to the issuance of a license under this chapter.
(Ord. 08-57. Passed 11-3-08.)

708.03 APPLICATION FOR LICENSE.

Applications for license for rental dwelling units shall be obtained from the Office of the Building Commissioner. The application shall be filed by June 15 of each year for the following year. The fee due shall be submitted with the Application for License. Any Rental Dwelling Units added in a building must be licensed within thirty (30) days of the rental of the added rental dwelling unit. (Ord. 08-57. Passed 11-3-08.)

708.04 CHANGE IN OWNERSHIP.

In the event there is a change in the ownership of the property as shown on the license, the Rental Dwelling License shall become null and void thirty days after the recorded date of such change of ownership. A new Rental Dwelling Unit License must be obtained by the new owner within thirty days after the change in ownership has been recorded.
(Ord. 08-57. Passed 11-3-08.)

708.05 INSPECTIONS.

(a) Each rental dwelling unit shall be subject to inspection by the Office of the Building Commissioner prior to the issuance of the license. Such inspection shall be made of the rental dwelling unit to ascertain whether there are any violations of the Codified Ordinances of the City of Fairview Park, or any other applicable law. No license shall be issued or renewed until any violations found on the rental dwelling unit property are corrected.

(b) The Building Commissioner is hereby authorized to make or cause to be made inspection to determine the condition of the rental dwelling unit so that the health and safety of the occupants and the general public may be safeguarded. Inspections may be conducted one time per license year or whenever the Building Commissioner has reasonable cause to believe a violation of the laws or ordinances of the City exist.
(Ord. 08-57. Passed 11-3-08.)

708.06 RIGHT OF ENTRY.

For the purpose of making inspections, the Building Commissioner, upon presentation of proper identification, may enter and inspect at all reasonable times the rental dwelling unit. The owner or his agent and/or the occupant of the rental dwelling unit shall give free access to the rental dwelling unit for purposes of inspection.
(Ord. 08-57. Passed 11-3-08.)

708.07 CANCELLATION OR REVOCATION OF LICENSE.

A license issued pursuant to this chapter may be revoked by the Building Commissioner for any of the following reasons:

- (a) Failure to timely renew the license as required by the Building Commissioner.
- (b) Any false statements or representations made by the licensee orally or in writing in connection to the application and issuance of the license.
- (c) The building for which the Rental Dwelling Unit License(s) was issued has added rental dwelling units that were not listed on any application or otherwise licensed according to this chapter.
- (d) Whenever, in the opinion of the Building Commissioner, the condition of a Rental Dwelling Unit, or part thereof, constitutes an immediate hazard to human life or health. The Building Commissioner shall declare an emergency and is hereby authorized to order and require the occupants of the Rental Dwelling Unit to vacate the unit and/or order the immediate repair of the unit, or part thereof, in addition to revoking the license.

(Ord. 08-57. Passed 11-3-08.)

708.99 PENALTIES.

(a) Whoever violates this chapter shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than six (6) months. Each day's continued violation shall constitute a separate offense.

(b) The imposition of any penalty as provided for in this chapter shall not preclude the Director of Law from instituting an appropriate action of proceeding in a court of proper jurisdiction to prevent any unlawful repair or maintenance, to restrain, correct or abate a violation, to prevent occupancy of a rental dwelling unit or to require compliance with the provisions of this chapter or other applicable laws, ordinances, rules, regulations or orders or determinations of the Building Commissioner. (Ord. 08-57. Passed 11-3-08.)

CHAPTER 709
Outdoor Public Shows

| | | | |
|---------------|--|---------------|-------------------------------|
| 709.01 | License required; fee. | 709.03 | Noise; daily clean-up. |
| 709.02 | License application; deposit for cleaning premises. | 709.99 | Penalty. |

CROSS REFERENCES

Power to regulate - see Ohio R.C. 715.48, 715.63, 3765.02
Admissions tax - see ADM. Ch. 171

709.01 LICENSE REQUIRED; FEE.

No person, either as owner, lessee, manager, officer or agent, or in any capacity, shall give, conduct, produce, present or offer for gain or profit any outdoor circus, carnival, menagerie, wild west show, dog and pony show or other shows and exhibitions, with the exception of athletic events, public band concerts, civic parades and school activities other than those hereinbefore set forth, without securing from the Mayor or a designee thereof a license for that purpose and paying a license fee of twenty-five dollars (\$25.00).
(Ord. 87-22. Passed 2-15-88.)

709.02 LICENSE APPLICATION; DEPOSIT FOR CLEANING PREMISES.

(a) Application for the license required by Section 709.01 shall be made in writing to the Mayor or a designee thereof for a specified period of time, not to exceed six days, and shall be made upon such forms as he shall prescribe. In no event shall the Mayor issue a permit for Sunday operation of any of the shows described in Section 709.01, unless for good cause shown to Council, Council authorizes the issuance of a Sunday license by the Mayor.

The Police Chief shall investigate the character and experience of the applicant, the safety of the devices and the proposed location of such entertainment, so that a nuisance is not created, and based thereon, the Mayor or a designee thereof shall approve or disapprove the application.
(Ord. 72-37. Passed 6-19-72.)

(b) The applicant shall deposit with the Mayor or a designee thereof, before the license is issued, one hundred dollars (\$100.00) for cleaning the premises in case the applicant fails to do so within forty-eight hours after the termination of the show. If the premises are properly cleaned on time by the licensee, the deposit shall be refunded; otherwise the Mayor or a designee thereof shall cause the work to be done and the licensee shall be responsible for any deficiency in the costs of cleaning. (Ord. 87-22. Passed 2-15-88.)

709.03 NOISE; DAILY CLEAN-UP.

No person, either as owner, lessee, manager, officer or agent, or in any capacity, shall permit or allow music to be played in any manner after 11:00 p.m. on each day of the operation or presentation of the shows as described in Section 709.01. The premises upon which such shows are conducted shall be cleaned of all trash, waste and rubbish by midnight of each day of operation of such shows.

(Ord. 58-118. Passed 12-1-58.)

709.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both. Each day's continued violation shall constitute a separate offense.

CHAPTER 713
Solicitors

| | | | |
|---------------|---------------------------------------|---------------|----------------------------------|
| 713.01 | Definitions. | 713.08 | License revocation. |
| 713.02 | License required. | 713.09 | Appeal procedure. |
| 713.03 | Application. | 713.10 | Display of license. |
| 713.04 | Issuance of license; duration. | 713.11 | Receipt for down payment. |
| 713.05 | Restrictions. | 713.99 | Penalty. |
| 713.06 | Limitations upon solicitation. | | |
| 713.07 | Exceptions. | | |

CROSS REFERENCES

Power to regulate - see Ohio R.C. 715.61 et seq.
Charitable solicitations - see Ohio R.C. Ch. 1716
Home solicitation sales - see Ohio R.C. 1345.21 et seq.
Trespassing- see GEN. OFF. 541.05

713.01 DEFINITIONS.

As used in this chapter, certain terms are defined as follows:

- (a) "Canvassing" or "soliciting", unless expressly provided for otherwise, means traveling from residence to residence within the City, without having a previous appointment, to visit the residence or residences for the purpose of exposing or offering for inspection or sale, goods, wares, merchandise, food stuffs or any other property, tangible or intangible, of any nature whatsoever, or services, or for the purpose of taking or attempting to take orders for the purchase of goods, wares, merchandise, food stuffs or other property, tangible or intangible, of any nature whatsoever, for future delivery, or of services to be furnished or performed in the future whether directly for the resident or on an indirect basis.
- (b) "Canvasser" or "solicitor" means any person who engages in canvassing or soliciting.
- (c) "Sale" or "purchase" have the full meaning of "sale" or "purchase" as applied by or accepted in courts of law or equity, and shall also include an option of sale or purchase, a lease or a rental.
(Ord. 85-83. Passed 12-16-85.)

713.02 LICENSE REQUIRED.

(a) No person shall canvass or solicit within the City without first being issued a license by the Mayor or a designee thereof. A separate license shall be obtained for every solicitor, canvasser, agent or employee canvassing or soliciting within the City.

(b) No person shall solicit, procure, direct, authorize, or cause any other person to solicit or canvass in violation of any provision of this chapter.

(c) All organizations must register to canvass or solicit with the City of Fairview Park in accordance with the provisions set forth in this chapter regardless of their state of origin. (Ord. 04-28. Passed 6-28-04.)

713.03 APPLICATION.

(a) Every applicant for a license shall furnish the Mayor or a designee thereof a written application on a form to be provided, correctly containing the following information:

- (1) Full name of the applicant.
- (2) Date of birth of applicant.
- (3) Local address, if any.
- (4) Permanent home address.
- (5) A physical description of the applicant, setting forth age, height, weight, color of hair and eyes, sex, and a recent photograph.
- (6) Motor vehicle registration number, if any.
- (7) Social security number, if any.
- (8) Name and address of the person, firm, corporation or association for whom the solicitation or canvassing is presently being made and any other person, firm, corporation or association for whom the applicant has solicited or canvassed during the past three years.
- (9) A description of the nature of the business and the goods, services, merchandise, wares, foodstuffs or other property to be sold or otherwise offered sufficient to identify the subject matter of the soliciting or canvassing in which the applicant will engage.
- (10) The proposed dates and times of the solicitations or canvassing and the routes to be followed in conducting same.
- (11) Telephone number of the applicant.
- (12) Whether the applicant has ever been denied a license or permit to solicit or canvass or had such license or permit revoked, including the time and place of such denial or revocation.
- (13) A specimen of the applicant's signature.
- (14) Whether the applicant has ever been convicted of any crime and, if so, where and the nature of the offense and the punishment or penalty imposed therefor.
- (15) Such other information as the Police Chief may require.
(Ord. 85-83. Passed 12-16-85.)

(b) A nonrefundable registration fee in the amount of twenty-five dollars (\$25.00) shall be submitted with each application, as well as a five dollar (\$5.00) per day licensing fee for each organization. The license is good for a maximum of thirty (30) days at which time a new registration must be applied for.

(c) The applicant shall register with the Finance Department providing their name, address, person or persons to whom correspondence may be directed, and such other information as the Director may require.
(Ord. 04-28. Passed 6-28-04.)

713.04 ISSUANCE OF LICENSE; DURATION.

(a) The Mayor or a designee thereof shall issue a license to the applicant unless he has determined that:

- (1) The applicant has made a false, misleading or deceptive statement in providing the information required under Section 713.03; or
- (2) The applicant has been convicted of a felony or of a misdemeanor involving moral turpitude during the five years preceding the date of application; or
(Ord. 85-83. Passed 12-16-85.)
- (3) The applicant has not registered with the Finance Department as provided in Section 713.03. (Ord. 04-28. Passed 6-28-04.)

(b) Such license shall be valid for a period not to exceed thirty days. No license issued hereunder shall be assigned or transferred to any other person.
(Ord. 85-83. Passed 12-16-85.)

713.05 RESTRICTIONS.

Every person to whom a license to solicit and/or canvass is issued under the terms of this chapter shall be governed by the following rules and regulations:

- (a) No person subject to the provisions of this chapter shall canvas or solicit, except between the hours of 9:00 a.m. and the earlier of sunset or 8:00 p.m., Monday through Saturday. In addition, no person shall canvas or solicit on any legal holiday. (Ord. 99-32. Passed 4-19-99.)
- (b) No canvasser or solicitor shall enter or attempt to enter the house or apartment of any resident in the City without an express invitation from the occupant of the house or apartment.
- (c) No canvasser or solicitor shall engage in or transact any type of business or solicitation or canvassing other than that specified on the license application.
- (d) No person shall canvass or solicit at any residence in the City upon which there is posted a sign which reads, "No Peddlers or Solicitors Allowed", or words of similar import, which clearly prohibit peddlers or solicitors on the premises, unless such peddler or solicitor is, or has been invited upon the premises by the owner, lessee, or occupant thereof.
- (e) No canvasser or solicitor shall vex, annoy or harass any person.
(Ord. 87-23. Passed 12-7-87.)

713.06 LIMITATIONS UPON SOLICITATION.

(a) No person shall sell or offer for sale, barter, exchange or solicit the purchase or gift of any goods, wares, merchandise, food stuffs or other articles of value, or offer services for hire within the City in any area in which an authorized outdoor public show is being held as defined in Section 709.01, except as authorized by the outdoor public show permit holder.

(b) No person licensed pursuant to this chapter shall have any exclusive right to any location in the public streets, nor shall he be permitted a stationary location, nor shall he be permitted to operate in any congested area where his operations impede and inconvenience the public. (Ord. 85-83. Passed 12-16-85.)

713.07 EXCEPTIONS.

(a) The provisions of Sections 713.02, 713.03 and 713.04 shall not apply to a duly authorized person soliciting the purchase of goods, wares, merchandise, food stuffs, gifts, property or services on behalf of any recognized nonprofit, educational, civic, philanthropic, religious, political or charitable organization, nor shall the prohibition against Sunday solicitation or canvassing apply to such organizations, provided that such solicitation or canvassing is limited to between the hours of 11:00 a. m. and the earlier of sunset or 7:00 p. m. The aforementioned organization or a person on its behalf shall register with the Mayor or a designee thereof, stating the name of the organization, the nature of the activity being conducted, the duration of such activity and shall furnish any other information deemed necessary by the Mayor or a designee thereof. The Mayor or a designee thereof shall issue a license for a period not to exceed thirty days which may be renewed to the organization or duly authorized person on its behalf provided that the Mayor or a designee thereof is satisfied that the organization is a recognized nonprofit, educational, civic, philanthropic, religious, political or charitable organization and that the person requesting the license has, in fact, been duly authorized to act on its behalf. Nonprofit organizations must show proof of last tax filing period to receive license as a nonprofit solicitor. (Ord. 04-28. Passed 6-28-04.)

(b) The solicitation by a newspaper carrier of customers for a newspaper for which he regularly delivers or will regularly deliver shall not be subject to the provisions of this chapter.

(c) A candidate for political office or his or her committee or representative or person conducting a political survey or obtaining or influencing public opinion shall not be subject to the provisions of this chapter.

(d) No license fee shall be required of persons selling by sample only or of persons offering or exposing for sale agricultural articles or products other than pursuant to subsection (a) hereof but such persons shall, in all other respects, comply with the provisions of this chapter. As used herein, agricultural articles or products means commodities used as food or nonalcoholic drink for human consumption. (Ord. 85-83. Passed 12-16-85; Ord. 99-33. Passed 4-19-99.)

713.08 LICENSE REVOCATION.

(a) A license issued under this chapter shall be revoked by the Mayor or a designee thereof for any of the following causes:

- (1) It is subsequently determined that the licensee provided false, misleading or deceptive information in completing the application form set forth in Section 713.03 or in providing the information required pursuant to Section 713.07.
- (2) The licensee violates any of the provisions of Section 713.05.
- (3) The licensee is convicted of a felony or of a misdemeanor involving moral turpitude.
- (4) The licensee is convicted of a violation of any provision of this chapter.
- (5) The licensee canvasses or solicits in an unlawful manner or in such manner so as to constitute a menace to the health, safety or general welfare to the public.

(b) Written notice of such revocation shall be given to the licensee by personal service or by certified mail immediately upon such revocation.
(Ord. 85-83. Passed 12-16-85.)

713.09 APPEAL PROCEDURE.

In the event an application for a license is not approved or in the event any license issued pursuant to the provisions of this chapter is revoked, written notice shall be given to the applicant or licensee by personal service or by certified mail. The applicant or licensee shall have the right to appeal such disapproval or revocation to a Board of Appeals consisting of the President of Council, the Law Director and the Finance Director. The Board of Appeals after full hearing shall have the power to affirm, modify or reverse the decision of the Mayor or a designee thereof. Any decision made by the Board shall be final.
(Ord. 85-83. Passed 12-16-85.)

713.10 DISPLAY OF LICENSE.

Any person soliciting or canvassing within this City who has obtained a license in accordance with the provisions of this chapter shall, upon demand, exhibit such license to any police officer, other City official or private residential owner or occupant upon whose premises he is soliciting or canvassing.
(Ord. 85-83. Passed 12-16-85.)

713.11 RECEIPT FOR DOWN PAYMENT.

When any person soliciting or canvassing within the City takes a down payment, he shall give a written receipt for the order, which receipt shall be signed by the solicitor or canvasser and shall set forth a brief description of the goods, wares, merchandise food stuffs or other property or services ordered, the total purchase price thereof and the amount of the down payment received by the solicitor or canvasser from the purchaser.
(Ord. 85-83. Passed 12-16-85.)

713.99 PENALTY.

(a) Whoever violates any provision of this chapter where another penalty is not otherwise provided shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both. Each day's continued violation shall constitute a separate offense.

(b) Whoever violates Section 713.02(a) is guilty of a minor misdemeanor for a first offense, and for a second or subsequent offense, shall be guilty of a misdemeanor of the fourth degree. Whoever violates Section 713.02(b) is guilty of a minor misdemeanor for a first offense and for each subsequent offense shall be guilty of a misdemeanor of the third degree.
(Ord. 85-83. Passed 12-16-85.)

CHAPTER 717
Street Sales

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| <p>717.01 License required.</p> <p>717.02 License fee.</p> <p>717.03 Attendant required for vehicle sales.</p> | <p>717.99 Penalty.</p> |
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CROSS REFERENCES

Power to inspect food products - see Ohio R.C. 715.46
 Frozen desserts - see Ohio R.C. 3717.51 et seq.
 Merchandise on sidewalks - see GEN. OFF. 543.01

717.01 LICENSE REQUIRED.

No person shall sell or offer for sale any merchandise, food, beverage, refreshment or any other property upon any public street, public ground or public park within the City unless he has procured a license from the Mayor or a designee thereof.
 (1954 Code §14-2)

717.02 LICENSE FEE.

The license fee shall be thirty dollars (\$30.00) per year.
 (Ord. 87-22. Passed 2-15-88.)

717.03 ATTENDANT REQUIRED FOR VEHICLE SALES.

When any person vends or peddles from a vehicle in the public streets and public places in the City and, in the pursuit of such business or activity, children collect, congregate, assemble or gather about such vehicle for the purpose of making purchases therefrom, such person so vending and peddling and, in the pursuit of such occupation, shall be required to be accompanied by an adult attendant whose sole duty and occupation shall be to protect and safeguard the children from injury or hazards from vehicular traffic using such public streets and public places. Such attendant shall maintain a constant lookout for approaching vehicles and shall warn and guard the children from injury therefrom.
 (Ord. 59-50. Passed 6-1-59.)

717.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both. Each day's continued violation shall constitute a separate offense.

**CHAPTER 721
Taxicabs**

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| <p>721.01 Definitions.</p> <p>721.02 License required.</p> <p>721.03 License application; insurance.</p> <p>721.04 License issuance; fee.</p> <p>721.05 Renewal license.</p> <p>721.06 Change of facts.</p> | <p>721.07 Public display of rates; operator's license.</p> <p>721.08 Prohibited conditions.</p> <p>721.99 Penalty.</p> |
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CROSS REFERENCES

Power to regulate - see Ohio R.C. 715.22, 715.66

Operation and equipment - see Part Three - Traffic Code

Driving or physical control while under influence - see TRAF. 333.01

Operator license - see TRAF. 335.01 et seq.

721.01 DEFINITIONS.

For the purposes of this chapter, unless the contrary is stated herein, the following terms shall be construed as follows:

- (a) "Municipality" means the City of Fairview Park, Ohio.
- (b) "Street" means any public street, alley or way within the corporate limits of the Municipality.
- (c) "Taxicab company" means and includes every corporation, company, association, person, copartnership, their lessees, trustees and receivers, who own, control, operate or manage any taxicab.
- (d) "Taxicab" means all motor vehicles engaged in the business of carrying passengers for hire on the streets of the Municipality, except buses operated by a bus company licensed by the Public Utilities Commission of Ohio, or by the Municipality, buses operated by any religious organization or by any public school system, or motor vehicles used exclusively as hearses or ambulances or used exclusively for services at weddings and funerals, or motor vehicles leased or rented for private use without the services of a chauffeur or driver.
- (e) "License" means a certificate issued by the Mayor or a designee thereof.
(Ord. 62-46. Passed 6-18-62.)

721.02 LICENSE REQUIRED.

No taxicab company shall pick up or accept a passenger for hire on any street within the corporate limits of the Municipality without first obtaining a license issued by the Mayor or a designee thereof in accordance with the terms of this chapter.
(Ord. 62-46. Passed 6-18-62.)

721.03 LICENSE APPLICATION; INSURANCE.

Any taxicab company desiring to operate a taxicab within the corporate limits of the Municipality shall, prior to such operation, file with the Mayor or a designee thereof an application for a license on a form prescribed by the Mayor, which application shall, among other things, require the applicant to state:

- (a) The name and address of the applicant.
- (b) The number of taxicabs the applicant proposes to operate within the Municipality.
- (c) A schedule of typical rates to be charged to any passengers of such taxicab if such passengers board such taxicab within the corporate limits of the Municipality.
- (d) A statement of the amount of casualty insurance providing indemnity in an approved casualty insurance company for such taxicab company for injuries to the public, whether passengers or otherwise, which casualty insurance, as to each of the taxicabs to be operated within the Municipality, shall be in the sum of not less than one hundred thousand dollars (\$100,000) for injury or death to one person, and three hundred thousand dollars (\$300,000) for injury or death to more than one person in the same accident, and twenty thousand dollars (\$20,000) for property damage in any one accident.
- (e) No license shall be issued until a copy of such casualty insurance policy in an approved casualty insurance company, or a certificate of same, shall be presented to the Director of Law for approval, and such policy shall contain a clause obligating the casualty company issuing the same to give ten days' notice to the Municipality before cancellation of such policy or policies.
- (f) In lieu of the provisions of subsections (d) and (e) hereof, where the applicant is an established taxicab company doing business in the County for five years or more prior to application, and has been operating under the regulations of some other municipality in the County where financial responsibilities are provided, then, on sufficient evidence presented to the Director of Law that residents of Fairview Park are adequately protected under such existing regulations, the Law Director may approve same.
- (g) A statement that failure to comply with the provisions of this chapter by the taxicab company, or any servant, agent or employee of such taxicab company, shall be just and sufficient cause for the immediate revocation of any license issued hereunder.
(Ord. 62-46. Passed 6-18-62.)

721.04 LICENSE ISSUANCE; FEE.

Upon the filing of such application in form satisfactory to the Mayor or a designee thereof, and the payment of a fee of fifty dollars (\$50.00), the Mayor or a designee thereof shall thereupon issue a license granting the right to such taxicab company to operate taxicabs within the Municipality to the end of the calendar year in which such application is made.

721.05 RENEWAL LICENSE.

Within sixty days from the end of each calendar year, each taxicab company licensed under the provisions of Section 721.04 and desiring to do business within the Municipality during the next calendar year, shall file an application for renewal of such license, which application shall be in such form as prescribed by the Mayor or a designee thereof.

Upon the approval of such renewal license, the Mayor or a designee thereof shall issue a license for the next calendar year upon the payment by the applicant of the fees as set forth in Section 721.04. (Ord. 62-46. Passed 6-18-62.)

