

CODIFIED ORDINANCES OF FAIRPORT HARBOR  
PART SEVEN - BUSINESS REGULATION CODE

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CHAPTER 702  
Alarm Regulations

702.01 Definitions.

702.02 False alarms.

CROSS REFERENCES

False alarms - see GEN. OFF. 509.07

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702.01 DEFINITIONS.

(a) "Alarm malfunction" means an activated alarm system and a response by the Police and/or Fire Department resulting from windstorm or other severe weather condition, power outage, utility work or any electrical or mechanical failure not resulting from improperly installed equipment.

(b) "Alarm system" means any assembly of equipment, (mechanical, electrical or detecting device) arranged to signal the occurrence of an unauthorized entry, burglary, fire or other activity requiring urgent attention, and to which the Police and/or Fire Department is expected to respond, either as an automatic dialing device directly connected to the Police or Fire Department, or an audible alarm inside or outside the premises.

(c) "Annual" means per the calendar year.

(d) "Village" means the Village of Fairport Harbor, Ohio.

(e) "False alarm" means the activation of a fire, burglary and/or robbery alarm for the purpose of summoning the Police Department and/or the Fire Department at a time when no fire, burglary and/or robbery is being committed or attempted on the premises. The definition excludes alarms caused by a user on the premises acting under a sincere belief that a need exists to call the Police or Fire Department.

(f) "Person" means any natural person, firm, partnership, corporation or unincorporated association.  
(Ord. 2013-084. Passed 8-20-13.)

## 702.02 FALSE ALARMS.

(a) False alarms are hereby declared to be a nuisance and charges shall be made as follows unless waived, for good cause, in writing, by the Police Chief and/or Fire Chief, or the designee of the Mayor.

- (1) Residential users. No charge shall be made for the first two false alarms annually or for a false alarm to which there is no response by the Police or Fire Department, or in the event of an alarm malfunction. A charge of twenty-five dollars (\$25.00) shall be made for the third false alarm annually, and a charge of fifty dollars (\$50.00) shall be made for each additional false alarm thereafter annually.
- (2) Business users. No charge shall be made for the first two false alarms annually, or for a false alarm to which there is no response by the Police or Fire Department, or in the event of an alarm malfunction. A charge of fifty dollars (\$50.00) shall be made for the third false alarm annually, and a charge of one hundred dollars (\$100.00) shall be made for each additional false alarm thereafter annually.

(b) Residential and business false alarm charges shall apply only when there is a response by the Police or Fire Department. Any charge for a false alarm remaining unpaid thirty days after the date of the mailing of the invoice shall be assessed on the property where the alarm is located. The charge that is set forth above is the cost of abating the nuisance of the false alarm and this cost shall be assessed on the property where the alarm is located.

(c) If there is a response by the Police or Fire Department to a false alarm resulting from improper equipment, installation and/or servicing by the alarm business and/or agency, the Chief of Police, or his designee, may authorize a civil penalty against the alarm business of one hundred dollars (\$100.00) per false alarm in addition to the amounts in subsection (a) hereof and if the charge is not paid within 30 days after the date of mailing of the invoice, then this charge shall also be assessed against the property as a means of abating this nuisance.

(Ord. 2013-084. Passed 8-20-13.)

**CHAPTER 705**  
**Peddlers, Solicitors and Canvassers**

705.01	Definitions.	705.04	Organizational liability.
705.02	Sales on public property prohibited.	705.05	Display of license card.
705.03	Sales on private property.	705.99	Penalty.

**CROSS REFERENCES**

Power to inspect food products - see Ohio R.C. 715.46  
Power to regulate - see Ohio R.C. 715.61 et seq.  
Charitable solicitation - see Ohio R.C. Ch. 1716  
Frozen desserts - see Ohio R.C. 3717.51 et seq.  
Littering - see GEN. OFF. 521.08  
Trespass - see GEN. OFF. 541.05

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**705.01 DEFINITIONS.**

(a) "Peddler" means any person who travels door to door either by foot, automobile, truck, or any other type of conveyance and calls upon private residences, including any house, apartment or other dwelling within the Village, taking or attempting to take orders for profit for the sale of goods, wares, and merchandise or personal property of any nature whatsoever for immediate or future delivery or for services to be furnished or performed immediately or in the future.