721.06 CHANGE OF FACTS.

In the event that the facts which were revealed upon the application for license or a renewal thereof change during the license period, notice of such change shall forthwith be given to the Mayor or a designee thereof in such form as he may prescribe. (Ord. 62-46. Passed 6-18-62.)

721.07 PUBLIC DISPLAY OF RATES; OPERATOR'S LICENSE.

During the period of such license, each taxicab operated under a license from the Municipality shall:

- (a) Display in large letters the fact that it is a taxicab for hire.
- (b) Display within the taxicab, and in plain view of any passenger thereof, a summary or diagram of the schedule of rates and charges made by the taxicab company, which summary or diagram shall be in accordance with the rates and charges as disclosed in the schedule filed with the application for a license, as amended. (Ord. 62-46. Passed 6-18-62.)
- (c) The operator of such taxicab shall carry at all times while operating such taxicab within the corporate limits of the Municipality evidence that such operator is duly licensed as an operator in the State.

721.08 PROHIBITED CONDITIONS.

No person shall:

- (a) Operate a taxicab within the Municipality while in a state of intoxication or under the influence of alcohol, narcotics or opiates.
- (b) Allow any taxicab to be used for immoral purposes.
- (c) Operate a taxicab without first having received a license from the Municipality.
- (d) Charge other than in accordance with the rates as displayed within such taxicab and as on file with the Municipality.
- (e) Travel up and down the streets of the Municipality seeking customers in a manner commonly described as "cruising". (Ord. 62-46. Passed 6-18-62.)

721.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both. Each days continued violation shall constitute a separate offense.

CHAPTER 723
Employment of Scavengers

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| 723.01 License fee and conditions. | 723.99 Penalty. |
| 723.02 Scavenger defined. | |
| 723.03 Scavenging of recyclable materials prohibited. | |

CROSS REFERENCES

Employment of scavengers - see Ohio R.C. 3707.39
Vehicle loads dropping, sifting, leaking - see TRAF. 339.08

723.01 LICENSE FEE AND CONDITIONS.

No person, firm or corporation shall engage in the business of collecting, hauling and/or disposing of any rubbish, refuse, paper, rags, appliances, furniture or scrap metal unless he first obtains a license from the Mayor or a designee thereof. The fee for any such license shall be twenty-five dollars (\$25.00) per year. All licenses shall expire on December 31 of the year of issuance. This section shall not apply to any private individual hauling any of the above mentioned refuse from his own premises, nor shall it apply to the City or any person, firm or corporation who has contracted with the City to provide such services. This section shall also not apply to any private or public schools.

A condition of any license issued shall be that the licensee agrees to collect, transport and dispose of any rubbish, refuse, paper, rags, appliances, furniture or scrap metal, in a sanitary manner so as not to create a nuisance and to comply with all regulations set forth by the Director of Public Service and Development which include times and days for collections and designation of areas, any other further rules which the Director may make from time to time, and the rules and regulations set forth in the application for a hauling and scavenger permit.

Any vehicle conveying or carrying such matter shall be so constructed and operated that its contents shall not spill or scatter upon any public or private property. Any person, firm or corporation hauling or in the business of scavenging any of the above items in any open vehicle such as a truck or trailer shall provide that the load shall be covered with an adequate tarpaulin or canvas so as to prevent any spilling or scattering of its contents.

723.02 SCAVENGER DEFINED.

"Scavenger" means a person, firm or corporation who removes from private or public property any discarded refuse, paper, rags, appliances, furniture, scrap metal or other similar discarded material for the purpose of either reusing, reselling or disposing of such items. (Ord. 71-11. Passed 3-1-71.)

723.03 SCAVENGING OF RECYCLABLE MATERIALS PROHIBITED.

(a) "Recyclable materials" means materials that have served their intended end use and are collected, separated or processed by the City for subsequent re-use as raw materials or finished products. "Recyclable materials" includes aluminum, glass, steel, other metals, plastic beverage containers, other plastics, paper, paperboard, newsprint, corrugated paper and other materials that are collected, separated or processed by the City for subsequent re-use as raw materials or finished products.

(b) No person, firm or corporation shall remove or cause the removal of recyclable materials from any lot, premises or public place that have been placed or deposited for collection by the City. (Ord. 91-68. Passed 8-19-91.)

723.99 PENALTY.

Whoever violates any provision of this chapter, or any lawful rule or regulation issued pursuant thereto, is guilty of a minor misdemeanor. Any such violation shall constitute a separate offense on each successive day continued. (Ord. 79-44. Passed 7-9-79.)

(Note: The next printed page is page 33.)

CHAPTER 729
Motion Pictures and Films

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| 729.01 | Definition. | 729.08 | License application. |
| 729.02 | Scope. | 729.09 | License fee; renewal. |
| 729.03 | Compliance; other laws applicable. | 729.10 | Revocation of license. |
| 729.04 | Use of picture machines. | 729.11 | Certificate required. |
| 729.05 | Films within the booth. | 729.99 | Penalty. |
| 729.06 | Hot carbons. | | |
| 729.07 | Picture machine operator to be licensed. | | |

CROSS REFERENCES

Admissions Tax - see ADM. Ch. 171

Fire Prevention- see Part Fifteen - FIRE PREVENTION CODE

729.01 DEFINITION.

"Picture machine", as used in this chapter, means any machine or device, either permanently located or portable in nature, operated by or with the aid of electricity, or any other illuminant, and which is designed, intended or used to project upon a screen, or other surface, pictorial representations through the use of any type of film, tape or other material or equipment. (Ord. 70-15. Passed 3-2-70.)

729.02 SCOPE.

The provisions of this chapter apply to theaters, auditoriums, schools, churches, halls and such other exhibition or meeting rooms to which the public, or any segment thereof, is admitted to view the showing of any pictorial representations projected from a picture machine. (Ord. 70-15. Passed 3-2-70.)

729.03 COMPLIANCE; OTHER LAWS APPLICABLE.

No picture machine shall be installed, maintained or operated within the City except in conformity with the provisions of this chapter and such other provisions of the Codified Ordinances relating to the installation and construction of a booth for the enclosing of a picture machine as well as the requirements relating to the contents, ventilation, doors, electrical installations and signs thereof together with such requirements relating to the location, construction and other safety regulations for theaters, exhibition or meeting halls, auditoriums or other places of amusement. (Ord. 70-15. Passed 3-2-70.)

729.04 USE OF PICTURE MACHINES.

All picture machines within which combustible film is used shall be equipped with incombustible magazines for receiving and delivering the films during the operation of the machine. A shutter must be provided and placed in front of the condenser of the machine, so arranged that it can be instantly closed by the operator.
(Ord. 70-15. Passed 3-2-70.)

729.05 FILMS WITHIN THE BOOTH.

Films not in the picture machine, within the booth enclosing the machine, shall be kept in metal boxes with tight fitting covers.
(Ord. 70-15. Passed 3-2-70.)

729.06 HOT CARBONS.

Hot carbons taken from the lamps used in the picture machines shall be deposited in a metal receptacle provided in the booth for such purpose.
(Ord. 70-15. Passed 3-2-70.)

729.07 PICTURE MACHINE OPERATOR TO BE LICENSED.

Licensed picture machine operators only shall be employed or permitted to operate any picture machine unless exhibited by and incidental to the purposes of any charitable, religious, benevolent or educational institution, public or private.
(Ord. 70-15. Passed 3-2-70.)

729.08 LICENSE APPLICATION.

Application for a license shall be upon the form issued by the Mayor or a designee thereof. Such application shall be granted if the Mayor or a designee thereof finds that the applicant is qualified to perform the work for which the application is sought.

Evidence that the applicant is currently licensed by the City of Cleveland, or another city or county with a qualified examination, shall be sufficient evidence of qualification so as to authorize the issuance of a license.

Evidence of repeated violations of this chapter or other ordinances shall be sufficient evidence to disqualify the applicant from receiving the license.

729.09 LICENSE FEE; RENEWAL.

Upon application, any picture machine operator's license shall be issued to the applicant by the Mayor or a designee thereof, upon payment by the applicant of a license fee of fifty dollars (\$50.00), and the furnishing of a bond as may be required. Such license shall be issued for a period of one year from January 1 of the year that it is issued, and shall expire on December 31 next following the date of issuance. Such license shall be renewed each year thereafter, upon the payment of a license fee of twenty-five dollars (\$25.00).
(Ord. 87-22. Passed 2-15-88.)

729.10 REVOCATION OF LICENSE.

The Mayor or a designee thereof shall have authority and it shall be his duty, to revoke the license issued to any person, firm or corporation for conducting or maintaining picture machine exhibitions when he is satisfied that such licensee has violated any provision of this chapter or such other sections of the Codified Ordinances relating thereto. However, before revoking the license, opportunity shall be given to the licensee to correct the violations.

729.11 CERTIFICATE REQUIRED.

No individual, partnership or corporation shall be permitted to conduct the business of moving picture exhibitions, as herein described, until he has applied for and procured from the Building Commissioner a certificate that the premises wherein the exhibitions are to be given and the apparatus used in connection therewith are in compliance with the provisions of this chapter and such other sections of the Codified Ordinances as are applicable.
(Ord. 70-15. Passed 3-2-70.)

729.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both. Each day's continued violation shall constitute a separate offense.

CHAPTER 731
Amusement Devices and Game Rooms

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| 731.01 | Definitions. | 731.12 | Hours of operation. |
| 731.02 | License required. | 731.13 | License suspension or revocation; appeals. |
| 731.03 | License application. | 731.14 | Operation by minors. |
| 731.04 | Electrical inspection. | 731.15 | Parking. |
| 731.05 | License application rejection. | 731.16 | Temporary gamerooms or amusement arcades; exemption. |
| 731.06 | License fee and term; renewal. | 731.99 | Penalty. |
| 731.07 | License display. | | |
| 731.08 | Periodic inspection. | | |
| 731.09 | Giving of prizes, awards. (Repealed) | | |
| 731.10 | General provisions. | | |
| 731.11 | Gambling prohibited. | | |

CROSS REFERENCES

Gambling- see GEN. OFF. Ch. 517
 Making or using slugs - see GEN. OFF. 545.11
 Tampering with coin machines - see GEN. OFF. 545.12

731.01 DEFINITIONS.

As used in this chapter certain terms are defined as follows:

- (a) "Gameroom or amusement arcade" means a place of business which derives twenty percent (20%) or more of its annual gross revenue from mechanical or electrically operated amusement devices and/or which devotes twenty percent (20%) or more of the occupied space to mechanical or electrically operated amusement devices.
- (b) "Mechanical or electrically operated amusement device" means any machine, device or instrument which by the payment of a fee or other things of value, or by the insertion of a coin, plate, disc, slug, key or token operates or may be operated as game, contest or amusement of any description, or which may be used for any such game, contest or amusement, and which contains no automatic pay-off device for the return of money, coins, tokens or merchandise or checks redeemable in money or anything of value. Mechanical or electrically operated amusement devices includes but is not limited to devices such as mechanical baseball, mechanical football, pinball machines, any table game or device commonly known as electronic games and other similar types of devices, provided, however, that this definition is not intended to nor shall it be construed to include merchandise vending machines or coin operated mechanical or electrical musical instruments or devices.

- (c) "Person" means any person, firm, corporation or association which owns or has title to any such mechanical or electrically operated amusement device; any person, firm, corporation or association in whose place of business any such device is placed for use by the public; and any person, firm, corporation or association having control over any such device; provided that the payment of such fee as hereinafter set forth by any person, firm, corporation or association enumerated herein shall be deemed a compliance with this chapter.
(Ord. 81-65. Passed 6-29-81.)

731.02 LICENSE REQUIRED.

No person shall display for public patronage or keep for operation by the public any mechanical or electrically operated amusement device without first obtaining a license issued by the Mayor or a designee thereof in accordance with the provisions of this chapter. A separate license shall be required for each device displayed or kept at any one time.
(Ord. 81-65. Passed 6-29-81.)

731.03 LICENSE APPLICATION.

(a) Any person desiring to display for public patronage or keep for operation by the public any mechanical or electrically operated amusement device within the corporate limits of the City shall, prior to such operation, file with the Mayor or a designee thereof an application for a license on a form prescribed by the Mayor or a designee thereof, which application shall among other things, state:

- (1) The name and residence address, age and birth date of the applicant;
- (2) The location where the mechanical or electrically operated amusement device is to be displayed or operated and the business conducted therein;
- (3) A description of the device to be covered by the license, its mechanical features, the name of the manufacturer and the serial number of the device;
- (4) The name of the owner or owners of the premises where the device is to be displayed or operated and their residence address;
- (5) The name of the owner or owners of the business conducted therein and their residence address;
- (6) The name and residence address of the owner of the device if the owner is different from the applicant; and
- (7) Whether or not the applicant or any person as defined in Section 731.01 has been convicted of a gambling offense, a drug abuse offense or crime of moral turpitude in the seven years preceding the date of application.

(b) Each person desiring to operate a gameroom or amusement arcade shall apply for a gameroom or amusement arcade license upon a form prescribed by the Mayor or a designee thereof which shall, in addition to the information required by subsection (a) hereof, provide such other information as required by the Mayor or a designee thereof. A gameroom or amusement arcade license shall be required in addition to and independent of, the license application for a mechanical or electrically operated amusement device.

(c) The Mayor or a designee thereof is authorized and empowered to establish, adopt and enforce or cause to be enforced, such rules and regulations governing the issuance and display of the license required under this chapter as he may deem reasonable and necessary and are not inconsistent with the provisions of this chapter.
(Ord. 81-65. Passed 6-29-81.)

731.04 ELECTRICAL INSPECTION.

The Building Commissioner or his representative, prior to the issuance of a mechanical or electrically operated amusement device license, shall inspect all wiring and connections to the mechanical or electrically operated amusement device to determine if the same complies with the City Electrical Code. A license shall not be issued until any violation found has been corrected.
(Ord. 81-65. Passed 6-29-81.)

731.05 LICENSE APPLICATION REJECTION.

The application for any license required by this chapter shall be rejected by the Mayor or a designee thereof if the information submitted or facts found show that any of the persons named in the application for a mechanical or electrically operated amusement device license and/or a gameroom or amusement arcade license is not of good moral character or that the application is not in conformance with any of the provisions of this chapter or if any of the information submitted is false.
(Ord. 81-65. Passed 6-29-81.)

731.06 LICENSE FEE AND TERM; RENEWAL.

(a) Amusement Device License. Upon the filing of an application on the form prescribed with all required information properly given to the Mayor or a designee thereof, approval by the Mayor or a designee thereof and the payment of a fee of twenty dollars (\$20.00) per device covering the period of one year or any portion thereof, the Mayor shall issue a mechanical or electrically operated amusement device license which shall expire at 11:59 p. m. on December 31 of each calendar year during the period of operation unless earlier revoked by the Mayor. Such a license shall entitle the person therein named to display at or upon the premises therein described one mechanical or electrically operated amusement device. If any licensed device is replaced or substituted for with another mechanical or electrically operated amusement device during any calendar year, a new application for such device shall be submitted with a fee of ten dollars (\$10.00) and evidence satisfactory to the Mayor or a designee thereof of the removal from the premises of the previously licensed device. Upon approval by the Mayor or a designee thereof, a new license shall then be issued for such replacement or substitute device for the remainder of the calendar year.

(b) Gameroom or Amusement Arcade License. Upon the filing of an application on the form prescribed by the Mayor or a designee thereof, approval by the Mayor or a designee thereof and the payment of a fee of one hundred dollars (\$100.00) per gameroom or amusement arcade covering the period of the first year or any portion thereof of operation, the Mayor or a designee thereof shall issue a gameroom or amusement arcade license which shall expire at 11:59 p.m. on December 31 of the first year of operation. Such license shall be renewed each year thereafter upon the payment of a license fee of fifty dollars (\$50.00) and which shall expire at 11:59 p.m. on December 31 of each year of operation unless earlier revoked by the Mayor or a designee thereof. A gameroom or amusement arcade license shall entitle the person therein named to operate a gameroom or amusement arcade at the premises therein described. The gameroom or amusement arcade license fee shall be required in addition to the license fee required by subsection (a) hereof. (Ord. 83-4. Passed 3-21-83.)

(c) Nontransferable. A mechanical or electrically operated amusement device license and/or gameroom or amusement arcade license shall not be transferable from person to person or location to location. A new license shall be required whenever a mechanical or electrical amusement device is moved to a different location within the City or is purchased or otherwise acquired by a different person. (Ord. 81-65. Passed 6-29-81.)

731.07 LICENSE DISPLAY.

(a) It shall be the duty of the person to whom a mechanical or electrically operated amusement device license was issued to display such license on the device for which it was issued for the period covered by the license.

(b) It shall be the duty of the person to whom a gameroom or amusement arcade license was issued to display such a license in a prominent place in the establishment for the period covered by such license. (Ord. 81-65. Passed 6-29-81.)

731.08 PERIODIC INSPECTION.

The Police Chief or his designees shall periodically inspect any gameroom or amusement arcade or any other place where a mechanical or electrically operated amusement device is displayed or kept for operation to insure compliance with all provisions of this chapter. Each person to whom a mechanical or electrically operated amusement device license and/or gameroom or amusement arcade license was issued shall at all times permit access to the Chief or his designees for the purpose of insuring compliance with the provisions of this chapter. (Ord. 81-65. Passed 6-29-81.)

731.09 GIVING OF PRIZES, AWARDS.

(EDITOR'S NOTE: Former Section 731.09 was repealed by Ordinance 96-56, passed June 26, 1996.)

731.10 GENERAL PROVISIONS.

(a) Alcohol or Drugs. No person shall permit the consumption of intoxicants or alcoholic beverages by any person on the premises where any mechanical or electrically operated amusement device is displayed or kept for operation unless such person holds a proper permit from the Ohio State Liquor Control Board; or permit a drug offense.

(b) Adult Management. All gamerooms or amusement arcades shall, during hours of operation, provide adult (over the age of twenty-one years) management.

(c) Security Personnel. All gamerooms or amusement arcades shall provide necessary security personnel as required by the Police Chief to police the interior and exterior of the premises.

(d) Exterior Lighting. All persons operating a gameroom or amusement arcade shall submit to the Building Commissioner an exterior lighting plan if such facility is in a free standing building which plan shall be approved by the Commissioner.

(e) Loud-speakers. Outdoor loud-speakers shall not be permitted at any premises where any mechanical or electrically operated amusement device is displayed or kept for operation.

(f) Disturbing the Peace. It shall be the obligation of any person to whom a gameroom or amusement arcade license and/or mechanical or electrically operated amusement device license was issued to maintain peace and quiet in and about the premises and failure to do so shall constitute a nuisance and shall be grounds for revocation or suspension of any license issued hereunder. (Ord. 81-65. Passed 6-29-81.)

731.11 GAMBLING PROHIBITED.

(a) Any person to whom a gameroom or amusement arcade license and/or a mechanical or electrically operated amusement device license was issued shall prominently display a sign indicating that gambling is prohibited. Such sign shall also indicate that it shall be considered to be a gambling offense if a player or any operator agrees to pay for the game of another upon a loss of a game.

(b) No mechanical or electrically operated amusement device shall be permitted that has as its object the skill of winning at the playing of cards, dice, craps or roulette, or which contains an automatic device by the operation of which the player or operator may win at uncertain intervals a free game, a free play or any other additional amusement or in any way intends to encourage gambling.

(c) Any machine, device, instrument, apparatus or contrivance which is determined to be a gambling device may be seized, destroyed or demolished in the manner provided by law. (Ord. 81-65. Passed 6-29-81.)

731.12 HOURS OF OPERATION.

A gameroom or amusement arcade shall be closed between the hours of 10:00 p. m, and 9:00 a.m. of the following day, each and every day, except on Sunday when the gameroom or amusement arcade shall be closed until 12:00 noon.

(Ord. 81-65. Passed 6-29-81.)

731.13 LICENSE SUSPENSION OR REVOCATION; APPEALS.

(a) The license of any person violating directly or indirectly, any of the terms of this chapter or of any rules and regulations established and adopted by the Mayor or a designee thereof as provided in Section 731.03, except those relating to the display or operation of such mechanical or electrically operated amusement device for gambling, shall for the first violation thereof, be suspended by the Mayor for not less than ten nor more than thirty days; for the second violation thereof, be suspended by the Mayor for not less than thirty nor more than sixty days; and for the third violation thereof, shall be revoked by the Mayor. For violation of the terms of this chapter or the rules and regulations established and adopted by the Mayor or a designee thereof relating to the display or operation of such mechanical or electrically operated amusement device for gambling, such license shall be revoked by the Mayor.

(b) Any person whose application for a license is denied or whose license is suspended or revoked may demand a hearing. A demand for a hearing shall be made in writing to the Mayor or a designee thereof within seven days of the date of denial, revocation or suspension and shall be heard by a Board of Appeals consisting of the President of Council, the Law Director and the Finance Director. The decision of the Board of Appeals shall be final.

(c) The Mayor or a designee thereof shall notify such applicant or licensee of such hearing by registered mail directed to the last address of such applicant or licensee on file. In the event that such license is denied, suspended or revoked, the Mayor or a designee thereof shall notify such applicant or licensee in the same manner as provided for notification of hearings. (Ord. 81-65. Passed 6-29-81.)

731.14 OPERATION BY MINORS.

(a) No person shall permit any mechanical or electrically operated amusement device to be operated or played before 2:00 p.m. on school days by any minor under the age of eighteen years unless such minor is accompanied by and in direct personal charge of a parent or legal guardian. It shall be the duty of the person in whose place of business any such device is placed, or who has title to or owns any such device, or who has control over any such device to determine if in fact school is in session for the individual operating, or wishing to operate, the device.

(b) No minor under the age of eighteen years shall be permitted to operate a mechanical or electrically operated amusement device or to be within the premises of a gameroom or amusement arcade at any time that the serving or consumption of alcoholic beverages is permitted at the place of business where the mechanical or electrically operated amusement device is displayed or at the gameroom or amusement arcade unless:

- (1) Such device is located in a room in which the service and consumption of alcoholic beverages is prohibited and such room is separated, by floor-to-ceiling walls and doors which are kept closed except when used by an individual for ingress or egress, from all rooms in which the serving or consumption of alcoholic beverages is permitted; and
- (2) Such minor under the age of eighteen years is accompanied by and in direct personal charge of a parent or legal guardian.

(c) No person shall permit the operation of a mechanical or electrically operated amusement device by a minor during the hours of curfew applicable to the minor. It shall be the duty of the person in whose place of business any such device is placed, or who has title to or owns any such device, or who has control over any such device, to prominently display the curfew laws of the City, and it shall further be the duty of such person to ascertain if his patrons are violating such curfew laws and if so, to eject them from the place of business.

(d) No parent or guardian of a minor under the age of eighteen years shall allow such minor to operate a mechanical or electrically operated amusement device in violation of this section.

(e) No person under the age of eighteen years shall knowingly show or give false information concerning his name, age or other identification for the purpose of playing or operating a mechanical or electrically operated amusement device or entering or remaining upon the premises of a gameroom or amusement arcade, in violation of any provision of this chapter.

(f) No person shall knowingly furnish any false information as to the name, age or other identification of another person under the age of eighteen years for the purpose of such other person operating or playing a mechanical or electrically operated amusement device or entering or remaining upon the premises of a gameroom or amusement arcade, in violation of any provision of this chapter. (Ord. 92-69. Passed 10-19-92.)

731.15 PARKING.

Each person operating a gameroom or amusement arcade shall provide, in addition to the requirements of the Planning and Zoning Code, off-street parking facilities for its patrons in an amount equal to one space of each two machines, in addition to providing one space for each employee. (Ord. 81-65. Passed 6-29-81.)

**731.16 TEMPORARY GAMEROOMS OR AMUSEMENT ARCADES;
EXEMPTION.**

(a) Any charitable, benevolent, religious or eleemosynary institution shall be permitted to operate a temporary gameroom or amusement arcade and display for public patronage or keep for operation by the public mechanical or electrically operated amusement devices for five days or less on the premises of the institution or on the premises of a like institution provided that such institution complies with Sections 731.02, 731.03, 731.04, 731.07, 731.10, except subsection (d) thereof, 731.11, 731.12, 731.14 and pays a license fee of five dollars (\$5.00) per mechanical or electrically operated amusement device.

(b) The provisions of this chapter shall not apply to mechanical or electrically operated amusement devices maintained in a one- or two-family residence provided that such devices are maintained for the personal use of the residents and their guests and such devices are not maintained or operated in a way which intends to encourage gambling.
(Ord. 81-65. Passed 6-29-81.)

731.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than five hundred dollars (\$500.00) for each offense. Each day during which the violation continues shall constitute a separate offense. (Ord. 81-65. Passed 6-29-81.)

CHAPTER 733
Community Antenna Television

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CROSS REFERENCES

- Cable television contracts - see Ohio R.C. 505.90 et seq.
 Unauthorized connection - see Ohio R.C. 4933.42
 Barricades and warning lights - see GEN. OFF. 521.03
 Local Advisory Board - see BUS. REG. Ch. 734
 Street openings - see S. & P.S. Ch. 901
 Sidewalk protection during building operations - see S. & P. S. Ch. 903

733.01 GRANT OF FRANCHISE RENEWAL.

In consideration of the faithful performance and observance of the provisions, conditions and reservations hereinafter specified, a nonexclusive right and franchise is hereby granted to Cox Cable Cleveland Area, Inc., a corporation authorized to conduct business in the State of Ohio under the laws of the State of Ohio, its successors or assigns (hereinafter referred to as the "Company") to erect, maintain, operate and utilize television transmission and distribution facilities and additions thereto in, under, above, along, across, and upon the streets, lanes, avenues, sidewalks, alleys, easements and other public places in the City and subsequent additions thereto, for the purpose of transmission and distribution of audio and visual impulses and television energy in accordance with the laws and regulations of the United States of America and the State of Ohio, and the ordinances and regulations of the City for an additional period of fifteen years throughout the City, said additional period to commence at termination of original franchise. (Ord. 91-102. Passed 10-21-91.)

733.02 DEFINITIONS.

For the purpose of this chapter the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense shall include the future, words in the plural number include the singular number, and the words in the singular number include the plural number. The word "shall" is mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning, unless defined in the FCC's rules and regulations or by federal law, in which case they shall be given such meaning as appears in such rules and regulations or law.

- (a) Wherever used in this chapter, the word "cable television system" means a system for transmission of audio signals and/or visual or any other type of closed circuit transmission and/or signal transmission by means of electrical impulses, as further defined in the Cable Communications Policy Act of 1984, 47 U.S.C.A. Sections 521-559 (the "Cable Act").
- (b) "Company" or "grantee" means Cox Cable Cleveland Area, Inc., its permitted assigns and successors.
(Ord. 91-102. Passed 10-21-91.)

733.03 SYSTEM EXTENSION.

The City acknowledges that the Company has by the date of this chapter made cable service available upon request to all present residential dwellings within the City, subject to applicable laws.

The Company agrees to make cable service available upon, request to all present and future residential dwellings within the City subject to applicable laws.
(Ord. 91-102. Passed 10-21-91.)

733.04 UTILITIES AND SYSTEM CONSTRUCTION.

(a) The Company shall make arrangements with the Ohio Bell Telephone Company, the Cleveland Electric Illuminating Company and any other holder of licenses or franchises from the City for the purposes of using the towers, poles, and attachments thereto of said companies for the attachment of television transmission and distribution facilities, subject to all existing and future ordinances of the City.

(b) The Company will not erect a separate system of poles in the City or on any street therein, but may erect poles where shown to be necessary when the necessity, the location, and the style of poles have been approved by the Mayor of the City or his designee, which approval will not be unreasonably withheld. The erection of the poles shall be subject to all existing and future ordinances and regulations of the City applicable thereto and under the supervision of the Service Director or his designee.

(c) In areas where all other public utilities are placed underground, the Company shall also place its cable underground and such underground installations shall not result in any additional charges to subscribers.

(d) The Company's transmission and distribution system, poles, wires, and appurtenances shall be located, erected, maintained and/or removed so as not to endanger or interfere with the lives or reasonable safety of persons, or to interfere with improvements the City may deem proper to make, or to hinder unnecessarily or obstruct the free use of the streets, alleys, bridges or other public property. Removal of poles or equipment when necessary to avoid such interference will be at the Company's expense.

(e) Construction and maintenance of the transmission and distribution system shall be in accordance with the provisions of the National Electrical Safety Code of the National Board of Fire Underwriters and such applicable ordinances and regulations of the City affecting electrical installations which may be presently in effect, or changed by future ordinance, such applicable City ordinances and regulations to be applied to the Company in a reasonable manner.

(f) All installations of equipment shall be of permanent nature, durable and installed in accordance with good engineering practice, and of sufficient height to comply with all existing City regulations, ordinances, and state laws so as not to interfere in any manner with the right of the public or individual property owners, and shall not interfere unduly with the travel and use of public places by the public during construction, repair, or removal thereof and shall not unduly obstruct or impede traffic.

(g) In the event that at any time during the period of this franchise the City shall elect to alter or change the grade of any street or other public way or to make any other improvement which the City may deem proper to make, the Company upon reasonable notice by the City shall remove, relay and relocate its poles, wires, cables, conduits and other fixtures at its own expense. The Company shall, on the request of any person holding a building moving permit issued by the City and at that person's expense, temporarily raise or lower its wires to permit the moving of buildings. In such event, prepayment or a payment bond shall be prerequisite to such work being performed by the Company. The Company shall be given not less than seven (7) days advance notice to arrange for such temporary wire changes.

(h) In the maintenance and operation of its television transmission and distribution system in the City of Fairview Park and in the course of any new construction or addition to its facilities, the Company shall proceed so as to cause the least possible inconvenience to the general public; the Company at its expense, shall restore all damage to property, both public and private, caused by the construction, maintenance or repair of the cable system; any opening or obstruction in the streets or other public places made by the Company in the course of its operations shall be in accordance with the ordinances and regulations governing the making of openings in the streets, sidewalks, public ways or places of the City as established by Council and the Service Department or its designee of said City and which are in effect at that time.
(Ord. 91-102. Passed 10-21-91.)

733.05 INDEMNIFICATION AND INSURANCE.

(a) Indemnification. The Company hereby agrees to indemnify, defend and hold harmless the City and its officers, boards, commissions, agents and employees against and from any and all claims, demands, actions, suits, liabilities and judgments of every kind and nature and regardless of the merits of the same, arising out of, occasioned by or related to the exercise or enjoyment of the renewed franchise granted pursuant to this Agreement, including costs of investigations, attorneys' fees and court costs in the defense of any actions.

(b) Insurance. At all times during the term of the franchise, the company shall obtain, pay all premiums for and file with the City Certificates of Insurance and receipts evidencing the payment of premiums for the following:

- (1) A general comprehensive public liability insurance policy indemnifying, defending and saving harmless the City, its officers, boards, commissions, agents and employees from any and all claims by any person or persons whatsoever on account of injury to or death of a person or persons occasioned by the operations of the Company under the franchise herein granted or alleged to have been so caused or occurred with a minimum liability of five hundred thousand dollars (\$500,000) for personal injury or death of any one person and one million dollars (\$1,000,000) for personal injury or death of any two or more persons in any one occurrence.
- (2) Property damage insurance indemnifying, defending and saving harmless the City, its officers, boards, commissions, agents and employees from and against all claims by any person whatsoever for property damage occasioned by the operation of the Company under the franchise herein granted or alleged to have been so caused or occurred with a minimum liability of two hundred fifty thousand dollars (\$250,000) for property damage to any one person and five hundred thousand dollars (\$500,000) for property damage to two or more persons in any one occurrence.

- (3) One million dollars (\$1,000,000) for all other types of liability. Such insurance shall be kept in full force and effect by the Company during the existence of and until after the removal of all poles, the removal wires, cables, underground conduits, manholes, and other conductors and fixtures incident to the maintenance and operation of the Company as defined in the franchise.
- (4) The Company shall also carry such insurance as it deems necessary to protect it from all claims under the Worker's Compensation Laws in effect that may be applicable to the Company.

All of the foregoing insurance contracts shall be in the form satisfactory to the City and shall be issued and maintained by companies authorized to do business in the State of Ohio and reasonably acceptable to the City and they shall require thirty days written notice of any cancellation to both the City and the Company, and copies of said policies or certificates of insurance fully evidencing the policies, their provisions and limits of liability shall be filed with the City. In the event of such cancellation, Company agrees to have an alternate policy of insurance in effect at or prior to the termination of such cancelled policy in order that there shall be no lapse in the coverage required by this Section. Notice of such alternate policy shall be given to the City by the new insurance company at the earliest date possible pursuant to the rules of such insurance company.

(Ord. 91-102. Passed 10-21-91.)

733.06 PERFORMANCE BOND.

At the time this franchise renewal becomes effective, the Company shall furnish a bond to the City in the amount of twenty-five thousand dollars (\$25,000.00) in such form and with such sureties as shall be acceptable to the Mayor of the City, guaranteeing the faithful performance of all the obligations of the Company under the terms of this franchise.

The Company's performance of its obligations under this franchise shall be conditioned upon the Company's receiving such license and/or grants as may be necessary to the performance of this ordinance, from duly constituted agencies of the Federal government or the State of Ohio, which licenses and/or grants the Company either presently holds or agrees to apply for immediately upon its acceptance of this chapter.

(Ord. 91-102. Passed 10-21-91.)

733.07 NONINTERFERENCE.

Installation, operation and maintenance shall be such that no interference is caused to existing communications systems and so as not to distort or interfere with direct off-the-air television signals. In the event Company is notified that its system is causing such interference, it shall take all reasonable steps to eliminate such interference.

(Ord. 91-102. Passed 10-21-91.)

733.08 FRANCHISE FEE.

(a) The Company shall pay to the City for the right, privilege and franchise in connection with the grant, an amount equal to three percent (3%) of the Company's gross monthly subscriber service revenues, less unpaid monthly subscriber service charges, but including any annual or periodic prepayment of monthly service charges, for the Company's previous fiscal year.

(b) It shall be the obligation of the Grantee to make provisional quarterly payments to the City based on the quarterly earnings for the next prior quarter and such quarterly payments will be adjusted in accordance with the financial statement required to be made within ninety days of the expiration of each calendar year.

(c) The Company shall file within ninety days following the conclusion of each fiscal year of the Company a certified annual report prepared by an independent Certified Public Accountant acceptable to the City showing the annual total of monthly gross subscriber revenues and payments to the City and further relevant financial information in regard to the Company as may be required by the City.

(d) The Company hereby guarantees that at all times the total monthly charges to City subscribers, specifically the total of rates plus franchise fees, shall be at least two percent (2%) lower than total rates plus franchise fees paid in any Cox Cable Cleveland Area, Inc. franchise municipality that has a five percent (5%) franchise fee.
(Ord. 91-102. Passed 10-21-91.)

733.09 SERVICES AND PROGRAMMING.

(a) Program Services. All cable television franchisees in the City shall have a minimum of thirty nontext operating channels. The Company shall not reduce the number of video program services offered on the system without thirty days prior written notification to the City. If the Company does determine to reduce the number of such services, or rearranges the tiers in which such services are offered, the City may during said thirty-day period hold an informational public hearing to apprise the public of such reduction or rearrangement and the reasons therefor, and the Company shall participate in such a hearing by having a Company representative in attendance.

(b) Leased Channel Service. The Company shall offer leased channel service for commercial use by persons unaffiliated with the Company on reasonable terms and conditions in accordance with applicable federal and state law, including Section 612 of the Cable Communications Policy Act of 1984 (47 U.S.C. Sec. 532).

(c) Community Support. Continuation of the cable "Community Bulletin Board" service for the benefit and education of City residents.

(d) Availability of Public Educational and Governmental Access. Upon the following terms and conditions, public, educational and governmental access shall be made available in addition to such access presently available.

- (1) At any such time as the City provides one new hour of programming five out of every seven days for a period of six months, with no more than single duplication of any one program during such one hour, than additional access of one hour per day shall be made available to the City.
- (2) Additional access shall be made available to the City, under the same terms and conditions stated in subsection (d)(1) hereof, for each one hour increment of new programming provided by the City for five out of seven days for a six month period.
- (3) In the event fewer than five hours per week are provided by the City, standard access procedures shall apply.

(e) A reasonable number of free video training workshops will be provided annually by the Company in order to provide training to students residing in the City and to community access users in cable casting techniques and operation of access equipment. These workshops will take place at a site designated by the Company.

(Ord. 91-102. Passed 10-21-91.)

733.10 APPLICABILITY OF EXISTING TERMS.

(a) All of the terms, conditions, and provisions of the City Charter as it now exists, relating to franchises and applicable hereto shall be considered a part of this chapter the same as if such terms, conditions and provisions were fully written herein.

(b) Furthermore, the Company shall at all times comply with all laws and regulations of the State and Federal governments or any administrative agency thereof, including, but not by way of limitation, the Cable Act; and if any State or Federal law or regulation shall require the Company to perform any service or shall prohibit the Company from performing any service in conflict with the terms of this franchise or of any law or regulation of the City, the Company shall promptly notify Council of the point of conflict believed to exist between the regulation or law and the laws or regulations of the City or the franchise. Pending issuance of any final order by a court of competent jurisdiction, the Company shall be governed by the advice of Council, so long as such shall not be in conflict with the Cable Act, or other applicable law.

(Ord. 91-102. Passed 10-21-91.)

733.11 TECHNICAL STANDARDS.

The Company shall operate and maintain the cable system so as to meet, at a minimum, the technical standards and requirements set forth at subpart K of the FCC's rules and regulations as they existed on June 1, 1986 (47 C.F.R. Section 76.601 - 76.619), including, as a mandatory requirement of this Agreement, the standards and guidelines set forth at Section 76.605 of those rules. (Ord. 91-102. Passed 10-21-91.)

733.12 COMPLIANCE WITH APPLICABLE LAWS.

The Company shall establish, construct, operate and maintain the cable system and system facilities in strict compliance with all applicable laws, ordinances, rules and regulations. The Company shall obtain all necessary federal and state government permits, licenses and other required authorizations in connection with such establishment, construction, operation, and maintenance of the cable system and system facilities.

(Ord. 91-102. Passed 10-21-91.)

733.13 RECEIVERSHIP AND FORECLOSURE: TRANSFER.

The rights and privileges herein granted shall not be assignable or transferable without the consent of the City in any bankruptcy proceedings, trusteeship, receivership, or by operation of any law, in any of which events this franchise shall, at the option of the City, terminate forthwith; nor shall said Company sell, lease, assign or otherwise alienate this franchise or any privilege hereunder to an entity not under common control with the Company without the prior approval of Council. Such approval shall not be unreasonably withheld.

(Ord. 91-102. Passed 10-21-91.)

733.14 SUBSCRIBER SERVICE.

(a) The Company shall maintain a repair department comprised of qualified technicians, service vehicles and equipment to provide prompt and efficient repair of service. The Company shall have a local listed telephone number with a "call waiting" capability, so operated that requests for repairs can be efficiently transmitted and received without undue delay. An answering service may be used during nonbusiness hours. The Company shall respond to any such request on the same day to the extent reasonably possible, but in any event shall offer to respond not later than twenty-four hours after receipt of such request unless such response is made impossible by extraordinary and unforeseeable circumstances. The Company shall respond within twelve hours to any area outage.

(b) The Company shall at least annually put a notice message on each subscriber's bill requesting subscriber comments on the manner in which Company is satisfying subscriber needs. Such notice shall include a phone number and address to which such comments may be directed.

(Ord. 91-102. Passed 10-21-91.)

733.15 SYSTEM FEATURES.

(a) Channel Capacity. The Company shall maintain a system channel capacity of thirty-five channels.

(b) Standby Power. The Company shall provide standby power generating capacity at the cable system headend sufficient to operate the cable system headend for at least twelve consecutive hours.

(c) Emergency Alert Capability. The Company shall provide an emergency audio override capability for use in the event of any emergency or vital public information situation, which can be operated through the County Disaster Services Agency and which shall be accessible by telephone. Activation of this emergency override capability shall give the authorized Agency control of all channels simultaneously for a limited period of time sufficient for the purpose of transmitting audio instructions to viewers to turn to the designated channel for detailed information as to the emergency.

(d) Parental Control Equipment. The Company shall provide subscribers, upon request and at nominal cost, with a parental control locking device that permits a subscriber to inhibit the video and, if feasible, the audio portions of a particular program service or services.

(e) New System Technology. At such time as at least fifty percent (50%) of Cox owned or controlled cable systems elsewhere in the United States offers addressable technology, the Company shall begin to offer this technology no later than eighteen months after such event. The Company shall provide to the City an annual report, due no later than thirty days after each anniversary date of this agreement listing all Cox Cable systems and indicating which systems offer addressable technology.

(Ord. 91-102. Passed 10-21-91.)

733.16 TERMINATION OF SUBSCRIBER SERVICE.

Upon termination of service to any subscriber, the Company shall promptly remove all of its facilities and equipment from the premises of such subscriber upon his written request. Underground drops and/or cable and fished cables will not be removed.

(Ord. 91-102. Passed 10-21-91.)

733.17 INSTITUTIONAL SERVICE.

(a) Buildings Served. The Company shall provide free of any installation or monthly service charge, basic cable service to each of the municipal, educational and public safety facilities designated in writing by the Mayor, at a cable drop location mutually agreeable to the Mayor and the Company. The Company shall agree to relocate any such drop to another location in the same building provided that the building allows a reasonably accessible path if requested by the Mayor. If requested in writing by the Mayor, the Company shall provide additional drops or internal building cabling on a time and materials cost basis, with the Company to submit invoices for proof of cost, but in no event will there be a monthly service charge for such service except for such service provided to a housing facility or, in the case of a hospital, to hospital rooms in which a rental fee is charged to a patient for television service.

(Ord. 91-102. Passed 10-21-91.)

733.18 CONSUMER INFORMATION.

(a) The Company shall furnish each subscriber, at the time service is installed, with information regarding the address and phone number for making inquiries, requests for repairs or other service or assistance or complaints, as described in Section 733.19. In addition, the Company shall provide a privacy notice to each subscriber at the time of installation and at least once per year thereafter, as required by Section 551 of the Cable Act.

(b) The Company shall also provide to each prospective subscriber who requests installation, information, including terms and conditions of eligibility, regarding the Guaranteed Installation Program, or any other similar program Cox may have in effect at that time. (Ord. 91-102. Passed 10-21-91.)

733.19 SUBSCRIBER COMPLAINTS.

Upon receipt of a written complaint the Mayor or his designee shall promptly forward it to the Company. Within five days of receipt of the complaint by the Company, the Company shall satisfy the complaint of the subscriber and so notify the Mayor or his designee of the action taken, or of its refusal or inability to do so. If the complaint is not satisfied, or if the Mayor or his designee is not satisfied with the action taken by the Company, he shall so notify the Company and proceed to negotiate a resolution of the complaint. If the Mayor or his designee and the Company are unable to resolve the complaint to the satisfaction of the subscriber within thirty days he shall notify the subscriber of their right to and the procedures for appeal to Council.

An appeal by the subscriber to Council shall be filed in writing with the Clerk of Council within thirty days from the date of receipt by the subscriber of the Mayor's notice of right of appeal. Upon such procedures and hearings as shall be determined by Council, Council shall issue its determination of the complaint within sixty days. (Ord. 91-102. Passed 10-21-91.)

733.20 REVIEW OF PERFORMANCE.

Within ninety days after the first anniversary of the effective date of this Agreement and each year thereafter throughout the term of this Agreement, the Mayor or his delegate may meet with the Company to review the performance and quality of service provided by the Company under this Agreement. Should the Mayor or his delegate wish to meet with the Company to review the performance and quality of service being provided by the Company, the Mayor or his delegate shall provide the Company thirty days notice and an agenda of the topics to be discussed at such meeting. Within thirty days after the conclusion of any such performance review, the City may issue a report with respect to the adequacy of the system performance and the quality of service. If any inadequacy is found, the City may direct the Company to correct the inadequacy within a reasonable period of time, giving consideration to relevant legal, technical and economic factors. (Ord. 91-102. Passed 10-21-91.)

733.21 CITY INQUIRY.

Any inquiry, proceeding, investigation or other action to be taken or proposed to be taken by Council in regard to the operations of the grantee's cable television system other than one described in Section 733.20 or 733.23, shall be taken only after thirty days public notice of such action or proposed action is served directly on the Grantee and the Grantee has been given an opportunity to respond in writing and/or at hearing as may be specified by Council, and general members of the public have been given an opportunity to respond or comment in writing on the action or proposed action.

The public notice required by this section shall state clearly the action or proposed action to be taken, the time provided for response and the person or persons in authority to whom such responses should be addressed, and such other procedures as may be specified by Council. If a hearing is to be held, the public notice shall give the date and time of such hearing, whether public participation will be allowed and the procedures by which such participation may be obtained. The Company is a necessary party to any hearing conducted in regard to its operations. (Ord. 91-102. Passed 10-21-91.)

733.22 RATES AND CHARGES.

(a) Senior Citizen Discount. From and after the first complete month following passage of renewal Ordinance 91-102, the Company shall allow a Senior Citizen Discount of fifteen percent (15%) off the prevailing customer subscription rates for those senior citizens in the City who qualify for the homestead exemption or live at City designated senior citizens' housing complexes, except that the Company shall not be required to offer such a discount for any off-the-air signal retransmission services or for premium services.

(b) Public Hearing For Rate Increase. In the event that the Company determines to increase subscriber rates, the Company shall give Council sixty days notice thereof. Such notice will be in writing to the Clerk of Council. The Company shall, if the City so requests, participate in an informational public hearing for the purpose of describing such rate increase and the reasons therefor. This subsection shall not be construed to impose any form of rate regulation on the Company.

(c) Discrimination. The Company shall not discriminate among customers of its service for Basic cable service. The Company may offer senior citizen and bulk rate discounts.

(d) Regulatory Authority. In the event that United States law permits local regulation of basic service rates, then notwithstanding anything to the contrary in this chapter, the City may exercise such regulatory authority. (Ord. 91-102. Passed 10-21-91.)