(b) "Solicitor" means any person who seeks to obtain funds for any cause whatsoever by traveling door to door either by foot, automobile, truck or any type of conveyance and calling upon private residences including any house, apartment or other dwelling within the Village.

(c) "Canvasser" means any person who obtains or influences the opinions of the residents of the Village by traveling door to door either by foot, automobile, truck or other type of conveyance and calling upon private residences including any house, apartment or other dwelling in the Village, but does not seek to obtain funds for any cause whatsoever.  
(Ord. 2002-168. Passed 1-14-03.)

**705.02 SALES ON PUBLIC PROPERTY PROHIBITED.**

(a) No person shall on any public street, alley, drive, lane, thoroughfare, right-of-way, court, highway, boulevard or on the sidewalks thereof, solicit the sale of any merchandise, wares, goods, foods, periodicals or other articles of value for present or future delivery.

(b) Council may grant permission to Vendors to sell food and/or goods on the public streets and/or sidewalks in the downtown area of the Village that is bounded by Second Street to Fifth Street and Eagle Street to High Street by passing a motion to allow the selling of food and/or goods during special events or occasions in the Village. Vendors shall secure a permit from the Village Administrator in order to sell food and/or goods in this area when permission has been granted by Council. Food Vendors must have any license that is required by law in order to sell food outside. (Ord. 2013-51. Passed 5-20-13.)

**705.03 SALES ON PRIVATE PROPERTY.**

(a) License or Registration Required. No peddler or solicitor shall peddle or solicit within the Village, unless he or she is the holder of a valid license issued pursuant to this chapter.

(b) Application; Fee; License; Registration.

- (1) Any person seeking a license in conformity with this chapter shall obtain an application for same from the Chief of Police and shall submit the completed application, along with the appropriate fee, to such office, on a form supplied by the Chief which shall contain the following information:
  - A. Full name of the applicant;
  - B. Date of birth of the applicant;
  - C. Local address, if any;
  - D. Permanent home address;
  - E. A physical description of the applicant, setting forth age, height, weight, color of hair and eyes, and sex;
  - F. Social security number;
  - G. A description of the nature of the business and the goods, wares, merchandise, property and/or services to be sold;
  - H. Telephone number of the applicant;
  - I. Name and address of organization the peddler or solicitor represents;
  - J. Whether the applicant has ever been convicted of a crime and, if so, where and the nature of the offense and the punishment or penalty imposed therefore, if any;
  - K. Such other information as the Chief may require in order to protect the public health, safety and/or general welfare.
- (2) All license applications shall be referred to the Chief who shall within five (5) days after receipt of the completed applications, issue a license unless he finds that:
  - A. The applicant has provided false, misleading or deceptive information; and
  - B. The applicant or any solicitor or peddler named on the license application has been convicted of a felony violation or misdemeanor violation involving weapons, theft, moral turpitude or violence within the past five (5) years.

All licenses issued under this chapter shall be valid for not more than one hundred eighty (180) days. A separate license shall be required for each individual solicitor or peddler even though there may be a single employer.

- (3) Each applicant shall pay a nonrefundable license application fee of fifteen dollars (\$15.00), which fee shall be paid at the time the application is submitted.
- (4) Once issued, a license may be used only in conformity with the laws of the Village and the State of Ohio; may not be assigned or transferred; must be carried by the licensee at all times, and may be revoked or suspended by the Chief of Police for any of the following causes:
  - A. The licensee or person preparing the application on behalf of the licensee provided false, misleading, or deceptive information in the license application;
  - B. The licensee is convicted of a felony or of a misdemeanor involving fraud or moral turpitude;
  - C. The licensee violates any provision of this chapter or peddles or solicits in an unlawful manner; or
  - D. Upon written complaint being filed with the Police Department, that the licensee has made himself obnoxious to the public by the use of indecent, profane or insulting language or has made or perpetrated any misstatement, deception or fraud in connection with any solicitation or sale, and if said complaint is found to be true, the license of such solicitor or peddler shall be revoked.

(c) Individuals or corporations soliciting or peddling on behalf of an educational, religious, civic or charitable organization shall not be required to pay license fees.

(d) Restrictions; Hours; Conduct. Every person to whom a license to peddle or solicit is issued and every canvasser shall be governed by the following rules and regulations:

- (1) No person subject to the provisions of this chapter shall peddle, solicit or canvass except between the hours of 9:00 a.m. and 8:00 p.m. or one-half hour after sunset whichever is later.
- (2) No peddler, solicitor or canvasser shall enter or attempt to enter a residence, house, apartment or other dwelling in the Village without an express invitation from an adult occupant of the residence, house, apartment or other dwelling.
- (3) No peddler or solicitor shall engage in any peddling or solicitation other than that specified in the license application.
- (4) No peddler, solicitor or canvasser shall by any device make unlawful noises, nor shall any peddler, solicitor or canvasser remain at the residence, house, apartment or other dwelling in the Village without the consent of any adult occupant of the residence, house, apartment or other dwelling in the Village.

(e) Resident Prohibition by Notice. Notwithstanding any other provision of this chapter, no peddler, solicitor or canvasser, while peddling, soliciting or canvassing, shall call upon, knock at the door or ring the door bell of any residence house, apartment or other dwelling in the Village upon which there is posted at the entrance a notice which reads "No Peddlers, Solicitors or Canvassers Allowed," or words of similar import, which clearly prohibit peddlers, solicitors and canvassers on the premises, unless such peddler, solicitor or canvasser has previously been invited upon the premises by the owner, lessee or an adult occupant thereof. (Ord. 2002-168. Passed 1-14-03.)

**705.04 ORGANIZATIONAL LIABILITY.**

The organization sponsoring or employing individuals violating any of the provisions of Chapter 705 may be prosecuted and held liable for the criminal penalties contained herein.  
(Ord. 2002-168. Passed 1-14-03.)

**705.05 DISPLAY OF LICENSE CARD.**

Upon request by any resident, police officer or Village official, a solicitor, or peddler shall present said license or registration card for further inspection.  
(Ord. 2002-168. Passed 1-14-03.)

**705.99 PENALTY.**

Whoever violates any provision of this chapter is guilty of a minor misdemeanor and, in addition, may have his license revoked by the Chief of Police.  
(Ord. 2002-168. Passed 1-14-03.)



**CHAPTER 706**  
Sexually Oriented Businesses

706.01 Purpose and intent.	706.15 Additional regulations for nude model studios.
706.02 Definitions.	706.16 Additional regulations for adult theaters and adult motion picture theaters.
706.03 Classification.	706.17 Additional regulations for adult motels.
706.04 License required.	706.18 Regulations pertaining to exhibition of sexually explicit films or videos.
706.05 Issuance of license.	706.19 Display of sexually explicit material to minors.
706.06 Fees.	706.20 Enforcement.
706.07 Inspection.	
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706.10 Revocation.	
706.11 Appeal.	
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706.13 Location of sexually oriented businesses.	
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**706.01 PURPOSE AND INTENT.**

It is the purpose of this chapter to regulate sexually oriented businesses to promote the health, safety, morals, and general welfare of the citizens of the Village, and to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses within the Village. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. (Ord. 1998-34. Passed 4-7-98.)

**706.02 DEFINITIONS.**

(a) "Adult arcade" means any place to which the public is permitted or invited wherein coin operated or slug operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specific sexual activities" or "specific anatomical areas."

(b) "Adult bookstore" or "adult video store" means a commercial establishment which utilizes twenty-five percent (25%) or more of its retail selling area for the purpose of 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 which depict or describe "specific sexual activities" or "specific anatomical areas"; or
- (2) Instruments, devices, or paraphernalia which are designed for use in connection with "specific sexual activities."