733.23 BREACH OF FRANCHISE.

(a) The City reserves the right to cancel, in the manner hereinafter set forth, the franchise granted hereunder upon the breach of any of the material terms and conditions within the Agreement. Upon any breach thereof, the City shall give the Company written notice of its intention to cancel said franchise setting forth the specific acts which are allegedly in violation of the terms of this Agreement. Said notice shall be given by certified mail addressed to the Company's local business office.

(b) In the event the Company fails to correct said breach or comply with the terms and conditions of this Agreement within seventy-five days after receipt of said notice, unless a delay is caused by circumstances beyond the reasonable control of the Company, the City after a public hearing affording the Company due process shall have the right to cancel this franchise. (Ord. 91-102. Passed 10-21-91.)

733.24 SEVERABILITY.

All terms and conditions of this Agreement are subject to the rules and regulations of the FCC and all applicable State and federal laws. If any provision of this Agreement is held by any court or federal or State agency of competent jurisdiction to be invalid as conflicting with any federal or State law, rule or regulation now or hereafter in effect, or if held by any such court or agency to be modified in any way in order to conform to the requirements of any such law, rule or regulation, said provision shall be considered a separate, distinct and independent part of this Agreement, and such holding shall not affect the validity and enforceability of any other provisions hereof. Notwithstanding the foregoing, if any part of this Agreement is declared or found to be invalid by the FCC or any court or agency of competent jurisdiction, such part may, at the option of either party, be renegotiated. (Ord. 91-102. Passed 10-21-91.)

733.25 MISCELLANEOUS PROVISIONS.

(a) Amendment or Modification. This Agreement shall not be amended or modified except by written agreement executed in the same manner as this Agreement.

(b) Notices. Notices required to be sent to the City under this Agreement shall be in writing and shall be delivered by hand, or shall be sent by certified mail, return receipt requested, to the City of Fairview Park, Attn: Clerk of Council, or such other address as may be designated by the City in writing. Notices required to be sent to the Company shall be in writing and shall be delivered or sent by certified mail, return receipt requested to the Company at 12221 Plaza Drive, Parma, Ohio, 44130, Attn: General Manager, or such other address as may be designated by the Company in writing.

(c) Governing Law. The terms of this Agreement shall be construed in accordance with the laws of the State of Ohio.

(d) Binding Effect. Subject to other provisions contained herein, this Agreement shall be binding upon and shall inure to the benefit of the successors in interest and assigns of the respective parties hereto.

(e) Inspection and Records.

- (1) The City shall have the right, upon reasonable notice to the Company and at reasonable times for the purpose of verifying compliance with this Agreement, to inspect all or any part of the Company's records as well as all books, records, maps, plans, financial statements, service complaint logs, performance test results and documents of every kind in connection with the Grant, the cable system, the system facilities, and the Company's undertakings with respect to this Agreement which relate to the operation of the cable system in the City. If any such books, records, maps, financial statements, service complaint logs, performance test results, or other like material of the Company are not kept in the Company's local office, said records shall upon reasonable request be made available to the City. The City shall take such reasonable steps as necessary to limit disruption of the Company's business.
- (2) The Company shall at all times maintain:
 - A. A record of all complaints received and interruptions or degradation of service experienced for the preceding one year.
 - B. A full and complete set of plans, records and "as-built" maps showing the exact location of all cable system equipment installed or in use in the Company's service area, exclusive of subscriber service drops.
- (3) The Company need not take any action under this section that would render it in violation of Section 551 (Protection of Subscriber Privacy) of the Cable Act. (Ord. 91-102. Passed 10-21-91.)

733.26 ACCEPTANCE OF FRANCHISE RENEWAL.

Within fifteen days from the date of passage of this chapter without amendment, the Company shall file with the Clerk of Council its written acceptance thereof; thereupon this chapter shall be a binding contract between the City and the Company.
(Ord. 91-102. Passed 10-21-91.)

733.27 CAPTIONS.

The captions to sections throughout this chapter are intended solely to facilitate reading and reference. Such captions shall not affect the meaning or interpretations of this chapter.
(Ord. 91-102. Passed 10-21-91.)

733.28 TERMINATION OF FRANCHISE.

(a) Upon the normal termination date (including renewals) of this franchise, or if the franchise is forfeited or abandoned for any other reason prior to the normal termination thereof, the Company may not sell or transfer its facilities, equipment and installations as then existing to any entity except upon approval of Council. Such approval may not be unreasonably withheld.

(b) No purchaser or transferee from the Company of Company's facilities, equipment and installations, or any assignee of company's franchise, shall acquire any rights or authorization to operate a cable television system in the City except as it may be separately granted to it by the City. Such a grant by the City shall not be unreasonably withheld. It shall be prima facie evidence of entitlement to such a grant to such a purchaser or transferee or assignee if such entity agrees to abide by all of the terms and conditions of the franchise agreement then existing and it is determined by Council that such purchaser or transferee or assignee has the financial, technical, and legal abilities to conform to the terms and conditions of the franchise agreement then existing.

(c) Upon the normal termination date (including renewals) of this franchise, or if this franchise is nonrenewed at its termination date, or if this franchise is terminated for cause prior to its normal termination date, then the sale of said cable system to another person shall be:

- (1) In the case of nonrenewal, at fair market value, determined on the basis of the cable system valued as a going concern but with no value allocated to the franchise itself; and
- (2) In the case of termination for cause, at an equitable price.
(Ord. 91-102. Passed 10-21-91.)

733.29 WAIVER.

Nothing in this chapter shall be construed or be deemed a waiver of or an amendment to the rights of the City or the Company under the Cable Act of 1984 as such act exists on the date this chapter is adopted.

(Ord. 91-102. Passed 10-21-91.)

733.30 ACTIONS OF COUNCIL.

It is found and determined that all formal actions of Council concerning and relating to the passage of this chapter were adopted in an open meeting of Council, and that all such deliberations of Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Ohio R.C. 121.22.

The franchise covered by this chapter shall take effect and be in force from and after December 18, 1994.

(Ord. 91-102. Passed 10-21-91.)

CHAPTER 734
Cable Regulatory Staff

| | | | |
|---------------|---------------------------------------|---------------|---------------------------------|
| 734.01 | Establishment and composition. | 734.06 | Council approval. |
| 734.02 | Terms and qualifications. | 734.07 | Parliamentary procedure. |
| 734.03 | Compensation. | 734.08 | Cable Regulatory Staff |
| 734.04 | Meetings. | | Trust Fund. |
| 734.05 | Duties and responsibilities. | | |

CROSS REFERENCES

Community antenna television - see BUS. REG. Ch. 733

734.01 ESTABLISHMENT AND COMPOSITION.

There shall be established a Cable Regulatory Staff to consist of six members to be appointed as follows:

- (a) Council to elect one member of their body by a majority vote who shall serve as their representative to the Cable Regulatory Staff;
- (b) The Mayor or a representative designated by him to represent him at the meetings; and
- (c) Three residents of the City who shall be appointed by the Mayor with the approval of the majority of Council. These persons may be selected, but not limited to, the education, church, civic and/or business community sectors of the City to represent the viewpoint and necessary rate review expertise for the benefit of our citizenry.
- (d) All of the above five members including the Mayor's designated representative shall be entitled to one vote on the board.
- (e) The franchisee (C.A.T.V. Inc.) may be permitted to attend the meeting of the staff upon invitation but shall not be entitled to a vote.
(Ord. 94-15. Passed 4-18-94.)

734.02 TERMS AND QUALIFICATIONS.

- (a) The member designated by Council shall serve from 1994 through December 31, 1995. Thereafter, such Councilperson's term shall be for a period of two years.
- (b) The Mayor shall serve on the staff for the length of his term of office.

(c) The term of office of the three members appointed by the Mayor and approved by Council shall be as follows:

- (1) One member for a term expiring December 31, 1994;
- (2) One member for a term expiring December 31, 1995; and
- (3) One member for a term expiring December 31, 1996.

Subsequent appointments to such staff shall be for terms of two years each. Vacancies shall be filled for the remainder of unexpired terms in the same manner as the original appointments and confirmations. In the case of temporary absence or disability of any member, a member may be appointed and confirmed in the manner provided above to serve during such temporary absence or disability. Such temporary member shall possess all of the qualifications of a regular member, shall have the same powers and perform the same duties as a regular member during the term of his appointment.

(d) The Mayor shall have the right to remove any member he appoints for good cause. (Ord. 94-15. Passed 4-18-94.)

734.03 COMPENSATION.

There shall be no compensation of any kind for any of the members. (Ord. 94-15. Passed 4-18-94.)

734.04 MEETINGS.

The Cable Regulatory Staff shall determine their own schedule of meetings. In any event, the staff shall meet at least once every three months.

- (a) A quorum shall consist of four members in attendance and the concurrence of three voting members shall be required for all decisions.
- (b) All meetings will be open to the public in accordance with Chapter 110 of the Codified Ordinances entitled "Open Meeting Law". (Ord. 94-15. Passed 4-18-94.)

734.05 DUTIES AND RESPONSIBILITIES.

The duties and responsibilities of the Cable Regulatory Staff shall be:

- (a) To develop and oversee matters pertaining to local origination and local access programming.
- (b) To solicit program material, ideas, assistance and funds from individuals, organizations, both civic and business.
- (c) To communicate information pertaining to cable television to the community.
- (d) To keep minutes of all meetings and submit reports of the meetings to the Clerk of Council.
- (e) To remain within the guidelines and intent of Chapter 733 (Ordinance No. 79-72).
- (f) To act as staff as described in Ordinance 93-96 and make recommendations to Council in accordance with such ordinance. (Ord. 94-15. Passed 4-18-94.)

734.06 COUNCIL APPROVAL.

Council shall have the right to approve and disapprove decisions of the Cable Regulatory Staff, but failure to indicate such approval or disapproval shall be deemed to be approval. (Ord. 94-15. Passed 4-18-94.)

734.07 PARLIAMENTARY PROCEDURE.

Robert's Rules of Order as most recently revised shall be the parliamentary authority used by the staff and any legal decisions shall be made by the Director of Law or Assistant Director of Law. (Ord. 94-15. Passed 4-18-94.)

734.08 CABLE REGULATORY STAFF TRUST FUND.

The Director of Finance is authorized to set up a "Cable Regulatory Staff Trust Fund" and accept donations from residents and businesses. (Ord. 94-15. Passed 4-18-94.)

CHAPTER 735
Newspaper Dispensing Devices and Vending Machines

| | | | |
|---------------|------------------------------|---------------|---------------------------------------|
| 735.01 | Application; purpose. | 735.06 | Review and approval procedure. |
| 735.02 | Exemptions. | 735.07 | Enforcement. |
| 735.03 | Definitions. | 735.08 | Equitable remedies. |
| 735.04 | Advertising matter. | 735.99 | Penalty. |
| 735.05 | Specific regulations. | | |

CROSS REFERENCES

Littering - see GEN. OFF. 521.05
 Newspaper drop off deliveries - see GEN. OFF. 521.10
 Permit required; placement - see S.U. & P.S. Ch. 907

735.01 APPLICATION; PURPOSE.

This chapter shall apply to both newspaper dispensing devices and vending machines installed, erected, placed or displayed other than within a building. The purpose of this chapter is to regulate the size, number and outdoor placement of newspaper dispensing devices and vending machines and not to prevent all outdoor display.
 (Ord. 85-35. Passed 7-1-85.)

735.02 EXEMPTIONS.

This chapter shall not apply to United States mail postage dispensing devices or to United States mail collection or postal boxes whether intended and available for use by the general public or for use only by employees of the United States Postal Service nor shall it apply to coin-operated telephones. (Ord. 85-35. Passed 7-1-85.)

735.03 DEFINITIONS.

As used in this chapter, certain terms are defined as follows:

- (a) "Newspaper dispensing device" means any mechanical self-service coin-operated box, container, storage unit or dispenser as well as boxes, containers, storage units or dispensers which may be operated without the payment of a consideration and which, in either case, makes available to persons publications, magazines, newspapers, pamphlets, posters and periodicals of any kind, nature or description contained therein other than obscene material, material harmful to juveniles, or sexually oriented matter involving a minor, as those terms are defined in Chapter 533 of the Codified Ordinances, and which are specifically excluded and prohibited.

- (b) "Vending machine" means any box, container, storage unit or dispenser which displays, offers for sale or makes available for purchase, any merchandise or service contained therein, whether perishable or nonperishable or whether prepackaged, premeasured, bottled or canned including, but not limited to, nonalcoholic beverages, confections, services, grooming items, ice and cigarettes, cigars or other tobacco product, and which upon the insertion of a coin, coins or by other means, including the payment of a fee directly to the owner, operator, proprietor or other person, dispenses or otherwise makes available for purchase the merchandise or service contained therein.
(Ord. 87-37. Passed 12-7-87.)

735.04 ADVERTISING MATTER.

Newspaper dispensing devices and vending machines shall not be used for display of signs, advertising matter or for publicity purposes other than to identify the company name or trade name; the display, sale or purchase of the merchandise available therein or therefrom; instructions of operation; the notice required by Section 735.05; and costs, if any, of the merchandise.
(Ord. 87-37. Passed 12-7-87.)

735.05 SPECIFIC REGULATIONS.

(a) Newspaper dispensing devices shall be constructed of metal or other material of substantially equivalent strength and durability not more than fifty inches in height, thirty inches in width or twenty-four inches in depth; shall weigh at least 160 pounds when empty; shall have a functioning coin return mechanism if a fee is charged; and shall have affixed in a readily visible place a notice setting forth the name, address and telephone number of a responsible officer or agent of the owner to contact to report a malfunction of the coin return mechanism.

(b) Vending machines, other than ice dispensing or storage chests or devices, shall be constructed of metal or other material of substantially equivalent strength and durability not more than eighty inches in height, forty-eight inches in width and thirty inches in length, shall weigh at least 160 pounds when empty; shall have a functioning coin return mechanism if a fee is charged; and shall have affixed in a readily visible place a notice setting forth the name, address and telephone number of a responsible officer or agent of the owner to contact to report a malfunction of the coin return mechanism.

(c) Ice dispensing or storage chests or devices shall be constructed of metal or other material of substantially equivalent strength and durability not more than seventy-two inches in height, thirty-six inches in width, and forty-eight inches in length; shall weigh at least 160 pounds when empty; shall have a functioning coin return mechanism if a fee is charged; and shall have affixed in a readily visible place a notice setting forth the title, address and telephone number of a responsible officer or agent of the owner to contact to report a malfunction of the coin return mechanism.

(d) Other than within enclosed buildings, newspaper dispensing devices shall not exceed three in number, and vending machines, including ice dispensing or storage chests or devices, shall not exceed two in number and no combination of newspaper dispensing devices and vending machines, including ice dispensing or storage chests or devices, shall exceed three in number at any one time on any lot or premises. All vending machines and newspaper dispensing devices shall be placed, installed, used or maintained adjacent to and parallel with the building walls and shall not be placed, installed or maintained:

- (1) So as to reduce the clear, continuous area designed and intended as a pedestrian walkway to less than five feet;
- (2) Within five feet of any fire hydrant, fire call box, police call box or other emergency facility;
- (3) Within five feet of any access drive;
- (4) Within six inches of any public utility pole, provided that placement adjacent to a public utility pole shall be limited to one side of the pole;
- (5) Within that portion of the lot or premises parallel to an area designated for handicapped parking or a commercial loading or unloading space or which serves as a handicap curb or ramp;
- (6) More than twelve inches from the front building wall or more than three feet from any other building wall or less than three feet from any doorway;
- (7) In a manner that blocks, obstructs or restricts access to the building by fire or police personnel;
- (8) Contrary to any specific provision of the Zoning Code which regulates the location of outdoor display or sale of merchandise;
- (9) So as to display signs or other publicity matter except as permitted by Section 735.04;
- (10) So as to be stacked one on top of another; or
- (11) In other than a secure and stationary manner.

(e) Outdoor installation, placement, use or maintenance of any vending machine and newspaper dispensing device shall not be permitted in any residential zoning district as set forth on the Zone Map of the City, except as provided in Chapter 907 of the Codified Ordinances.

(f) Newspaper dispensing devices and vending machines, including ice dispensing or storage chests or devices, shall be maintained in good working order, in a safe, clean and attractive condition, free of rust and the area surrounding such devices and machines shall be kept free from litter and debris. Vending machines, including ice dispensing or storage chests or devices, shall be installed and maintained in accordance with the provisions of Chapter 1315 of the Codified Ordinances. (Ord. 87-37. Passed 12-7-87.)

735.06 REVIEW AND APPROVAL PROCEDURE.

(a) Prior to the installation, placement or use of a newspaper dispensing device or a vending machine, the owner of such device or machine, or the owner of the premises, shall submit to the Building Commissioner the following information:

- (1) The name, address and telephone number of the owner of the device or machine and of the premises where the device or machine is to be installed, placed or used;
- (2) The name, address and telephone number of the individual or other person to whom the City shall serve in person or by mail to correct any violation of the chapter;
- (3) The location and dimensions for each newspaper device or vending machine with sufficient detail to enable the Building Commissioner that the installation and placement of the device or vending machine shall meet the criteria regulations of Section 735.05; and

- (4) Permission of the owner of the premises, when the applicant is not the owner.

(b) The owner of the device or machine or the owner of the premises shall promptly notify the Building Commissioner in writing of any change in the information required by this section. If the owner of the device or machine, or the owner of the premises proposes to change the location of a newspaper dispensing device or vending machine, the information required by this section shall be submitted to the Building Commissioner prior to the change in location.

(c) The provisions of this section shall not apply to vending machines and newspaper dispensing devices located within enclosed buildings.
(Ord. 87-37. Passed 12-7-87.)

735.07 ENFORCEMENT.

The provisions of this chapter shall be enforced by the Building Commissioner or his designee. (Ord. 85-35. Passed 7-1-85.)

735.08 EQUITABLE REMEDIES.

In addition to the penalty provided in Section 735.99, no provision of this chapter shall be construed or interpreted so as to preclude the institution of appropriate proceedings in a court of competent jurisdiction by the Department of Law for the purpose of abating violations of this chapter. (Ord. 85-35. Passed 7-1-85.)

735.99 PENALTY.

Whoever violates any provision of this chapter shall be guilty of a minor misdemeanor. Each day of violation shall constitute a separate offense.
(Ord. 85-35. Passed 7-1-85.)

CHAPTER 737
Home Sales

| | | | |
|---------------|---|---------------|------------------------------|
| 737.01 | Home sale defined. | 737.05 | Advertising signs. |
| 737.02 | Intent. | 737.06 | Notification to City. |
| 737.03 | Maximum number of sales. | 737.99 | Penalty. |
| 737.04 | Hours and merchandise permitted. | | |

CROSS REFERENCES

Home sale signs - see P. & Z. 1145.13(g)

737.01 HOME SALE DEFINED.

As used in this chapter, "home sale" means a transfer of ownership of tangible personal property to the general public conducted on or within any portion of a residential premises, including, but not limited to, garage sales, patio sales, yard sales, basement sales, rummage sales, porch sales, driveway sales and the like.
(Ord. 82-41. Passed 12-6-82.)

737.02 INTENT.

(a) It is the intent of this chapter to regulate and control home sales conducted on or within residential premises but shall not be construed in a manner to curtail the average homeowner's or resident's attempt to conduct a sale but rather is directed at the chronic vendor who runs home sales as a part-time business on or within residential premises.

(b) This chapter shall not apply to:

- (1) Home sales conducted solely for or on behalf of nonprofit corporations, religious institutions, clubs or lodges or to home sales conducted on real estate owned and/or occupied by such organizations.
- (2) Sales conducted by nonconforming businesses located in residential zoning districts.
- (3) Sales conducted pursuant to an order or process of a court of competent jurisdiction. (Ord. 82-41. Passed 12-6-82.)

737.03 MAXIMUM NUMBER OF SALES.

No home sale shall be conducted by the same resident or a member of the family of such resident on the premises of such resident more than three times each calendar year. A "home sale" as used herein means a period of three days or less in any one calendar week.
(Ord. 82-41. Passed 12-6-82.)

737.04 HOURS AND MERCHANDISE PERMITTED.

(a) No person shall conduct a home sale except between the hours of 9:00 a.m. and 6:00 p.m. No home sale shall last more than three consecutive days.

(b) No person shall offer any merchandise for sale that has been purchased by or for, made a gift to, or for a consideration placed with, the resident for purposes of resale at such home sale.

(c) After the expiration of each day of the sale, all merchandise offered for sale shall be placed inside the premises and not within the view of the general public.
(Ord. 82-41. Passed 12-6-82.)

737.05 ADVERTISING SIGNS.

Signs advertising home sales shall be permitted as regulated by Chapter 1145 of the Codified Ordinances. (Ord. 82-41. Passed 12-6-82.)

737.06 NOTIFICATION TO CITY.

(a) Any person intending to conduct a home sale shall notify the Building Department in writing, in person or by telephone prior to the sale of:

- (1) The name of the person conducting the sale.
- (2) The street address of the location at which such home sale is to be conducted.
- (3) The date or dates of the home sale.
- (4) The number, if any, of previous such sales during the same calendar year.
- (5) Such other information as may be required by the Building Commissioner.

(b) The Building Commissioner shall maintain such records as are deemed necessary or appropriate for the administration of this chapter.
(Ord. 82-41. Passed 12-6-82.)

737.99 PENALTY.

Whoever violates or fails to comply with any of the provisions of this chapter shall be fined not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00) for a first offense; for a second offense, such person shall be fined not more than one hundred dollars (\$100.00).
(Ord. 82-41. Passed 12-6-82.)

(EDITOR'S NOTE: The next printed page is page 79.)

CHAPTER 741
Lawn Chemical Applicators

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|---|--|
| <p>741.01 Notice to occupant of property.</p> <p>741.02 Removal from abutting property.</p> <p>741.03 Posting of signs required.</p> | <p>741.04 Exemptions.</p> <p>741.99 Penalty.</p> |
|---|--|

CROSS REFERENCES

- Pesticide applicators and operators - see Ohio R.C. 921.06 to 921.12
- Economic poisons - see OAC Ch. 901:5-11
- Trees, hedges, shrubs and bushes chemical applicators - see BUS. REG. Ch. 742

741.01 NOTICE TO OCCUPANT OF PROPERTY.

(a) No person licensed under Ohio R.C. 921.06, 921.07, 921.08 or 921.12 shall apply any lawn chemical to residential or commercial lawns in the City unless, at or before the time of application, the information described in subsection (b) hereof has been provided to the owner, tenant and occupant on whose property the lawn chemical is to be applied.

(b) The information to be provided shall be in writing and shall include not less than the following:

- (1) The brand or common name of each lawn chemical to be applied;
 - (2) The chemical type (fertilizer, pesticide or defoliant) of each lawn chemical to be applied;
 - (3) The range of concentration of end use product to be applied to the lawn and the rate of application;
 - (4) Any special instruction appearing on the label of the lawn chemical product applicable to the occupant's use of the lawn following application;
 - (5) The name and telephone number of the employer of the applicator;
 - (6) The date and approximate time of lawn chemical application.
- (Ord. 88-30. Passed 7-18-88.)