(c) "Adult cabaret" means a nightclub, bar, restaurant or similar commercial establishment which regularly features:

- (1) Persons who appear in a state of nudity; or
- (2) Live performances which are characterized by the exposure of "specific anatomical areas" or by "specific sexual activities"; or
- (3) Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specific sexual activities" or "specific anatomical areas."

(d) "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 "specific sexual activities" or "specific anatomical areas"; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or
- (2) Offers a sleeping room for rent for a period of time that is less than ten (10) 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 (10) hours.

(e) "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 exposure of "specific sexual activities" or "specific anatomical areas."

(f) "Adult theater" means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specific sexual activities" or "specific anatomical areas."

(g) "Chief of Police" means the chief of police of the Village or his designated agent.

(h) "Escort" means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

(i) "Escort agency" means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes, for a fee, tip, or other consideration.

(j) "Public park" means public land which has been designated for park or recreational activities including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian bicycle paths, open space, wilderness areas, or similar public land within the Village which is under the control, operation or management of the Village, County or State.

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

(l) "Establishment" means and includes any of the following:

- (1) The opening or commencement of any sexually oriented business as a new business.
- (2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- (3) The addition of any sexually oriented business to any other existing sexually oriented business; or
- (4) The relocation of any sexually oriented business.

(m) "Licensee" means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license.

(n) "Nude model studio" means any place where a person who appears in a state of nudity or displays "specific 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.

(o) "Operates" or "causes to operate" means to cause to function or to put or keep in operation. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner, or licensee of the business.

(p) "Nudity" or a "state of Nudity" means:

- (1) The appearance of a human bare buttocks, anus, male genitals, female genitals, or female breasts; or
- (2) A state of dress which fails to opaquely cover a human buttocks, anus, male genitals, female genitals, or the entire female breasts.

(q) "Person" means individual, proprietorship, partnership, corporation, association, or other legal entity.

(r) "Residential district" means a single family, duplex, townhouse, multiple family or mobile home zoning district.

(s) "Residential use" means a single family, duplex, multiple family, or "mobile home park, mobile home subdivision and campground" use.

(t) "Semi-nude" means a state of dress in which clothing covers no more than the genitals, pubic region, and entire female breast, as well as portions of the body covered by supporting straps or devices.

(u) "Sexual encounter center" means a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

- (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- (2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in the state of nudity or seminude.

(v) "Sexually oriented business" means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

(w) "Specific anatomical areas" mean human genitals in a state of sexual arousal.

(x) "Specific sexual activities" means and includes any of the following:

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;
- (3) Masturbation, actual or simulated; and
- (4) Excretory functions as part of or in connection with any of the activities set forth in subsection (x)(1) to (3) hereof.

(y) "Substantial enlargement" of a sexually oriented business means the increase in floor area occupied by the business by more than twenty-five percent (25%), as the floor area exists on April 7, 1998.

(z) "Transfer of ownership of control" of a sexually oriented business means and includes any of the following:

- (1) The sale, lease, or sublease of the business;
- (2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
- (3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(Ord. 1998-34. Passed 4-7-98.)

**706.03 CLASSIFICATION.**

Sexually oriented businesses are classified as follows:

- (a) Adult arcades,
  - (b) Adult bookstores or adult video stores;
  - (c) Adult cabarets;
  - (d) Adult motels;
  - (e) Adult motion picture theaters;
  - (f) Adult theaters;
  - (g) Escort agencies;
  - (h) Nude model studios; and
  - (i) Sexual encounter centers.
- (Ord. 1998-34. Passed 4-7-98.)

**706.04 LICENSE REQUIRED.**

(a) A person commits an offense if he operates a sexually oriented business without a valid license issued by the Village for the particular type of business.

(b) An application for a license must be made on a form provided by the Chief of Police. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches (6").

Applicants who must comply with Section 706.19 of this chapter shall submit a diagram meeting the requirements of Section 706.18.

(c) The applicant must be qualified according to provisions of this chapter.

(d) If a person who wishes to operate a sexually oriented business is an individual, he must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a twenty percent (20%) or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under Section 706.05 and each applicant shall be considered a licensee if a license is granted.

(Ord. 1998-34. Passed 4-7-98.)

**706.05 ISSUANCE OF LICENSE.**

(a) The Chief of Police shall approve the issuance of a license to an applicant within sixty (60) days after receipt of an application unless the Chief of Police finds one or more of the following to be true:

- (1) An applicant is under eighteen (18) years of age.
- (2) An applicant or an applicant's spouse is overdue in payment to the Village of taxes, fees, fines, or penalties assessed or imposed upon the applicant or the applicant's spouse in relation to a sexually oriented business.
- (3) An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.

- (4) An applicant or an applicant's spouse has been convicted of a violation of a provision of this chapter, other than the offense of operating a sexually oriented business without a license, within two (2) years immediately preceding the application. The fact that a conviction is being appealed shall have no effect.
- (5) The license fee required by this chapter has not been paid.
- (6) An applicant has been employed in a sexually oriented business in a managerial capacity within the preceding twelve (12) months and has demonstrated an inability to operate or manage a sexually oriented business premises in a peaceful and law abiding manner, thus necessitating action by law enforcement officers.
- (7) An applicant or the proposed establishment is in violation of or is not in compliance with this chapter.
- (8) An applicant or an applicant's spouse has been convicted of a crime:
  - A. Involving any of the following offenses:
    1. Prostitution
    2. Promotion of prostitution;
    3. Aggravated promotion of prostitution;
    4. Compelling prostitution;
    5. Obscenity;
    6. Sale, distribution, or display of harmful material to a minor;
    7. Sexual performance by a child;
    8. Possession of child pornography;
    9. Public lewdness;
    10. Indecent exposure;
    11. Indecency with a child;
    12. Sexual assault or aggravated sexual assault;
    13. Incest, solicitation of a child, or harboring a runaway child;  
or
    14. Criminal attempt, conspiracy, or solicitation to commit any of the foregoing offenses;
  - B. For which:
    1. Less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
    2. Less than five (5) 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; or
    3. Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty four (24) month period.
- (9) An applicant proposes a site which is one thousand feet (1,000) near a residence, school or park.
- (10) An applicant fails to comply with laws of the Village or state statutes or additional codes or federal laws.

(b) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or applicant's spouse.

(c) An applicant who has been convicted or whose spouse has been convicted of an offense listed in subsection (a)(8) hereof may qualify for a sexually oriented business license only when the time period required by this section has elapsed.

(d) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually oriented business. The license shall be posted in a conspicuous place at or near the entrance of the sexually oriented business so that it may be easily read at any time.  
(Ord. 1998-34. Passed 4-7-98.)

#### 706.06 FEES.

The annual fee for a sexually oriented business license is two hundred dollars (\$200.00).  
(Ord. 1998-34. Passed 4-7-98.)

#### 706.07 INSPECTION.

(a) An applicant or licensee shall permit representatives of the Police Department, Fire Department, Building Department, Village Engineer, Health Department or any other department of the Village or county or state government to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.

(b) A person who operates a sexually oriented business or his agent or employee commits an offense if he refuses to permit a lawful inspection of the premises by a representative of the Police Department at any time it is occupied or open for business.  
(Ord. 1998-34. Passed 4-7-98.)

#### 706.08 EXPIRATION OF LICENSE.

Each license shall expire one year from the date of issuance and may be renewed only by making application as provided by Section 706.04. Applications for renewal should be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the license will not be affected. It is the responsibility of the permit holder to apply for renewal.  
(Ord. 1998-34. Passed 4-7-98.)

#### 706.09 SUSPENSION.

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

- (a) Violated or is not in compliance with this chapter.
- (b) Engaged in excessive use of alcoholic beverages while on the sexually oriented business premises.
- (c) Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter;
- (d) Knowingly permitted gambling by any person on the sexually oriented business premises;

- (e) Demonstrated inability to operate or manage a sexually oriented business in a peaceful and law abiding manner thus necessitating action by law enforcement officers;
- (f) Violated any of the Village's law, state law or federal law.  
(Ord. 1998-34. Passed 4-7-98.)