741.02 REMOVAL FROM ABUTTING PROPERTY.

No person who is licensed under Ohio R.C. 921.06, 921.07, 921.08 or 921.12 or any employee of any person so licensed shall fail to remove from any public sidewalk or the driveway of an abutting property any lawn care chemical which may have been placed thereon during the application of the lawn chemical. (Ord. 97-46. Passed 5-19-97.)

741.03 POSTING OF SIGNS REQUIRED.

No person who is licensed under Ohio R.C. 921.06, 921.07, 921.08 or 921.12 shall apply any lawn chemical to residential or commercial lawns in the City unless within one hour of the application of the lawn chemical, the applicator shall place at common access points on the property to which the lawn chemical was applied one or more signs with dimensions of at least four inches by five inches attached to a supporting device of not less than fourteen inches in length marked on one side with letters of one-half inch or larger that substantially provides the following information:

LAWN CARE APPLICATION. KEEP OFF GRASS UNTIL DRY. REMOVE AFTER 24 HOURS.

The use of an International Warning Symbol, company logo or other similar advertising graphic is permissible provided that the requirements of this section are met. In placing the signs required by this subsection, persons licensed under Ohio R.C. 921.06, 921.07, 921.08 and 921.12 shall not be responsible for or have any liability as the result of the removal of such signs by unauthorized persons except that no applicator or employee of the applicator shall remove such signs prior to the expiration of twenty-four hours following the application of the lawn chemical. The signs required under this section may be removed and discarded by the property owner or resident of the property or such other persons as may be authorized by the property owner or resident of the property the day following the lawn chemical application. (Ord. 88-30. Passed 7-18-88.)

741.04 EXEMPTIONS.

The provisions of this section do not apply to any person while he is making the following applications:

- (a) Any subterranean application;
- (b) Any application for the purpose of the maintenance, operation or construction of a public utility;
- (c) Any treatment for the eradication or control of pests previously declared to be a nuisance by the Director of the Ohio Department of Agriculture, Director of the Ohio Department of Health or Cuyahoga County Board of Health and for which immediate application is necessary to prevent a substantial risk of human or economic harm provided, however, that the requirements of Section 741.03 shall be complied with.

(Ord. 88-30. Passed 7-18-88.)

741.99 PENALTY.

Whoever violates any provision of this chapter shall be guilty of a misdemeanor of the fourth degree and each day during which such violation continues shall be a separate offense. (Ord. 88-30. Passed 7-18-88.)

CHAPTER 742
Registration of Users of Pesticides for Trees,
Shrubs, Bushes, Plants (Repealed)

EDITOR'S NOTE: Former Chapter 742 was repealed by Ordinance 93-81, passed September 7, 1993.

CROSS REFERENCES

Pesticide applicators and operators - see Ohio R.C. 921.06 to 921.12

Lawn chemical applicators - see BUS. REG. Ch. 741

CHAPTER 743
Environmental Preservation: Environmentally Acceptable Packaging

| | | | |
|---------------|-------------------------------|---------------|------------------------------------|
| 743.01 | Definitions. | 743.06 | City: purchases prohibited. |
| 743.02 | Prohibitions. | 743.99 | Penalty. |
| 743.03 | Enforcement. | | |
| 743.04 | Rules and regulations. | | |
| 743.05 | Exemptions. | | |

743.01 DEFINITIONS.

For the purposes of this chapter, the words and phrases defined in this section shall have the meaning set forth in this section.

- (a) "Chlorofluorocarbon" means the family of substances containing carbon, fluorine and chlorine, and having no hydrogen atoms and no double bonds and including, but not limited to, CFC-11, CFC-12, CFC-113, CFC-114, CFC-115, Halon 1211, Halon 1301 and Halon 2402.
- (b) "Chlorofluorocarbon (CFC) - processed food packaging" means any food packaging which uses chlorofluorocarbons as blowing agents in its manufacture.
- (c) "Customer" means anyone purchasing or receiving food or beverages from a restaurant or a retail food vendor.
- (d) "Environmentally acceptable packaging" means and includes the following:
 - (1) "Biodegradable packaging" means packaging capable of being broken down or converted by fungi, bacteria or other microorganisms or other natural elements from a complex molecular structure to simple gases and organic compounds or basic elements.
 - (2) "Degradable packaging" means packaging made of cellulose-based or other substances that are capable of being attacked, decomposed, assimilated and otherwise completely oxidized or broken down by bacteria or other natural biological or biochemical processes into carbonaceous soil material or water and carbon dioxide.

- (3) "Recyclable packaging" means packaging made of materials that are separable from solid waste by the generator or during collection and that is currently collected for recycling and are capable of being recycled. Packaging shall be considered to be recyclable if and when it is collected for recycling. Recyclable describes material that is utilized as a raw material in the manufacture of a new product or new economic use.
- (4) "Returnable packaging" means food or beverage containers or packages, such as, but not limited to, soft drink bottles and containers and milk bottles and containers that are capable of being returned to the distributor, such as, but not limited to, dairy and soft drink bottlers, for reuse as the same or similar food or beverage containers at least once.
- (5) Any and all chlorofluorocarbon (CFC) processed food packaging is hereby deemed and declared to be not environmentally acceptable packaging.
- (6) "Prepared food" means food or beverages which are prepared on the premises of the vendor by cooking, chopping, slicing, mixing, freezing or squeezing, and which requires no further preparation for consumption. "Prepared food" does not include any raw or uncooked meat product or fruits or vegetables which are not chopped, squeezed or mixed.
- (f) "Packaging" means and includes all food-related wrappings, adhesives, cards, bindings, strings, tapes, ribbons, bags, sacks, boxes, coverings and containers; and further includes lids, cups, glasses, cartons and similar containers for drinking out of or for holding liquids, and plates and serving trays, but the word "packaging" specifically excludes plastic knives, forks and spoons sold or intended for use as utensils and any plastic covers, covering material, food container lids and straws.
- (g) "Restaurant" means any establishment located within the City, selling prepared food to be eaten on or about its premises and for the purposes of this chapter includes the owner of such restaurant and all other persons, firms or corporations operating and/or managing such establishment.
- (h) "Retail food vendor" means any store, shop, sales outlet or other establishment, including a grocery store or a delicatessen, other than a restaurant, located within the City, which sells takeout food and for the purposes of this chapter includes the owner and all other persons, firms or corporations operating and/or managing such establishment.
- (i) "Takeout food" means prepared foods or beverages requiring no further preparation to be consumed and which generally are purchased in order to be consumed off the retail food vendor's premises.
(Ord. 90-3. Passed 2-4-91.)

743.02 PROHIBITIONS.

No person, firm or corporation owning, operating or managing a restaurant and no retail food vendor located within the City shall do or allow to be done any of the following:

- (a) Within the City, sell, offer to sell or convey at retail, or possess with the intent to sell or convey at retail, to any customer any prepared food or beverage or takeout food or beverage which is placed, wrapped or packaged at any time at or before the time or point of sale in or on packaging which is not environmentally acceptable packaging; nor
- (b) Within the City, provide to retail customers or possess with the intent to provide to retail customers, packaging which is not environmentally acceptable packaging; nor
- (c) Within the City, provide prepared food or takeout food to its customers in or on packaging which is not environmentally acceptable packaging.
- (d) The presence on the premises of the restaurant or retail food vendor of packaging which is not environmentally acceptable packaging shall constitute a rebuttable presumption of intent to sell or convey at retail, or to provide to retail customers packaging which is not environmentally acceptable packaging provided, however, that this subsection shall not apply to manufacturers, brokers or warehouse operators who conduct or transact no retail food or beverage business.
(Ord. 90-3. Passed 2-4-91.)

743.03 ENFORCEMENT.

The Director of Public Service and Development or the designee of the Director, the Commissioner of the Division of Building and all employees of the Division of Building authorized by the Director, and the Chief of Police and all other law enforcement officers are hereby authorized and empowered and shall have the duty and the authority to enforce the provisions of this chapter.

(Ord. 90-3. Passed 2-4-91.)

743.04 RULES AND REGULATIONS.

The Director of Public Service and Development is hereby authorized to promulgate such rules and regulations as are reasonable and necessary to carry out the aims and goals of this chapter, including the development of exemptions under Section 743.05 for which there is no commercially available alternative and for flexible packaging. Prior to the adoption of such rules and regulations, the Director shall give public notice in a newspaper of general circulation of not less than sixty days of his intent to adopt such rules and regulations, provide copies of the proposed rules and regulations to all interested parties and shall conduct a public hearing thereon. Public notice shall be given in a newspaper of general circulation when the rules and regulations have been finally adopted. No rule or regulation shall be considered as adopted if disapproved by Council by resolution within forty-five days of its adoption.

(Ord. 90-3. Passed 2-4-91.)

743.05 EXEMPTIONS.

Notwithstanding any other provision to the contrary, this chapter shall not apply to:

- (a) Any flexible packaging or other flexible transparent covering of ten mils or less in thickness unless disapproved by the Director of Public Service and Development pursuant to rules promulgated pursuant to Section 743.04;
- (b) Any paper, cellophane or other cellulose-based packaging that is coated with plastic on only one side;
- (c) Any packaging which is not otherwise environmentally acceptable packaging for which there is not commercially available alternative as determined by rule and regulation promulgated and adopted pursuant to Section 743.04.

In determining whether there is a commercially available alternative the Director shall consider:

- (1) The availability of environmentally acceptable packaging for the affected product. Among the factors to be considered in determining whether environmentally acceptable packaging is available are whether acceptable packaging has been previously used for the same or like product or whether acceptable packaging is currently being used for the same or like product or whether acceptable packaging is reasonably available for purchase and use for the packaging of the same or like product.
- (2) The competitive effects on retail food vendors involved in the sale of product brands or labels available only in packaging which is not environmentally acceptable packaging.

Every rule and regulation creating an exemption pursuant to this section shall be reviewed annually by the Director to determine whether then current conditions continue to warrant the specific exemption.

(Ord. 90-3. Passed 2-4-91.)

743.06 CITY: PURCHASES PROHIBITED.

The City shall not purchase any packaging which is not environmentally acceptable packaging, nor shall any City-sponsored or City-supported event use such packaging. Only environmentally acceptable packaging shall be sold or used by any person who leases space from the City or sold or used at activities on any City owned, leased or controlled premises.

(Ord. 90-3. Passed 2-4-91.)

743.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the fourth degree. Each day on which a violation occurs shall constitute a separate offense.

(Ord. 90-3. Passed 2-4-91.)

CHAPTER 745
Paint Removal and Power Assisted Spraying

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| 745.01 License required. | 745.05 Limitation of liability. |
| 745.02 License application. | 745.06 Compliance with other laws. |
| 745.03 Permit required; revocation. | 745.99 Penalty. |
| 745.04 Restrictions. | |

745.01 LICENSE REQUIRED.

No person, firm or corporation shall perform or do any paint removal or power assisted paint, stain or sealant spraying of any structure located in the City, by sand blasting, power assisted propelling of solids or liquids, or any similar methods without first having been licensed by the Building Commissioner. A separate permit shall be required for each separate job or location at which such activity is to be done.
 (Ord. 90-10. Passed 6-4-90.)

745.02 LICENSE APPLICATION.

An applicant for license shall first file an application therefor in writing in the Office of the Building Commissioner. The Building Commissioner shall prepare and furnish forms for that purpose.

- (a) Application for a license shall be upon a form issued by the Building Commissioner, and a license shall be granted if the Commissioner finds that the applicant is qualified to perform the work for which the application is sought. Evidence of repeat violations of this Building Code or other City ordinances shall be sufficient evidence to disqualify the applicant from receiving a license.
- (b) Upon application, a license for any work described in Section 745.01 shall be issued to the applicant by the Building Commissioner, upon payment by the applicant as required in Chapter 1305. Such license shall be issued for a period of one year from January 1 of the year that it is issued and shall expire on December 31 next following the date of issuance. Such license shall be renewed each year thereafter for a like period upon the payment as required in Chapter 1305.

- (c) The license shall state the name of the license, firm name in case of a partnership or corporation, place of business, date of issuance, expiration date, and shall be signed by the Building Commissioner.
- (d) No one licensed under the provisions of this chapter shall allow or permit his or its name to be used in acquiring any permit or doing any work unless the licensee, or his, her or its regular employed foreman, is personally at the site of the work to superintended and direct the same.
- (e) Every applicant shall furnish and file with the Building Commissioner proof of liability and property damage business insurance in a minimum sum of three hundred thousand dollar to five hundred thousand dollars (\$300,000/\$500,000) for liability insurance and one hundred thousand dollars (\$100,000) property damage. Such insurance shall be approved as to form by the Director of Law, and as to company, by the Mayor as to sufficiency.
- (f) If the applicant is currently registered as a contractor in accordance with Chapter 1305, then the applicant shall be deemed appropriately licensed under this section.
- (g) This section shall in no way be interpreted so as to require the owner of a single or two-family dwelling to be licensed hereunder, to personally perform work upon the premises occupied or to be occupied by the owner as the owner's established residence. (Ord. 99-35. Passed 4-19-99.)

745.03 PERMIT REQUIRED; REVOCATION.

(a) An applicant for a permit shall first file an application thereof in writing in the office of the Building Commissioner. The Commissioner shall prepare and furnish forms for that purpose. Each application shall be accompanied with the payment of twenty-five dollars (\$25.00). A separate permit and fee shall be required for each separate location at which the work is to be done.

- (b) Each application shall state:
 - (1) The location of the job;
 - (2) The structure or portion thereof upon which the process is to be performed;

- (3) The length of time it is estimated the process will take;
- (4) The date when such work is to commence;
- (5) The type of process to be used.

(c) Noncompliance with any of the provisions of this chapter shall be cause for immediate revocation of any permit issued for any work hereunder. The Building Commissioner shall have the power to revoke such permit and order the stopping of such work without previous notice. It shall be unlawful for any person to do any work subject to the provisions of this chapter after a permit therefore has been revoked.

(d) No provision of this chapter shall be interpreted or applied to require that the owner of a one or two-family dwelling shall obtain a permit prior to paint removal or exterior painting, staining or sealing of a structure surfaces of property which that person owns and occupies to be done by such owner with the assistance only of a member of his family or household. (Ord. 99-35. Passed 4-19-99.)

745.04 RESTRICTIONS.

(a) The permittee shall provide written notification to each abutting and adjoining property no less than twenty-four (24) hours prior to when the work is to commence. The written notice shall state the nature of the work being performed, the address where the work is being performed, and the date when the work will commence.

(b) All such operations subject to the provisions of this chapter shall be shielded by tarpaulins or other suitable screening so as to prevent vapor, dust, and debris from causing a nuisance by falling on pedestrians, vehicles, public thoroughfares and adjoining property.

(c) No sand blasting or similar power paint stripping will be conducted during rain or snowfall.

(d) No power spraying of paints, stains or sealants will be conducted when wind speed exceeds fifteen miles per hour.

(e) Ground tarping shall be used in sufficient quantity and placed a sufficient distance from the work surface being stripped or finished/refinished so as to collect as much of the residue as possible to prevent it from falling to the ground.

(f) All vents, windows and other areas through which air might enter the premises upon which the work is being conducted, shall be covered to prevent infiltration.

(g) No such activity shall be permitted under any permit issued in accordance with this section which violates Chapter 557.

(h) After the completion of the work to be performed under the permit, the person, firm or corporation shall be required to thoroughly clean up all residue from the permit premises and adjacent property, public rights of way or thoroughfares. In addition, the person, firm or corporation shall ensure that no such work is performed in such a manner so as to cause or create a public nuisance and shall further ensure that the cleanup of the work area is in such a manner as not to cause or create a public nuisance.
(Ord. 90-10. Passed 6-4-90.)

745.05 LIMITATION OF LIABILITY.

This chapter shall not be construed to in any way limit, reduce, mitigate or otherwise diminish the liability of the contractor/permittee to any other person, firm or corporation for any damage arising from or related to the contractor's/permittee's actions or work performed notwithstanding the issuance of a permit or that the person, firm or corporation has complied with all provisions of this chapter.
(Ord. 90-10. Passed 6-4-90.)

745.06 COMPLIANCE WITH OTHER LAWS.

Nothing contained in this chapter shall be deemed to exempt any applicant or permittee from the provisions of any other ordinance or resolution, nor from the payment of any other fees or the necessity of obtaining any other permits required by any other ordinance or resolution.
(Ord. 90-10. Passed 6-4-90.)

745.99 PENALTY.

Whoever violates any provision of this chapter shall be guilty of a misdemeanor of the fourth degree and each day during which such violation continues shall be a separate offense.

CHAPTER 749
Disposal of Lead-Acid Batteries

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| <p>749.01 Definitions.</p> <p>749.02 Commingling prohibited.</p> <p>749.03 Discarding of used lead-acid batteries by other than retailer and wholesaler.</p> <p>749.04 Duties of retailer; discarding, acceptance, storage of used lead-acid batteries.</p> | <p>749.05 Duties of wholesaler; discarding, acceptance, storage of used lead-acid batteries.</p> <p>749.99 Penalty.</p> |
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749.01 DEFINITIONS.

As used in this chapter:

- (a) "Lead-acid battery" means a battery containing lead or a lead alloy and sulfuric acid and that has a nominal voltage of at least six volts.
- (b) "Retailer" means any person, firm or corporation who sells, transfers or offers for sale or transfer lead-acid batteries at retail.
- (c) "Secondary lead smelter" means a secondary lead smelter operating in compliance with Ohio R.C. Chapters 3704 and 6111 and with the Air and Water Pollution Control and Solid and Hazardous Waste Disposal laws of the United States, of the State of Ohio and of any other state with jurisdictional authority.
- (d) "Wholesaler" means any person, firm or corporation who sells, transfers or offers for sale or transfer lead-acid batteries at wholesale.
(Ord. 91-89. Passed 10-7-91.)

749.02 COMMINGLING PROHIBITED.

No person shall commingle a used lead-acid battery with any other type or kind of solid waste.
(Ord. 91-89. Passed 10-7-91.)

749.03 DISCARDING OF USED LEAD-ACID BATTERIES BY OTHER THAN RETAILER AND WHOLESALER.

No person, firm or corporation, other than a retailer or wholesaler, shall discard or dispose of a used lead-acid battery except by delivery to:

- (a) A retailer or a wholesaler or an agent of either;
- (b) A secondary lead smelter;
- (c) A recycling or other similar collection facility.

(Ord. 91-89. Passed 10-7-91.)

749.04 DUTIES OF RETAILER; DISCARDING, ACCEPTANCE, STORAGE OF USED LEAD-ACID BATTERIES.

(a) Any retailers of lead-acid batteries shall accept from each lead-acid battery purchaser at the point of sale or transfer used lead-acid batteries in a quantity not less than the number of batteries purchased if offered by the purchaser.

(b) No retailer shall discard or dispose of a used lead-acid battery except by delivery to:

- (1) A wholesaler or an agent thereof;
- (2) A manufacturer of lead-acid batteries or an agent thereof;
- (3) A secondary lead smelter;
- (4) A recycling or other similar collection facility.

(c) All retailers of lead-acid batteries shall post a sign within their place of business at least eight and one-half inches by eleven inches which shall contain the following statements:
"It is illegal to discard a used motor vehicle battery or other used lead-acid battery."
"Recycle your used batteries."

"The ordinances of Fairview Park require us to accept used motor vehicle batteries and other used lead-acid batteries for recycling in exchange for new batteries purchased."

(d) No retailer shall store a used lead-acid battery on any premises for more than ninety days.

(Ord. 91-89. Passed 10-7-91.)

749.05 DUTIES OF WHOLESALER; DISCARDING, ACCEPTANCE, STORAGE OF USED LEAD-ACID BATTERIES.

(a) Any wholesaler of lead-acid batteries shall accept from each lead-acid battery purchaser at the point of sale or transfer used lead-acid batteries in a quantity not less than the number of batteries purchased if offered by the purchaser.

(b) No wholesaler shall discard or dispose of a used lead-acid battery except by delivery to:

- (1) A manufacturer of lead-acid batteries or an agent thereof;
- (2) A secondary lead smelter;
- (3) A recycling or other similar collection facility.

(c) No wholesaler shall store a used lead-acid battery on any premises for more than ninety days.
(Ord. 91-89. Passed 10-7-91.)

749.99 PENALTY.

Whoever violates any provision of this chapter for a first offense is guilty of a misdemeanor of the fourth degree and for each subsequent offense is guilty of a misdemeanor of the third degree.
(Ord. 91-89. Passed 10-7-91.)

CHAPTER 751
Massage Establishments

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| 751.01 | Definitions. | 751.14 | Alcoholic beverages prohibited; drug abuse offenses. |
| 751.02 | Licenses required. | 751.15 | Hours. |
| 751.03 | Exemptions. | 751.16 | Employment of massagist. |
| 751.04 | Massage establishment license application. | 751.17 | Inspection required. |
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| 751.06 | License application approval or denial. | 751.19 | Name and place of business. |
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| 751.09 | Register of employees. | 751.22 | Remedy for violations. |
| 751.10 | License revocation or suspension. | 751.23 | Appeal procedure. |
| 751.11 | Facilities necessary. | 751.24 | Authority to adopt rules. |
| 751.12 | Operating requirements. | 751.99 | Penalty. |
| 751.13 | Minors prohibited on premises. | | |

CROSS REFERENCES

Obscenity and sex offenses - see GEN. OFF. Ch. 533

Adult entertainment businesses - see BUS. REG. Ch. 753

751.01 DEFINITIONS.

As used in this chapter certain terms are defined as follows:

- (a) "Employee" means any person eighteen years of age or older other than a massagist, who renders any service in connection with the operation of a massage establishment and receives compensation from the operator of the business or patrons.
- (b) "Licensee" means the person to whom a license has been issued who owns or operates a massage establishment as defined in subsection (d) hereof.

- (c) "Massage" means any method of pressure or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of the external parts of the human body with the hands or with the aid of any mechanical or electrical apparatus, appliance or instrument with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments, air, vapor or other such similar preparations commonly used in the practice of massage, under such circumstances that it is reasonably expected that the person to whom the treatment is provided or some third person on his or her behalf will pay money or give any other consideration, including any gratuity therefor.
- (d) "Massage establishment" means any establishment having a source of income or compensation derived from the practice of massage as defined in subsection (c) hereof, and which has a fixed place of business where any person, firm, association or corporation engages in, carries on, conducts or permits to be engaged in, carried on or conducted any of the activities as defined in subsection (c) hereof.
- (e) "Massagist", "masseur", or "masseuse" means any person who, for any consideration whatsoever engages in, carries on or conducts the practice of massage as defined in subsection (c) hereof.
- (f) "Outcall massage service" means any business, the function of which is to engage in, carry on or conduct massage at a location designated by the patron or client rather than at a massage establishment as defined in subsection (d) hereof.
- (g) "Patron" means any person eighteen years of age or older who receives a massage under such circumstances that it is reasonably expected that he or she will pay money or give any other consideration, including any gratuity therefor.
- (h) "Person" means any individual, partnership, firm, association, joint stock company, corporation or combination of individuals in whatever form or character.
- (i) "Sexual or genital area" means genitals, pubic hair, buttocks, anus or perineum of any person, or the vulva or breasts of a female.
(Ord. 86-45. Passed 10-6-86; Ord. 02-34. Passed 7-22-02.)

751.02 LICENSES REQUIRED.

(a) Business License Required. No person shall engage in, carry out, conduct or permit to be engaged in, carried on or conducted the business of massage unless he has a valid massage establishment license issued by the City pursuant to the provisions of this chapter for each and every separate office or place of business conducted by such person.

(b) Massagist's License Required. No person shall practice massage as a massagist, employee or otherwise, unless he has a valid and subsisting massagist's license issued to him by the State pursuant to the provisions of the Ohio Revised Code, governing the limited practice of medicine. (Ord. 86-45. Passed 10-6-86; Ord. 02-34. Passed 7-22-02.)

751.03 EXEMPTIONS.

- (a) Establishments. The provisions of this chapter shall not apply to the following:
 - (1) Hospitals, clinics and public health centers provided that such are not used for the purpose of a massage establishment;

- (2) The offices of a physician, surgeon, podiatrist, osteopath or chiropractor who is licensed or registered by the State of Ohio Medical Board which are used while performing the licensed or registered profession;
 - (3) A licensed or registered barber shop, beauty salon, school of cosmetology or barber school while used to perform the licensed or registered vocation; or
 - (4) The offices of a licensed physical therapist while used to perform the licensed profession.
- (b) Persons. The provisions of this chapter shall not apply to the following:
- (1) A physician, surgeon, podiatrist, osteopath, or chiropractor licensed or registered by the State of Ohio Medical Board while performing and within the scope of the licensed or registered profession;
 - (2) A licensed cosmetologist or beautician, registered barber, licensed practical nurse, registered nurse or licensed physical therapist duly licensed or registered under the laws of the State of Ohio while performing and within the scope of the licensed or registered profession or vocation; or
 - (3) A person working under the immediate direction or supervision of the individuals mentioned in subsection (b)(1) and (2) hereof while performing and within the scope of the licensed or registered profession or vocation. (Ord. 86-45. Passed 10-6-86; Ord. 02-34. Passed 7-22-02.)

751.04 MASSAGE ESTABLISHMENT LICENSE APPLICATION.

(a) Every applicant for a license to maintain, operate or conduct a massage establishment, including a renewal thereof, shall file a written application under oath with the City upon a form provided by the Mayor or a designee thereof and pay a nonrefundable annual license fee, which shall be one hundred dollars (\$100.00) per year or any part thereof. The application once accepted shall be referred to the Police Department for investigation. Copies of the application shall within five days also be referred to the Division of Building and the Fire Department. The Division of Building and Fire Department shall within thirty days inspect the premises proposed to be operated as a massage establishment and shall make written verification to the Police Department concerning compliance with the codes of the City and State that they administer.

(b) The applicant for a massage establishment license, including any partner or limited partner of a partnership, and any officer or director of a corporate applicant and any stockholder holding ten percent (10%) or more of the stock, shall furnish on the application form provided, duly dated and signed, the following information:

- (1) The full name, residence address, residence telephone number, social security number, age and birthdate of the applicant together with evidence satisfactory to the Director that the applicant is at least eighteen years of age;
- (2) The physical description of the applicant, including height, weight, color of hair and eyes, and sex;

- (3) The business, occupation or employment of the applicant for the three years immediately preceding the date of application;
- (4) All residence addresses of the applicant for the three years immediately preceding the date of application;
- (5) A complete set of fingerprints obtained by the Police Department and a recent two inch by two inch photograph of the applicant;
- (6) All criminal convictions, other than misdemeanor traffic violations, of the applicant including date, nature of the crime and place convicted;
- (7) The location and all telephone numbers of the premises proposed to be operated as a massage establishment;
- (8) The name, residence address and telephone number of the owner or owners and lessor or lessors of the premises upon or in which the massage establishment is proposed to be conducted and a copy of the lease or rental agreement;
- (9) A description of any other business operated or to be operated by the applicant on the same or adjoining premises owned or controlled by the applicant;
- (10) The name and address of any massage establishment owned, operated or controlled by the applicant;
- (11) Whether the applicant or any person owning or controlling the premises has ever had a massage or massage establishment, or similar license ever denied, revoked or suspended and, if so, when, where and the reasons therefor;
- (12) The number of employees, massagists and other persons to be employed or working on the premises;
- (13) If the applicant is a corporation or a partnership, the name and address of the corporation or partnership shall be set forth exactly as shown on the articles of incorporation, the certificate of partnership, the certificate of limited partnership or the statement of limited partnership association; and
- (14) Such other information as the Director may require.
(Ord. 86-45. Passed 10-6-86; Ord. 02-34. Passed 7-22-02.)

751.05 MASSAGE ESTABLISHMENT LICENSE ISSUANCE.

The City shall issue a license for a massage establishment, after ratification by the Mayor or a designee thereof, if all requirements for a massage establishment described in this chapter are met. (Ord. 86-45. Passed 10-6-86; Ord. 02-34. Passed 7-22-02.)

751.06 LICENSE APPLICATION APPROVAL OR DENIAL.

(a) The Mayor or a designee thereof shall act to approve or deny an application for an initial license under this chapter within a reasonable period of time and in no event shall the Mayor or a designee thereof act to approve or deny such license later than ninety days from the date the application was accepted by the Mayor or a designee thereof. An application for a renewal of a massage establishment license shall be submitted as provided in Section 751.04 not more than sixty days prior to the expiration of the current license. The Mayor or a designee thereof shall approve or disapprove such application for license renewal within forty-five days from the date the application was accepted. Every license issued pursuant to this chapter shall expire at 11:59 p.m. on December 31 of each year unless earlier suspended or revoked by the Mayor or a designee thereof.

(b) The application for a license required by this chapter shall be rejected by the Mayor or a designee thereof if any of the following apply:

- (1) That the operation, as proposed by the applicant, if permitted, would not be in compliance with applicable laws, including, but not limited to, the Building, Health, Planning and Zoning, Housing and Fire Prevention Codes, as well as the provisions of this chapter;
- (2) That the applicant or any other person who will be engaged, directly or indirectly, in the management or operation of the massage establishment is not of good moral character;
- (3) That the application does not contain the required information, the application is not in conformance with this chapter, or if any of the information submitted is false;
- (4) That the correct permit fee has not been tendered to the City, and in the case of a check, bank draft or other negotiable instrument, honored with payment upon presentation; or
- (5) That the applicant, if an individual; or any of the officers and directors, if the applicant is a corporation; or any of the partners or limited partners, if the applicant is a partnership; and the person principally in charge of the operation is not eighteen years of age or older.

(Ord. 86-45. Passed 10-6-86; Ord. 02-34. Passed 7-22-02.)

751.07 MULTIPLE MASSAGE ESTABLISHMENTS.

Should any massage establishment have more than one location where the business of massage is pursued, then a permit stating the address of the principal place of business, and of the other location(s) shall be issued by the Mayor or a designee thereof upon the tender of a license fee of one hundred dollars (\$100.00) for each location. Licenses issued for other locations shall terminate on the same date as that of the principal place of business.

(Ord. 86-45. Passed 10-6-86; Ord. 02-34. Passed 7-22-02.)

751.08 POSTING OF LICENSE.

(a) Every massagist shall post the license issued by the State in his/her work area along with a front faced portrait photograph at least two inches by two inches.

(b) Every person licensed under this chapter for a massage establishment license shall display such license in a prominent place, visible to the public.

(Ord. 86-45. Passed 10-6-86; Ord. 02-34. Passed 7-22-02.)

751.09 REGISTER OF EMPLOYEES.

Every massage establishment shall maintain a register of all persons who engage in the practice of massage on the premises or who are employed at any time as masseurs or masseuses and their license numbers and the licensee shall provide same to the Director of Finance within three days of the date the individual is employed or commences work. Such register shall be available at the massage establishment to representatives of the City during regular business hours.

(Ord. 86-45. Passed 10-6-86; Ord. 02-34. Passed 7-22-02.)

751.10 LICENSE REVOCATION OR SUSPENSION.

Any license issued for a massage establishment may be revoked or suspended by the City after notice by registered mail directed to the last address of the licensee on file and a hearing, for a good cause, or in any case where any of the provisions of this chapter are violated, or where any employee of the licensee, including a masseur or masseuse, or other person working on the premises, is engaged in any conduct which violates any of the State or local laws or ordinances at the licensee's place of business and the licensee has actual or constructive knowledge thereof, or where the licensee has made a false statement on the application for a permit. Such license may also be revoked or suspended by the City after notice by registered mail directed to the last address of the licensee on file and hearing, upon the recommendation of the Building Commissioner that such business is being managed, conducted or maintained without regard to proper sanitation and hygiene. Such revocation or suspension proceedings shall be before the Mayor or a designee thereof. (Ord. 86-45. Passed 10-6-86; Ord. 02-34. Passed 7-22-02.)

751.11 FACILITIES NECESSARY.

No massage establishment shall conduct business in the City unless an inspection by the City reveals that the establishment complies with each of the following minimum requirements:

- (a) Construction of rooms used for toilets, tubs, steam baths and showers, shall be made waterproof with waterproofed materials and shall be installed in accordance with the City Building Code. Plumbing fixtures shall be installed in accordance with the City Plumbing Code. All walls, ceilings, floors, steam and vapor rooms, and all other physical facilities of the massage establishment shall be kept in good repair and maintained in a clean and sanitary condition.
 - (1) Steam rooms and shower compartments shall have waterproof floors, walls and ceilings approved by the City.
 - (2) Floors of wet and dry heat rooms shall be adequately pitched to one or more floor drains properly connected with the sewer. Exception: dry heat rooms with wood floors need not be provided with pitched floors and floor drains.
 - (3) A source of hot water shall be available within the immediate vicinity of dry and wet heat rooms to facilitate cleaning.
- (b) The premises shall have adequate equipment for disinfecting and sterilizing nondisposable instruments and materials used in administering massages. Such nondisposable instruments and materials shall be disinfected after use on each patron.
- (c) Closed cabinets shall be provided and used for the storage of clean linen, towels and other materials used in connection with administering massages. All soiled linens, towels and other materials shall be kept in properly covered containers or cabinets, which containers or cabinets shall be kept separate from the clean storage areas. No common use of towels or linen shall be permitted.
- (d) Toilet facilities shall be provided in convenient locations. Separate toilet facilities shall be provided for each sex. A water closet shall be provided for each sex. Urinals may be substituted for water closets after one water closet has been provided. Toilet facilities shall be designated as to the sex accommodated therein.

- (e) Lavatories or washbasins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or washbasins shall be provided with soap and a dispenser and with sanitary towels.
- (f) All electrical equipment shall be installed in accordance with the requirements of the National Electrical Code.
(Ord. 86-45. Passed 10-6-86; Ord. 02-34. Passed 7-22-02.)

751.12 OPERATING REQUIREMENTS.

- (a) Every portion of the massage establishment, including appliances, apparatus and instruments, shall be kept clean and operated in a sanitary condition.
- (b) Price rates for all services shall be prominently posted in the reception area in a location available to all prospective patrons.
- (c) All employees, including masseurs and masseuses, and other persons working on the premises, shall be clean and wear clean, nontransparent outer garments, covering the sexual and genital areas, whose use is restricted to the massage establishment. A separate dressing room for each sex shall be available on the premises with individual lockers for each employee and for each other person working on the premises. Doors to such dressing rooms shall open inward and shall be self-closing.
- (d) All massage establishments shall be provided with clean, laundered sheets and towels in sufficient quantity and shall be laundered after each use thereof and stored in a sanitary manner.
- (e) No massage establishment granted a license under the provisions of this chapter shall place, publish or distribute or cause to be placed, published or distributed any advertisement, picture or statement which is known, or through the exercise of reasonable care should be known, to be false, deceptive or misleading in order to induce any person to purchase or utilize any professional massage service.
- (f) A massage establishment licensee and a massagist shall maintain for a period of one year correct and accurate records of the names and addresses of all persons to whom massages are administered, date and time such are administered and the name of the person administering the massage. (Ord. 86-45. Passed 10-6-86; Ord. 02-34. Passed 7-22-02.)

751.13 MINORS PROHIBITED ON PREMISES.

No person shall permit any person under the age of eighteen years to come or remain on the premises of any massage business establishment as massagist, employee or patron.
(Ord. 86-45. Passed 10-6-86; Ord. 02-34. Passed 7-22-02.)

751.14 ALCOHOLIC BEVERAGES PROHIBITED; DRUG ABUSE OFFENSES.

No person shall sell, give, dispense, provide or keep or cause to be sold, given, dispensed, provided or kept, any alcoholic beverages on the premises of any massage establishment. Nor shall any person permit a drug abuse offense on the premises.

(Ord. 86-45. Passed 10-6-86; Ord. 02-34. Passed 7-22-02.)

751.15 HOURS.

No massage establishment shall be kept open for any purpose between the hours of 10:00 p.m. and 8:00 a.m. (Ord. 86-45. Passed 10-6-86; Ord. 02-34. Passed 7-22-02.)

751.16 EMPLOYMENT OF MASSAGIST.

No person shall employ as a massagist any person unless such person has obtained and has in effect a permit issued pursuant to the requirements of the Ohio Revised Code governing the limited practice of medicine. No licensee shall permit any person to administer a massage who does not possess a valid permit issued pursuant to the requirements of the Ohio Revised Code governing the limited practice of medicine.

(Ord. 86-45. Passed 10-6-86; Ord. 02-34. Passed 7-22-02.)

751.17 INSPECTION REQUIRED.

The Police Chief or his authorized representatives shall from time to time make inspection of each massage establishment for the purpose of determining that the provisions of this chapter are fully complied with. Each person to whom a massage establishments license is issued shall, at all times, permit access to the Chief or his designees for the purpose of insuring compliance with the provisions of this chapter.

(Ord. 86-45. Passed 10-6-86; Ord. 02-34. Passed 7-22-02.)

751.18 UNLAWFUL ACTS.

(a) No person in a massage establishment shall place his or her hand or hands upon, touch with any part of his or her body, fondle in any manner, or massage a sexual or genital area of any other person.

(b) No person in a massage establishment shall expose his or her sexual or genital area or any portion thereof, to any other person. No person in a massage parlor shall expose the sexual or genital area of another or any portion thereof, to any other person.

(c) No person, while in the presence of any other person in a massage establishment, shall fail to conceal with a fully opaque covering, the sexual or genital area of his or her body.

(d) No person, owning, operating, or managing a massage establishment, knowingly shall cause, allow or permit in or about such massage establishment any agent, employee or any other person working on the premises to perform such acts prohibited in subsections (a), (b) or (c) hereof.

(e) Except as provided herein, no licensee under this chapter shall administer massage on an outcall basis as defined in Section 751.01(f). Such licensee shall administer massage solely within an establishment licensed to carry on such business under this chapter. Any violation of these provisions shall be deemed grounds for revocation of the permit granted hereunder. The restriction on outcall massage shall not apply to a licensee who performs outcall massage as defined herein upon a patron or client who, because of reasons of physical defects or incapacities or due to illness, is physically unable to travel to the massage establishment. If any outcall massage is performed under this exception, a record of the date and hour of each treatment, and the name and address of the patron or client, and the name of the employee or other person administering such treatment and the type of treatment administered, as well as the nature of the physical defect, incapacity or illness of the patron or client shall be kept by the licensee of the massage establishment. Such records shall be open for inspection by officials charged with the enforcement of this chapter. The information furnished or secured as a result of any such inspection shall be confidential. Any unauthorized disclosure or use of such information by any person is a violation of this chapter.

(f) No massage service shall be carried on within any cubicle, room, booth or any area within a massage establishment which is fitted with a door capable of being locked. All doors or doorway coverings within a massage establishment shall have an unobstructed opening six inches by six inches in size, capable of clear two-way viewing into and out of all cubicles, rooms, booths or areas. The opening shall be not less than four and one-half feet from the floor of the establishment nor more than five and one-half feet from the floor. Toilets and cubicles, rooms, booths or areas used solely for the application of liquid and vapor baths shall have no such opening in the covering door or curtain, but shall be clearly marked as to purpose on the exterior door or curtain of the cubicle, room, booth or area. Nothing contained herein shall be construed to eliminate other requirements of statute or ordinance concerning the maintenance of premises, nor to preclude authorized inspection thereof, whenever such inspection is deemed necessary by the City or Health Department of the County.
(Ord. 86-45. Passed 10-6-86; Ord. 02-34. Passed 7-22-02.)

751.19 NAME AND PLACE OF BUSINESS.

No person granted a license pursuant to this chapter shall operate the massage establishment under a name not specified in his license, nor shall he engage in, carry on or conduct business under any designation or location not specified in his license.
(Ord. 86-45. Passed 10-6-86; Ord. 02-34. Passed 7-22-02.)

751.20 TRANSFER OF LICENSE.

No license shall be transferable from person to person or location to location. A new license shall be required whenever a massage establishment is moved to a different location in the City or is purchased or otherwise acquired by a different person.
(Ord. 86-45. Passed 10-6-86; Ord. 02-34. Passed 7-22-02.)

751.21 PARKING.

Each person operating a massage establishment shall provide off-street parking facilities in an amount equal to that required by the Planning and Zoning Code for medical offices; clinics. (Ord. 86-45. Passed 10-6-86; Ord. 02-34. Passed 7-22-02.)

751.22 REMEDY FOR VIOLATIONS.

The imposition of any penalty shall not preclude the Director of Law or his designee from instituting an appropriate action or proceeding in a court of proper jurisdiction to prevent, restrain, correct or abate a violation, or prevent the use of building, temporarily or permanently, for massage purposes, or to require compliance with the provisions of this chapter, or other applicable laws, ordinances, rules, regulations, orders or determinations. (Ord. 86-45. Passed 10-6-86; Ord. 02-34. Passed 7-22-02.)

751.23 APPEAL PROCEDURE.

Any person adversely affected by a decision of any City official made in the enforcement of this chapter shall have the right to appeal to a Board of Appeals consisting of the President of Council, the Law Director and the Finance Director. The Board shall have the power to affirm, modify or reverse any decision of such City official. Any decision made by the Board shall be final. (Ord. 86-45. Passed 10-6-86; Ord. 02-34. Passed 7-22-02.)

751.24 AUTHORITY TO ADOPT RULES.

The Mayor or a designee thereof is authorized and empowered to establish, adopt and enforce or cause to be enforced such rules and regulations governing the issuance and display of the license required under this chapter as he may deem reasonable and necessary and which are not inconsistent with the provisions of this chapter. (Ord. 86-45. Passed 10-6-86; Ord. 02-34. Passed 7-22-02.)

751.99 PENALTY.

Every person, except those persons who are specifically exempted by this chapter, whether acting as an individual, owner, employee of the owner, operator or employee of the operator, or whether acting as a mere agent or independent contractor for the owner, employee or operator, or acting as a participant or worker in any way directly or indirectly who gives massages or operates a massage establishment or any of the services defined in this chapter without first obtaining a license or permit from the City as respects massage establishments and the State as respects massage licenses, who violates any provision of this chapter is guilty of a misdemeanor of the first degree. (Ord. 86-45. Passed 10-6-86; Ord. 02-34. Passed 7-22-02.)

CHAPTER 753
Adult Entertainment Businesses

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CROSS REFERENCES

Obscenity and sex offenses - see GEN. OFF. Ch. 533
 Massage establishments - see BUS. REG. Ch. 751

753.01 PURPOSE AND FINDINGS.

(a) Purpose. The purpose of this chapter is to establish reasonable and uniform regulations to minimize and control the negative secondary effects of adult entertainment businesses within the City in order to promote the health, safety and welfare of the citizens of the City. The provisions of this chapter have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials or communication, including sexually oriented entertainment. Similarly, it is not the purpose or effect of this chapter to restrict or deny access by adults to sexually oriented entertainment protected by the First Amendment or to deny access by distributors and exhibitors of sexually oriented entertainment to their intended market. Furthermore, it is not the intent or effect of this chapter to condone or legitimize the distribution or exhibition of entertainment that is obscene.

(b) Findings. Based on evidence concerning the adverse secondary effects of adult entertainment businesses on the community presented in findings incorporated in the cases of *City of Renton v. Playtime Theaters, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theaters*, 426 U.S. 50 (1976), *Barnes v. Glen Theater, Inc.* 501 U.S. 560 (1991), *Ellwest Stereo Theater, Inc. v. Boner*, 718 F. Supp. 1553 (M.D. Tenn. 1989), and *Broadway Books, Inc. v. Roberts* 642 F. Supp. 486 (E.D. Tenn. 1986); and on studies in other cities, including New York, New York; Islip, New York; Los Angeles, California; Indianapolis, Indiana; Whittier, California; Austin Texas; and Phoenix, Arizona; along with Manatee County Florida; New Hanover County, North Carolina; and the State of Minnesota; this Council finds:

- (1) Adult entertainment businesses lend themselves to ancillary unlawful and unhealthy activities that are presently inadequately controlled by the operators of such establishments. Further, there is presently no adequate mechanism to make owners of such establishments within Fairview Park responsible for the activities that occur on their premises.
- (2) Sexual acts, including masturbation and oral and anal sex, occur at adult entertainment businesses, especially those which provide private or semi-private booths or rooms for viewing films, videos or live sexually-oriented entertainment. Such activities may result in spreading communicable diseases such as syphilis, gonorrhea and human immunodeficiency virus (HIV).
- (3) Offering sexually oriented entertainment under conditions that encourage such activities creates unhealthy conditions.
- (4) Sanitary conditions in some adult entertainment businesses are unhealthy, in part because of the failure of owners and operators to regulate those activities and maintain their facilities.
- (5) Numerous studies and reports have determined that semen is found in the areas of adult entertainment businesses where persons view sexually oriented films.
- (6) The findings noted in paragraph (b)(1) through (5) hereof, raise substantial governmental concerns.
- (7) Adult entertainment businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.
- (8) A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and operators of adult entertainment businesses. Further, such a licensing procedure will place a heretofore nonexistent incentive on operators to see that adult entertainment businesses are run in a manner consistent with the health, safety and welfare of patrons and employees, as well as the citizens of the City. It is appropriate to require reasonable assurances that the licensee is the actual operator of the adult entertainment business and fully in possession and control of the premises and activities occurring therein.
- (9) The regulations of nudity in adult entertainment businesses will further the substantial government interests in preventing prostitution and other sex related crimes, including illegal public sex acts, and protecting the public health, safety and welfare.

- (10) Removal of doors on viewing booths in adult entertainment businesses and requiring sufficient lighting on premises with viewing booths will advance the substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult arcades and theaters and will facilitate enforcement of the provisions of this chapter and other Federal, State and local laws, thereby furthering the substantial governmental interest in protecting the public health, safety and welfare.
- (11) Requiring sufficient lighting in all adult entertainment businesses will advance the substantial governmental interest in curbing illegal sexual activity on the premises of adult entertainment businesses and will facilitate enforcement of the provisions of this chapter and other Federal, State and local laws, thereby furthering the substantial governmental interest in protecting the public health, safety and welfare.
- (12) The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of adult entertainment businesses, and by employees of such businesses, will facilitate the enforcement of the provisions of this chapter and other Federal, State and local laws, thereby furthering the substantial governmental interest in protecting the public health, safety and welfare.
- (13) A person who recently has been convicted of a sexually related crime is not an appropriate individual to operate or be employed in an adult entertainment business or adult motel. Barring such individuals from the management of and employment in adult entertainment businesses for a period of years serves as a deterrent to and prevents the commission of sexually related criminal acts, including conduct which leads to the transmission of sexually transmitted diseases.
(Ord. 02-25. Passed 5-20-02.)

753.02 DEFINITIONS.

As used in this chapter:

- (a) "Adult Arcade" means any place to which the public is permitted or invited where either or both:
 - (1) Motion picture machines, projectors, video or laser disc players, or other video or image-producing devices, are available, run via coin, token or any other form of consideration, to show images to five or fewer persons per machine at any one time; or
 - (2) Live entertainment is available in a format designed for viewing by five or fewer persons at one time; and where the images shown and/or live entertainment presented are and characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- (b) "Adult Bookstore, Adult Novelty Store and Adult Video Store" means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:
 - (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations, that are characterized by the depiction or description of specified sexual activities or specified anatomical areas, or

- (2) Instruments, devices or paraphernalia, other than prophylactics, that are designed for use in connection with specified sexual activities. A commercial establishment may have other principal business purposes that do not involve offering for sale or rental materials depicting or describing specified sexual activities or specified anatomical areas, or materials designed for use in connection with specified sexual activities, and still be categorized as an adult bookstore, adult novelty store or adult video store. Such other business purposes will not serve to exempt such a commercial establishment from being categorized as an adult bookstore, adult novelty store or adult video store so long as one of its principal business purposes is 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 or are designed for use in connection with specified sexual activities.
- (3) Art, including both performance art or graphic art; including offering the opportunity for patrons to draw or paint pictures of nude or partially nude models, including to do so in "private" or "semi-private" rooms.
- (c) "Adult Cabaret" means a nightclub, bar, restaurant or similar commercial establishment that regularly features:
 - (1) Persons who appear in a state of semi-nudity;
 - (2) Live entertainment characterized by the depiction or description of specified anatomical areas;
 - (3) Live entertainment of an erotic nature, including exotic dancers, strippers, male or female impersonators, or similar entertainment; or
 - (4) Films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- (d) "Adult Entertainment Business" means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, nude model studio or sexual encounter center. "Adult entertainment business" does not include an adult motel.
- (e) "Adult Motel" means 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 sign visible from the public right of way which advertises the availability of this sex-oriented type of a 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 subrent the room for a period of time that is less than ten hours.

- (f) "Adult Motion Picture Theater" means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- (g) "Adult Theater" means a theater, concert hall, auditorium or similar commercial establishment that regularly features persons who appear in a state of semi-nudity, live performances which are characterized by the depiction or description of specified anatomical areas, or live entertainment of an erotic nature, including exotic dancers, strippers, male or female impersonators or similar entertainment.
- (h) "Covering" means any clothing or wearing apparel, including pasties, but not including any substance that can be washed off the skin, such as paint or make-up, or any substance designed to simulate the appearance of the anatomical area beneath it.
- (i) "Employee" means a person who performs any service or work on the premises of an adult entertainment business, including, but not limited to, providing entertainment, performing work of a management or supervisory nature, or performing support functions, 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 said person is paid a salary, wage or other compensation by the operator of said business. "Employee" does not include a person on the premises exclusively for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.
- (j) "Health Commissioner" means the Cuyahoga County Commissioner of Health or his or her authorized representative.
- (k) "Licensee" means with respect to an adult business license issued under this chapter, a person in whose name a license to operate an adult entertainment business or adult motel has been issued, as well as the individual(s) designated on the license application as principally responsible for the operation of the adult entertainment business or adult motel. With respect to an adult entertainment employee license issued under this chapter, "licensee" means a person in whose name a license has been issued authorizing employment in an adult entertainment business or adult motel.
- (l) "Live Viewing Booths" means any private or semi-private booth, or any viewing room with less than 150 square feet of floor space, to which the public may gain admittance, wherein a live performance is presented to five or fewer persons at anyone time.
- (m) "Nude Model Studio" means any place where a person who appears semi-nude or who displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculpted, photographed or similarly depicted by other persons who pay money or any form of consideration.
"Nude Model Studio" shall not include:
 - (1) A proprietary school licensed by the State of Ohio, or a college, junior college or university supported entirely or in part by public taxation;
 - (2) A private college or university that offers educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or

- (3) An establishment holding classes in a structure that has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; where, in order to participate in a class, a student must enroll at least three days in advance of the class; and where no more than one semi-nude model is on the premises at any one time.
- (n) "Nudity" and "Nude" means exposing to view the genitals, pubic area, vulva, perineum, anus, anal cleft or cleavage, or pubic hair, with less than a fully opaque covering; exposing to view any portion of the areola of the female breast with less than a fully opaque covering; exposing to view male genitals in a discernibly turgid state, even if entirely covered by an opaque covering; or exposing to view any device, costume or covering that gives the appearance of or simulates any of these anatomical areas.
- (o) "Operate" means to control or hold primary responsibility for the operation of an adult entertainment business or adult motel, either as a business entity, as an individual, or as part of a group of individuals with shared responsibility.
- (p) "Person" means an individual, proprietorship, partnership, firm, association, joint stock company, corporation, limited liability company, limited liability partnership or combination of individuals of whatever form or character.
- (q) "Semi-nudity" and "Semi-nude" means exposing to view, with less than a fully opaque covering, any portion of the female breast below the top of the areola or any portion of the buttocks. This definition shall include the entire lower portion of the female breast, but not include any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit or other clothing, provided that the areola is not exposed in whole or in part.
- (r) "Sexual Encounter Center" means 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 semi-nude.
- (s) "Specified Anatomical Areas" means:
- (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 female breast below a point immediately above the top of the areola.
- (t) "Specified Criminal Activity" means any of the following offenses:
- (1) Prostitution or promoting prostitution; soliciting; loitering to engage in solicitation; sexual performance by a child; public lewdness; indecent exposure; indecency with a child; sexual assault; molestation of a child; or similar offenses to those described above under the criminal or penal code of any local jurisdiction, state or foreign country;

- (2) For which:
 - A. Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense; or
 - 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 offense.
- (3) The fact that a conviction is being appealed shall not prevent such conviction from constituting a specified criminal activity as defined in this section.
- (u) "Specified Sexual Activity" means any of the following:
 - (1) The fondling or other erotic touching of human genitals, a pubic region, buttocks, an anus or female breasts;
 - (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation and sodomy, or
 - (3) Excretory functions as a part of or in conjunction with any of the activities set forth in paragraphs (u)(1) and (2) hereof.
- (v) "Video Booth" means any private or semi-private booth, or any viewing room with less than 150 square feet of floor space, to which the public may gain admittance, wherein a still or motion picture machine, projector, video monitor, or similar equipment is available for the purpose of showing still or motion pictures, videos or similar images or photographic reproductions to five or fewer persons at any time.
- (w) "Viewing Booth" mean live viewing booth or video booth, and "Viewing Booths" means live viewing booths, video booths or combination thereof.
(Ord. 02-25. Passed 5-20-02.)

753.03 CLASSIFICATION.

Businesses subject to adult business licensing 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) Nude model studios; and
- (h) Sexual encounter centers.

(Ord. 02-25. Passed 5-20-02.)

753.04 ADULT BUSINESS LICENSE REQUIRED.

(a) No person shall operate an adult entertainment business or an adult motel without a valid business license issued by the City pursuant to this chapter.

(b) Any person who violates subsection (a) of this section shall be guilty of a misdemeanor of the first degree.

(Ord. 02-25. Passed 5-20-02.)

753.05 ADULT BUSINESS LICENSE APPLICATION.

(a) An application for an adult business license shall be submitted to the Fairview Park Building Commissioner on a form provided by the Building Department. The application may request and the applicant shall provide such information as reasonably necessary to enable the City to determine whether the applicant meets the qualifications established in this chapter.

(b) An application for the adult business license shall identify and be signed by the following persons:

- (1) If the business entity is owned by an individual, that individual.
- (2) If the business entity is owned by a corporation, by a corporate officer.
- (3) If the business entity is owned by a partnership, a partner.
- (4) If the business entity is owned by a limited liability company, a member.

(c) An application for an adult business license shall be completed according to the instructions on the application form, which shall require the following:

- (1) If the applicant is:
 - A. An individual, the legal name and any aliases of such individual;
 - B. A partnership, the complete name of the partnership;
 - C. A corporation, the complete name of the corporation and the date of its incorporation, provide evidence that the corporation is in good standing under the laws of its state of incorporation, and the name of the registered corporate agent, and the address of the registered office of service of process, name of statutory agent of limited liability company and address of said agent.
 - D. A limited liability company, the complete name of the company and the date of its certification by the Secretary of State, provide copy of certification.
- (2) If the applicant intends to operate the adult entertainment business or adult motel under a name other than that of the applicant, the fictitious name to be used and the proof of registration of said fictitious name.
- (3) A statement as to whether any applicant has been convicted of a specified criminal activity as defined in Section 753.02 of this chapter, and if so, the specified criminal activity involved and the date, place, and jurisdiction of each such conviction.
- (4) A statement as to whether any applicants holds any other licenses under this chapter or other similar regulation from this or another jurisdiction and, if so, the names and locations of such other licensed businesses.
- (5) The classification of license for which the applicant is filing.
- (6) The location of the proposed adult entertainment business or adult motel.
- (7) The mailing address of the adult entertainment business.
- (8) Proof that each applicant who is a natural person is at least eighteen (18) years old.

If an applicant wishes to operate an adult entertainment business, other than an adult motel, which shall exhibit on the premises, in a booth, as defined in Section 753.02 of this chapter, films, video cassettes, or other video or image reproduction, or live entertainment which depicts specified sexual activities or specified anatomical areas, then the applicant requirements set forth in Section 753.14 of this chapter shall apply.

(Ord. 02-25. Passed 5-20-02.)

753.06 ISSUANCE OF ADULT BUSINESS LICENSE.

(a) Within five days of receipt of an application for an adult business license, the Director of Public Service and Development shall notify the Fairview Park Police Chief, the Fairview Park Fire Chief, and the Cuyahoga County Board of Health of such application. In making such notification, the Director of Public Service and Development shall instruct that the Police Chief promptly investigate the information provided in the application concerning the criminal background of the applicant or applicants, and shall instruct that the Fire Chief and the representative from the Cuyahoga County Board of Health promptly inspect the premises for which the adult business license is sought to assess compliance with the regulations under their respective jurisdictions.

- (1) The Police Chief and the Fire Chief shall begin their respective investigations and inspection processes promptly upon receipt of notice of an application from the Director of Public Service and Development. The Police Chief shall provide the results of his investigation to the Director of Public Service and Development, in writing, within 10 days of receipt of notice of the application. The Fire Chief shall provide to the Director of Public Service and Development a written certification of whether the premises are in compliance with the Fire Code within 10 days of receipt of notice of the application.
- (2) The Director of Public Service and Development shall instruct the Building Commissioner to commence the inspection of the premises for which an adult business license is sought promptly upon receipt of the application, and shall have the Building Commissioner complete a written certification of whether the premises are in compliance with the Building Code, the Planning and Zoning Code, and the provisions of this chapter related to physical characteristics of the premises within 15 days after the receipt of the application.

(b) Within twenty-one days after receipt of a completed adult business license application, the Director of Public Service and Development shall approve or deny the issuance of the license. The Director of Public Service and Development shall approve the issuance of a license to an applicant unless he determines that one or more of the following findings are true:

- (1) An applicant who is a natural person is under eighteen (18) years of age.
- (2) An applicant has failed to provide information reasonably necessary for issuance of the license, as requested on the application form, or has falsely answered a question or request for information on the application form.
- (3) An applicant has been convicted of a specified criminal activity as defined in Section 753.02 of this chapter.
- (4) The proposed adult entertainment business or adult motel would violate or fail to be in compliance with any provision of the Zoning Ordinance (Chapter 1109 of the Planning and Zoning Code), including Chapter 1109 and Section 1137.03.
- (5) The application and investigation fee required by this chapter has not been paid.
- (6) An applicant is in violation of or is not in compliance with any provision of this chapter, except as provided in paragraph (c)(1) hereof.

(c) If the Director of Public Service and Development determines that one or both of the following findings is true, the license issued pursuant to subsection (b) hereof shall contain a requirement that the licensee correct all deficiencies specified within 120 days of the date the license is issued:

- (1) The results of inspections of the premises by the Fire Chief, the County Board of Health inspector, and/or the Building Commissioner indicate that the premises are not in compliance with applicable laws and regulations under their respective jurisdictions, including the provisions of this chapter related to characteristics of the physical premises. This paragraph shall not apply to premises that are in violation of any law or regulation that is identified or referenced in subsection (b) hereof.
- (2) An applicant is overdue in payment to the City of taxes, fees, fines, or penalties assessed against or imposed upon him or her in relation to any business, which are not the subject of a pending appeal or other legal challenge.

(d) If the Director of Public Service and Development determines that no other grounds for denial of a license exist under subsection (b) hereof, the Director of Public Service and Development shall not delay approval of the application past the end of the twenty-one day period provided in this section solely because the Fire Chief or County Health Department Inspector has not provided the Director of Public Service and Development with the results of his or her inspection of the premises. The results of the Building Commissioner's inspection of the premises are not available, and/or the Police Chief has not provided the results of his or her investigation of the criminal background of the applicant or applicants. If, after approving the issuance of a license, the Director of Public Service and Development receives information from the Police Chief concerning his or her investigation, which the Director of Public Service and Development determines constitutes grounds for denial of a license under subsection (b) hereof, then the adult business license issued pursuant to this subsection shall be immediately revoked. If, after approving the issuance of a license, the Director of Public Service and Development receives information concerning the results of inspections of the premises by the Fire Chief and of the County Health Department Inspector, which the Director of Public Service and Development determines constitutes grounds for the issuance of a license subject to a requirement to correct deficiencies under subsection (c) hereof, then a requirement shall be added to the terms of the adult business license issued pursuant to this subsection to correct all deficiencies noted within 120 days of the date such requirement is added.

(e) An adult business license, if granted, shall state on its face the name of the person, persons or entity to whom it is granted, the expiration date, the address of the licensed adult entertainment business or adult motel, and the classification for which the license is issued pursuant to Section 753.03 of this chapter. All adult business licenses shall be posted in a conspicuous place at or near the entrance to the business so that they may be easily read at any time.

(f) The Director of Public Service and Development shall advise the applicant in writing of the reasons for any license denial.
(Ord. 02-25. Passed 5-20-02.)

753.07 FEES.

(a) Every application for a new adult business license shall be accompanied by a seven hundred fifty dollar (\$750.00) non-refundable application and investigation fee.

(b) Every application for renewal of an adult business license shall be accompanied by a five hundred dollar (\$500.00) non-refundable application and investigation fee.

(c) In addition to the application and investigation fee required in subsection (a) or (b) hereof, every applicant that is granted an adult business license (new or renewal) shall pay to the City an annual, non-refundable license fee of two hundred fifty dollars (\$250.00) within thirty (30) days of license issuance or renewal.
(Ord. 02-25. Passed 5-20-02.)

753.08 EXPIRATION AND RENEWAL OF LICENSE.

(a) Each license issued pursuant to this chapter shall expire one year from the date of issuance and may be renewed by making application as provided in this section. Application for renewal shall be made no more than ninety days and no less than thirty days before the expiration date. If the application is made less than thirty days before the expiration date, the license will not be extended pending a decision on the application, but will expire on its normal expiration date.

(b) An application for renewal of an adult business license shall be submitted to the Director of Public Service and Development on a form provided by the Building Department. The renewal application may request and the applicant shall provide such information as reasonably necessary to enable the City to determine whether the application meets the qualifications established in this chapter. The completed renewal application shall describe any changes or additions to, or deletions from, the information provided in the applicant's initial license application pursuant to Section 753.05 of this chapter. The completed renewal application shall be accompanied by copies of any document or material submitted in connection with the initial license application that has been revised or requires revision to reflect any change in circumstances or conditions.

(c) The Director of Public Service and Development shall make determinations concerning the approval of license renewals based on the same criteria and according to the same time frame used to evaluate applications for new licenses under Section 753.06 of this chapter.

(d) The Director of Public Service and Development shall advise the applicant in writing of the reason(s) for any denial of a license renewal.
(Ord. 02-25. Passed 5-20-02.)

753.09 SUSPENSION.

(a) The City shall suspend an adult license for a period of not to exceed thirty days (30) if it determines that a licensee:

- (1) Has violated or is not in compliance with any section of this chapter; or
- (2) Has knowingly allowed an employee to violate or fail to comply with any section of this chapter.

(b) The Director of Public Service and Development shall advise the licensee in writing of the reason or reasons for any suspension.
(Ord. 02-25. Passed 5-20-02.)

753.10 REVOCATION.

(a) The City shall revoke an adult business license if a cause of suspension under Section 753.09 of this chapter occurs and the license has been suspended two times within the preceding twelve months.

- (b) The City shall revoke an adult business license if it determines that:
- (1) A licensee gave false or misleading information in the material submitted during the application process;
 - (2) The licensee or licensees failed to comply with any requirement stated in the license, pursuant to Section 753.06(c) of this chapter, to correct specified deficiencies within 120 days;
 - (3) A licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;
 - (4) A licensee has knowingly allowed prostitution or solicitation on the premises;
 - (5) A licensee knowingly operated the adult entertainment business or adult motel during a period of time when the licensee's license was suspended;
 - (6) 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; and
 - (7) A licensee has been convicted of a specified criminal activity, as defined in Section 753.02 of this chapter, during the term of the license.

(c) The Director of Public Service and Development shall advise the licensee in writing of the reason or reasons for any revocation.
(Ord. 02-25. Passed 5-20-02.)

753.11 APPEALS.

(a) Any denial, suspension or revocation of a new or renewal license under this chapter may be appealed to the Board of Zoning and Building Appeals by written notice within ten days of such denial, suspension or revocation. Unless the applicant requests a longer period, the Board must hold a hearing on the appeal within fourteen days (14) and must issue a decision affirming or reversing the denial, suspension or revocation within five days after the hearing.

(b) Any decision by the Board of Zoning and Building Appeals shall be a final appealable order, and the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction.

(c) In the event that an applicant or licensee seeks judicial review of a decision issued pursuant to this chapter, the applicant or licensee shall provide written notice of such appeal to the Board of Zoning and Building Appeals within three days of the filing of the appeal. Within ten days of receiving such written notice of appeal, or within such shorter time as may be ordered by the court, the Board shall transmit to the court in which appeal was sought a copy of the full administrative record for the matter, including a complete transcript of all the original papers, testimony and evidence offered, heard and taken into consideration in issuing the final order. The Board and all other departments or agencies of the City shall provide any further information, assistance or cooperation requested by the reviewing court without delay.

(d) Any licensee lawfully operating an adult entertainment business or adult motel prior to the denial of a license renewal application, or the suspension or revocation of a license, may continue to operate said business during the pendency of an appeal to the Board of Zoning and Building Appeals or to a court.

(e) Any licensee lawfully acting as an employee in an adult entertainment business or adult motel prior to the denial of a license renewal application, or the suspension or revocation of a license, may continue to serve in such capacity during the pendency of an appeal to the Board of Zoning and Building Appeals or to a court.

(f) In the event that an applicant for the new adult business license or a new adult entertainment employee license seeks judicial review of the denial of a new license, and such review does not result in a final judicial decision within sixty (60) days of the date the appeal was filed, the City will issue such applicant a provisional adult business license or adult entertainment employee license upon request of the applicant. The provisional license will:

- (1) Allow an applicant for an adult business license to operate the adult entertainment business or adult motel named in the license application under the same terms as a normal adult business license issued pursuant to section 753.07 of this chapter for the period of time specified in subsection (g) hereof;
- (2) Allow an applicant for an adult entertainment employee license to act as an employee on the premises of an adult entertainment business or adult motel under the same terms as a normal adult entertainment employee license issued pursuant to Section 753.09 of this chapter for the period of time specified in subsection (g) hereof; and
- (3) Be subject to the same requirements as a normal adult business license or adult entertainment employee license issued under Section 753.07 or Section 753.09 of this chapter.

(g) A provisional license will expire on whichever of the following three dates is earliest:

- (1) The date that a judicial decision is issued upholding the license denial;
- (2) The date on which a non-provisional adult business license or adult entertainment employee license is issued to the applicant pursuant to a judicial decision overturning the license denial; or
- (3) The date one year from the issuance of the provisional license.

(h) In the event that judicial review of the denial of a new license application is still pending thirty days before the expiration date of a provisional license, the provisional licensee may file a renewal license application with the Building Commissioner pursuant to Section 753.08(b) of this chapter. The Building Commissioner shall grant an application for renewal of a provisional license unless he or she determines that new grounds exist for denial of a license application pursuant to Sections 753.07 or Section 753.09 of this chapter, which did not exist at the time of the original license application. In the event that an application for renewal of a provisional license is denied and the applicant seeks judicial review of that denial, the City has the right to consolidate such review with the pending judicial appeal of the previous license denial.
(Ord. 02-25. Passed 5-20-02.)

753.12 TRANSFER OF LICENSES.

(a) An adult business license is not transferable from one licensee to another or from one location to another. Any purported transfer of an adult business license shall automatically and immediately revoke that license.

(b) An adult entertainment employee license is not transferable from one licensee to another, but the use of the license by the individual to whom it was issued may be transferred from one licensed adult entertainment business or adult motel to another such licensed establishment during the term of the license, provided that the licensee gives written notice of such transfer to the Building Commissioner within fifteen (15) days of such transfer.

(Ord. 02-25. Passed 5-20-02.)

753.13 ADDITIONAL REGULATIONS FOR ADULT MOTELS.

(a) Evidence that a sleeping room in a hotel, motel or similar commercial establishment has been rented and vacated two or more times in less than ten (10) hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in Section 753.02 of this chapter.

(b) Evidence that a person in control of a sleeping room in a hotel, motel or similar commercial establishment has rented or subrented a sleeping room to a person and, within ten (10) hours from the time the room was rented, has rented or subrented the same sleeping room again creates a rebuttable presumption that the establishment is an adult motel as that term is defined in Section 753.02 of this chapter.

(c) For the purpose of subsection (b) hereof, the terms "rent" and "subrent" means the act of permitting a room to be occupied for any form of consideration.

(d) No person shall operate a hotel, motel or similar commercial establishment that is found to be an adult motel, as defined in Section 753.02 of this chapter, without a valid adult business license for such establishment.

(e) Whoever violates subsection (d) hereof is guilty of a misdemeanor in the first degree.

(Ord. 02-25. Passed 5-20-02.)

753.14 REGULATIONS PERTAINING TO THE EXHIBITION OF SEXUALLY EXPLICIT FILMS, VIDEOS OR LIVE ENTERTAINMENT IN VIEWING BOOTHS.

(a) No person may operate or cause to be operated an adult entertainment business, other than an adult motel, which exhibits on the premises in a viewing booth, as defined in Section 753.02 of this chapter, films, video cassettes, other video or image reproduction, or live entertainment which depict or depicts specified sexual activities or specified anatomical areas, without complying with the following requirements:

- (1) The adult business application required under this chapter shall be accompanied by a diagram of the premises showing a plan thereof which specifies the location of all areas and/or viewing booths to which any patron is permitted access for any purpose, overhead lighting fixtures designates any portion of the premises in which patrons will not be permitted. 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 scale or marked with 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.
- (2) Each area of the premises to which any patron is permitted access for any purpose and/or each viewing booth, excluding restrooms, shall contain a window made of clear Plexiglas or glass. Said window shall have at least a height of thirty (30) inches and a width of thirty (30) inches. Said window shall be located on the wall directly across from the place in said areas and/or viewing booths where films, videocassettes, other video or image reproduction or live entertainment are displayed. Nothing shall be permitted to cover either side of the window. Said window shall not be permitted to be tinted or colored in any manner. Said window shall be installed and/or constructed in such a manner so that the bottom is no higher than forty-eight (48) inches from the floor. Restrooms may not contain video reproduction equipment, and no entertainment of any kind shall be offered in restrooms.
- (3) At least one employee shall be on duty at all times that any patron is present inside the premises. For the purposes of this section any employee who is regularly working behind a counter and/or cash register shall not count toward this requirement.
- (4) No patron shall at any time be permitted access to any area of the premises which has been designated in the license application filed pursuant to this chapter as an area in which patrons will not be permitted.
- (5) No viewing booths may be occupied by more than one person at any time.
- (6) The premises shall be equipped with operable lighting fixtures in all areas of the premises to which patrons are permitted access.
- (7) In the event of a power failure, the business shall stop operating immediately and all patrons shall be cleared from the premises.
- (8) No openings of any kind shall be permitted to exist between viewing booths or in any wall of a viewing booth.
- (9) No person shall make or attempt to make an opening of any kind between viewing booths or in any wall of a viewing booth.
- (10) The walls of each viewing booth shall be inspected regularly during each business day to determine if any openings or holes exist.
- (11) All floor coverings in viewing booths shall be nonporous, easily cleanable surfaces, and no rugs or carpeting.
- (12) All wall surfaces and ceiling surfaces in viewing booths shall be constructed of, or permanently covered by, nonporous, easily cleanable material.

(b) No person shall knowingly operate an adult entertainment business in violation of subsection (a) hereof.

(c) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the third degree.
(Ord. 02-25. Passed 5-20-02.)

**753.15 ADDITIONAL REGULATIONS CONCERNING THE
OPERATION OF ADULT ENTERTAINMENT BUSINESSES.**

(a) Nudity, Sexual Activity and Live Entertainment.

- (1) No employee on the premises of an adult entertainment business may appear in a state of nudity, as defined in Section 753.02 of this chapter, or engage in specified sexual activities, as defined in Section 753.02 of this chapter.
- (2) No employee, as defined in Section 753.02 of this chapter, appearing on the premises of an adult entertainment business in a state of semi-nudity, may knowingly touch a customer or a customer's clothing or knowingly permit himself or herself to be touched by a customer or a customer's clothing.
- (3) Any live entertainment that is provided on the premises of an adult entertainment business, in a private or semi-private room, to five or fewer persons at any one time, must take place in the direct, unobstructed line of sight of an employee who is on duty at all times during which such entertainment takes place, with all doors to such room completely open and ajar, if such room is not considered a "viewing booth" under Section 753.02 of this chapter.

The provisions of this subsection (a) shall not apply to an employee's bona fide use of a restroom or of a single-sex dressing room that is accessible only to entertainers.

(b) Dressing Rooms. All adult entertainment businesses that offer live entertainment must provide separate dressing room facilities for female and male entertainers, which shall not be occupied or used in any way by any one other than entertainers.

(c) Minors Prohibited. No person under the age of eighteen (18) years shall be permitted on the premises of an adult entertainment business.

(d) Hours of Operation. No adult entertainment business shall remain open at any time between the hours of 2:30 a.m. and 5:30 a.m., nor shall any entertainment, service, or product be provided to a customer on the premises of an adult entertainment business during those hours.

(e) Exterior Display. No adult entertainment business or adult motel shall be operated in any manner that permits the observation from outside the premises of any material or entertainment depicting or describing specified sexual activities or specified anatomical areas, as defined in Section 753.02 of this chapter, or any person in a state of nudity or semi-nudity, whether by means of display, decoration, sign, window or any other means.

(f) Penalties.

- (1) Except as otherwise provided in this paragraph, any person who violates subsection (a) hereof or any person who operates an adult entertainment business and knowingly permits a violation of subsection (a) hereof on the premises, shall be guilty of a misdemeanor of the fourth degree. If the offender previously has been convicted of or plead guilty to one violation of subsection (a) hereof, a second violation will be considered a misdemeanor of the third degree. If the offender previously has been convicted of or plead guilty to two violations of subsection (a) hereof, a third violation will be considered a misdemeanor of the second degree. If the offender previously has been convicted of or plead guilty to three or more violations of subsection (a) hereof, any subsequent violation will be considered a misdemeanor of the first degree.
- (2) Any person who operates an adult entertainment business and knowingly permits a violation of subsection (e) of this section on the premises shall be guilty of a misdemeanor of the first degree.
- (3) Any person who operates an adult entertainment business in violation of subsection (b), or (d) hereof shall be guilty of a misdemeanor of the fourth degree.
- (4) Any operator of an adult entertainment business or his agent or employee who recklessly violates, or operates an adult entertainment business in violation of, subsection (c) hereof commits a misdemeanor of the second degree. Mistake of age is not a defense to a charge under this section, unless the person under the age of eighteen (18) who was permitted on the premises exhibited to the operator or his agent or employee a draft card, driver's license, birth record, or other official or apparently official document purporting to show that the person was eighteen (18) years of age or over, and the person to whom that document was exhibited did not otherwise have reasonable cause to believe that the person seeking admittance was under eighteen (18) years of age.
(Ord. 02-25. Passed 5-20-02.)

753.16 APPLICATION OF CHAPTER TO EXISTING ADULT BUSINESSES.

(a) Any establishment in operation on the effective date of this chapter that is considered an adult entertainment business or adult motel under the terms of this chapter will be subject to the terms of this chapter as of the effective date of this chapter. Any such establishment must submit an application for an adult business license pursuant to this chapter within sixty (60) days of its effective date. Any establishment for which an adult business license application is submitted within the required sixty (60) day period will be permitted to operate. Subject to compliance with the nonlicensing provisions of this chapter, pending review of the license application and appeal of a license denial.

(b) Any person acting, on the effective date of this chapter, as an employee in an establishment that is considered an adult entertainment business or adult motel under the terms of this chapter, will be subject to the terms of this chapter as of the effective date of this chapter. Any such person must submit an application for an adult entertainment employee license within the required sixty (60) days of its effective date. Any person who has submitted an application for an adult entertainment employee license pursuant to this chapter within the required sixty (60) day period will be permitted to continue acting as an employee in an establishment that is considered an adult entertainment business or adult motel, subject to compliance with the non-licensing provisions of this chapter, pending review of the license application and any appeal of a license denial.

(Ord. 02-25. Passed 5-20-02.)

753.17 EXTENSION OF TIME LIMITS FOR INVESTIGATION AND REVIEW OF LICENSE APPLICATIONS.

If the Building Commissioner determines that the volume of license applications received during the first sixty (60) days following the effective date of this chapter is too great to allow proper investigation and review within the time limit specified in this chapter, the Building Commissioner may delay a decision on any or all adult business license applications or adult entertainment employee license applications submitted during the sixty (60) day period for up to an additional ninety-nine (99) days beyond the twenty-one (21) day time period specified under this chapter. If the Building Commissioner makes such a determination, he or she shall promptly so notify the Police Chief, the Fire Chief and the representative from the Cuyahoga County Board of Health, and shall extend the time limits specified for the requested investigation and inspections accordingly.

(Ord. 02-25. Passed 5-20-02.)

753.18 INJUNCTION.

Whoever operates or causes to be operated an adult entertainment business or adult motel in violation of this chapter is subject to a suit for injunction as well as prosecution for criminal violations under Chapter 501 of these Codified Ordinances.

(Ord. 02-25. Passed 5-20-02.)

753.99 PENALTY.

(a) Violations of this chapter that are specified in this chapter to be misdemeanors are punishable by a fine and/or imprisonment as provided in Chapter 501 of these Codified Ordinances.

(b) A separate offense shall be deemed committed each day that an adult entertainment business or adult motel operates in violation of this chapter.

(Ord. 02-25. Passed 5-20-02.)

CHAPTER 755
Tattoo Operations and Dermagraphic Art Studios

| | | | |
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| 755.01 | Definitions. | 755.05 | Plan requirements. |
| 755.02 | Permit required; annual fee. | 755.06 | Minimum sanitation standards. |
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CROSS REFERENCES

Hazardous and solid waste - see Ohio R.C. Ch. 3734
Physical harm to persons defined - see GEN. OFF. 501.01 (c), (e)
Assault - see GEN. OFF. 537.03
Endangering children - see GEN. OFF. 537.07

755.01 DEFINITIONS.

For purposes of this chapter, certain terms are defined as follows:

- (a) "Tattoo" shall mean any permanent design of the skin by puncturing the skin and inserting indelible colors.
- (b) "Board of Health" shall mean the Board of Health of Cuyahoga County.
- (c) "Health Commissioner" shall mean the Health Commissioner of the Cuyahoga County Board of Health, or his or her authorized representative.
- (d) "Operator" or "tattoo artist" shall mean any person who places a tattoo on another person either for free or for a consideration.
- (e) "Person" shall mean any person, firm, corporation, partnership, association or agent thereof.
- (f) "Tattoo operation" or "dermagraphic art studio" shall mean any place, whether temporary or permanent, stationary or mobile, in a private home or a public business, where the art of tattooing is practiced in the City of Fairview Park, Ohio. (Ord. 02-24. Passed 7-22-02.)

755.02 PERMIT REQUIRED; ANNUAL FEE.

(a) No tattoo operation or dermagraphic art studio shall be operated in the City of Fairview Park without a permit from the City of Fairview Park in conjunction with the Cuyahoga County Board of Health. Such permit shall be displayed within the operation in a place conspicuous to the public.

(b) All permits issued by the City of Fairview Park in conjunction with the Cuyahoga County Board of Health to operate a tattoo operation or dermagraphic art studio shall expire on December 31 following the date of issuance.

(c) The annual fee for tattoo operation or dermagraphic art studio permits shall be four hundred dollars (\$400.00).
(Ord. 02-24. Passed 7-22-02.)

755.03 PERMIT APPLICATION AND ISSUANCE.

(a) During the month of December of each year, every operator or tattoo artist of a tattoo operation or dermagraphic art studio proposing to operate a tattoo operation during any part of the next year shall apply for a permit from the City of Fairview Park.

(b) Any person who, subsequent to January 1 of any year, proposes to operate a tattoo operation during any remaining part of the year, after the effective date of this chapter, shall apply for a permit from the City of Fairview Park no less than ten days before the tattoo operation is to be opened for business.
(Ord. 02-24. Passed 7-22-02.)

755.04 PERMIT DENIAL, REVOCATION OR SUSPENSION.

A permit to operate a tattoo operation or dermagraphic art studio may be denied, suspended or revoked by the City of Fairview Park and/or the Cuyahoga County Board of Health upon failure of the applicant to meet or maintain the requirements of this chapter or by violation by the permit holder of any of the terms of this chapter. The applicant or permittee, as the case may be, may appeal any denial, suspension or revocation of the permit by submitting notice of such request for appeal to the Secretary of the Board of Zoning and Building Appeals within fourteen days of receipt of notice of such denial, suspension or revocation. The Board of Zoning and Building Appeals shall hear such appeal in accordance with the procedures afforded by these Codified Ordinances in matters of appeal to said Board.
(Ord. 02-24. Passed 7-22-02.)

755.05 PLAN REQUIREMENTS.

(a) No person shall construct, install, operate, equip or extensively alter a tattoo operation until the plans therefor have been submitted to and approved in writing by the City of Fairview Park. When such plans are submitted to the City of Fairview Park, they shall be acted upon by the City within forty-five days after the date of receipt.

(b) The plans and specifications submitted for the approval of the City of Fairview Park shall clearly show and describe what applicable provisions of this chapter shall be adequately met, and shall include:

- (1) The total area (square feet) to be used for the tattoo operation.
- (2) Entrances and exits.
- (3) Location, number and types of plumbing fixtures, including all water supply facilities.
- (4) Plan of lighting, both natural and artificial.

(c) All equipment, both new and used, to be utilized in the tattoo operation must be approved by the Health Commissioner.

(d) No tattoo operation shall be conducted in any zoned residential area, nor shall any such operation be conducted within 500 feet of any zoned residential property or any school, public library, church or day care center.
(Ord. 02-24. Passed 7-22-02.)

755.06 MINIMUM SANITATION STANDARDS.**(a) Prior to Tattooing.**

- (1) Medical history. The operator shall inquire of a patron on a written questionnaire for the following medical conditions:
 - A. History of jaundice or hepatitis;
 - B. History of lymphadenopathy or lymphadenitis (swelling of lymph nodes);
 - C. History of AIDS, positive HIV test;
 - D. History of blood donation exclusion (for other than hypertension and immediate illness);
 - E. History of skin disease or skin cancer; and
 - F. History of allergies that have caused an anaphylactic reaction. Persons indicating a history of any of the above shall not be tattooed.
- (2) Intoxicated persons. Any individual who is inebriated or obviously under the effects of alcohol and/or drugs shall not be tattooed.
- (3) Underage persons. The operator shall verify the age of the patron, confirmed by a driver's license or State identification card. No person under nineteen years of age shall be tattooed without the prior express, verified, written consent of such person's parents and/or guardians.

(b) Operator or Tattoo Artist.

- (1) Clothing. All operators, while tattooing, shall wear light-colored, clean, washable covering garments.
- (2) Hand washing. Immediately prior to beginning any tattooing operation, each operator shall wash his or her hands in running water for at least three minutes with liquid or granulated soap, or equivalent, as approved by the Health Commissioner. An individual handwashing brush shall be used by each operator. After washing hands, as herein required, the operator shall rinse his or her hands in seventy percent alcohol (rubbing alcohol) or in an antiseptic solution approved by the Health Commissioner. The operator's fingernails shall be kept clean and short with no rings.
- (3) Examination gloves. The operator shall wear and then discard a separate set of disposable examination gloves for each client. Should the gloves develop a break or tear, they shall be immediately replaced.
- (4) Lap Cloths. All operators who utilize lap clothes shall launder the lap cloth at least daily.
- (5) No Smoking. There shall be no smoking by patrons, guests or the operator during the tattooing operation.

(c) The Tattooing Operation.

- (1) Tattooing surface. Tattooing shall be done on a normal healthy skin surface. No tattooing shall be done on scar tissue. No tattooing operator shall remove tattoo marks.
- (2) Razors/needles. Separate disposable razors with single service blades, and separate disposable needles, shall be used for each patron and then discarded in accordance with all applicable rules and regulations.

- (3) Shaving. Before shaving, the area to be tattooed shall be thoroughly cleansed with tincture of green soap (U.S.P.) or its equivalent, as approved by the Health Commissioner, and washed with alcohol. After shaving the area to be tattooed, seventy percent alcohol (rubbing alcohol) shall be applied to the skin.
- (4) Skin lubricant. Only sterile petroleum jelly in collapsible metal or plastic tubes, single use (unit dose), or its equivalent, as approved by the Health Commissioner, shall be used on the area to be tattooed, and such jelly shall be applied by the use of sterile gauze, and not directly with the fingers.
- (5) Treatment of blood flow. No operator shall use styptic pencils, alum blocks or other solid styptic to check the flow of blood.
- (6) Dyes or inks. All dyes used in tattooing shall be manufactured by a reputable manufacturer and used without adulteration of the original formula. Single service or individual containers of dye or ink shall be used for each patron and the container and the remaining dye or ink discarded. The single use containers shall be disinfected prior to use. If non-disposable containers are used, they must be sterilized before reuse. Excess dye or ink shall be removed from the skin with an individually wrapped sterile gauze, individually wrapped sterile cotton squares, clean disposable wrapped cotton squares, or clean disposable tissue. The completed tattoo shall be washed with pieces of sterile gauze or individual sterile cotton saturated with germicidal solution approved by the Health Commissioner or seventy percent alcohol (rubbing alcohol). The tattooed area shall be allowed to dry and petroleum jelly from a collapsible or plastic tube, single use (unit dose), or its equivalent, as approved by the Health Commissioner, shall be applied. An approved surgical dressing and tape shall be applied to the site.
- (7) Infections. All infections resulting from the practice of tattooing which become known to the operator shall be reported to the Health Commissioner by the person owning or operating the tattoo operation, and the patient shall be referred to a private physician. Printed instructions, approved by the Board of Health, shall be given to each patron on the care of the skin after tattooing.
- (8) Prohibited tattoos. Tattooing, including the changing or repairing of previous tattoos, shall not be performed on any fingertip, on the genitalia, on a scrotum or in the anal area, nor shall tattooing be undertaken over the site of an obviously recent hypodermic injection. No tattoo shall consist of any obscene word or gesture, nor shall it depict any obscene act or the genitalia.
- (9) Dressing and materials. The use of paper napkins and other material and tape for dressing is prohibited. Only recognized and approved surgical dressing and tapes shall be used on patrons.
- (10) Disposal of waste. All used items must be autoclaved at fifteen pounds per square inch at 250 degrees Fahrenheit for twenty minutes, then discarded in accordance with the Ohio Environmental Protection Agency Rules for Disposal of Infectious Waste.
- (11) Prohibited hours of operation. No tattooing operation shall be performed after 8:00 p.m. or before 8:00 a.m.

- (12) Aftercare pamphlet. The operator shall provide the patron with an aftercare pamphlet covering the care of the tattoo site immediately following the tattoo operation on such patron. Such pamphlet is to be provided by the Board of Health to the operators.
- (d) Care of Instruments.
- (1) Preparation of instruments for sterilization. After each tattoo job, the tattoo machine shall be placed in an ultrasonic-type machine to remove the excess dye from the tubes and needle bars. When this process is completed, the tubes and needle bars shall be removed from the tattoo machine. They shall then be placed into a covered container for sterilization by autoclaving. If an enzymatic cleaner is used in ultrasonic-hollow needles, it must be thoroughly flushed with cleaning solution.
- (2) Sterilization of instruments. Steam sterilizers, approved by the Health Commissioner, shall be provided for each tattoo operation. All needle bars, grips, and tubes shall be sterilized, before use on each customer, by autoclaving under fifteen pounds per square inch pressure for twenty minutes. Temperatures in autoclaving shall not be less than 250 degrees Fahrenheit or 121 degrees Celsius. The time of the sterilization cycle shall not begin until temperature and pressure have been met. A spore test shall be conducted on the autoclave weekly, and after any autoclave repair or maintenance, for the following:
- A. Bacillus stearothermophilus (steam sterilizers).
B. Bacillus subtilis var. niger (dry heat sterilizers).
- (3) Solder. Solder used for the attachment of needles to the needle bars shall be lead-free.
- (4) Storing of instruments. All tubes, grips and needle bars shall be left in the wrappers or sterilizer bags used during the autoclaving process. These wrapped articles shall be stored in a closed glass case or storage cabinet. This closed glass case or storage cabinet shall be maintained in a sanitary manner at all times. The wrappers shall not be removed from the tubes, grips or needle bars until the tattoo job is to begin.
- (e) Tattoo Operation Environment.
- (1) Minimum floor space. Tattoo operations shall have not less than 150 square feet of usable floor space. If more than one operator is engaged in the tattooing profession in the same operation, there shall be a minimum of 100 square feet of floor space for each operator. The building shall be enclosed on four sides and maintained free from dust, dirt or contamination.
- (2) Illumination. The tattoo operation shall be provided with artificial light sources equivalent to at least twenty foot-candles at a distance of thirty inches above the floor throughout the operation. A minimum of forty foot-candles of light shall be provided at the level where the tattooing is being performed. Spot-lighting may be utilized to achieve this required degree of illumination.
- (3) Walls, ceilings and floors. The floors, walls and ceiling shall be of an impervious, smooth, washable surface and shall be maintained in a sanitary manner at all times.

- (4) Toilet facilities. A toilet and lavatory shall be conveniently located and accessible to the operator.
- (5) Hand washing sink. A lavatory or handwashing sink, with hot and cold running water, liquid or granular soap, and single use towels, shall be located in close proximity for each tattoo operator.
- (6) Plumbing; waste lines. There shall be no overhead or otherwise exposed sewage lines so as to create a potential hazard to the sanitary environment of the operation.
- (7) Solid waste disposal. Sufficient receptacles shall be provided for the disposal of trash, etc. Each trash receptacle shall have a lid and be kept closed at all times. All infectious waste must be discarded in accordance with Ohio EPA rules for disposal of infectious waste.
- (8) Operating tables or chairs. All operating tables and chairs shall be constructed of easily cleanable materials and shall be located at least six feet from any observer or waiting customers and separated by a panel at least four feet high.
- (9) Records. The operator shall keep records on all patrons receiving tattoos indicating the name, address, and age of each individual tattooed and the name and the tattoo artist completing the job. These records shall be recorded and kept on file for a minimum of one year.
- (10) Posting of regulations. The owner, proprietor or manager of the tattoo operation shall keep a copy of regulations posted in a place conspicuous to the patrons in the tattoo operation. Such copy shall be provided by the Board of Health.
(Ord. 02-24. Passed 7-22-02.)

755.07 INSPECTIONS.

(a) The Health Commissioner and/or the City Safety Director, or their respective representatives may at any reasonable time make inspections of the tattoo operation to insure compliance with this chapter.

(b) All tattoo operations within the City of Fairview Park will be inspected a minimum of four times per year by the Health Commissioner and/or the City Safety Director or their respective authorized representatives.
(Ord. 02-24. Passed 7-22-02.)

755.08 VARIANCES.

The Board of Health may grant a hearing to a tattoo operator and authorize, in specific cases, such variance from the requirements of this chapter as will not be contrary to the public interest and when the operator shows that, because of practical difficulties or other special conditions, their strict application will cause unusual and unnecessary hardship. However, no variance shall be granted that will defeat the spirit and general intent of these regulations or otherwise not be in the public interest.
(Ord. 02-24. Passed 7-22-02.)

755.99 PENALTY.

(a) Whoever violates or fails to comply with any of the provisions of this chapter or any order issued pursuant thereto is guilty of a minor misdemeanor. For a second offense, the person is guilty of a misdemeanor of the fourth degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. The penalty shall be as provided in Chapter 501 of these Codified Ordinances.

(b) In addition to the penalty provided herein, whoever violates or fails to comply with any of the provisions of this chapter or any order issued pursuant thereto shall be subject to any other administrative and/or legal action which may be deemed appropriate by the Board of Health. (Ord. 02-24. Passed 7-22-02.)