#### 706.10 REVOCATION.

(a) The Chief of police shall revoke a license if a cause of suspension in Section 706.09 occurs and the license has been suspended within the preceding twelve (12) months.

- (1) A licensee gave false or misleading information in the material submitted to the Chief of Police during the application process;
- (2) A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;
- (3) A licensee or an employee has knowingly allowed prostitution on the premises;
- (4) A licensee or an employee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;
- (5) A licensee has been convicted of an offense listed in Section 706.05 (a)(8)A. for which the time period required in Section 706.05 (a)(8)B. has not elapsed;
- (6) On two or more occasions within a twelve (12) month period, a person or persons commits an offense occurring in or on the licensed premises as set forth in Section 706.05 (a)(8)A. for which a conviction has been obtained, and the person or persons were employees of the sexually oriented business at the time the offenses were committed;
- (7) A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in or on the licensed premises; or
- (8) A licensee is delinquent in payment to the Village for hotel occupancy taxes, income taxes, or any other taxes or assessments which the Village imposes, or sales taxes related to the sexually oriented business.

(c) The fact that a conviction is being appealed shall have no effect on the revocation of the license.

(d) Subsection (b)(7) hereof does not apply to adult motels as a ground for revoking the license unless the licensee or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in a public place or within public view.

(e) When the Chief of Police revokes a license, the revocation shall continue for one year and the licensee shall not be issued a sexually oriented business license for one year from the date revocation became effective. If, subsequent to revocation, the Chief of Police finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective. If the license was revoked under subsection (b)(5) hereof an applicant may not be granted another license until the appropriate number of years required under Section 706.05 (a)(8)B. has elapsed.  
(Ord. 1998-34. Passed 4-7-98.)



**706.11 APPEAL**

If the Chief of Police denies the issuance of a license, or suspends or revokes a license, the Chief of Police shall send to the applicant, or licensee, by certified mail, return receipt requested, written notification of the denial, suspension, or revocation. The licensee whose application for a license has been denied or whose license has been suspended or revoked shall have the right to appeal to the Safety Director of the Village. An appeal must be filed within thirty (30) days after the receipt of notice of the decision of the Chief of Police. The licensee shall bear the burden of proof.

(Ord. 1998-34. Passed 4-7-98.)

**706.12 TRANSFER OF LICENSE.**

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

(Ord. 1998-34. Passed 4-7-98.)

**706.13 LOCATION OF SEXUALLY ORIENTED BUSINESSES.**

(a) A person commits an offense if he operates or causes to be operated a sexually oriented business within 1,000 feet of:

- (1) A church;
- (2) A public or private elementary or secondary school;
- (3) A boundary of a residential, multi-family or historical district as defined in the codified ordinances;
- (4) A public park; or
- (5) The property line of a lot devoted to a residential or multi-family use as defined in the codified ordinances;

(b) A person commits an offense if he causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually-oriented business within 1,000 feet of another sexually oriented business. A person commits an offense if he causes or permits the operation, establishment, or maintenance of more than one sexually oriented businesses in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.

(c) For the purpose of subsection (a) hereof, measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church or public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district, or residential lot.

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

(e) Any sexually oriented business lawfully operating on March 1, 1998, that is in violation of subsection (a), (b), or (c) hereof shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed five (5) years, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 1,000 feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later established business(es) is nonconforming.

(f) A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location of a church, public or private elementary or secondary school, public park, residential district, or residential lot within 1,000 feet of the sexually oriented business, subsequent to the grant or renewal of the sexually oriented business license. This provision applies only to the renewal of a valid license, and does not apply when an application for a license is submitted after a license has expired or has been revoked.  
(Ord. 1998-34. Passed 4-7-98.)

#### 706.14 ADDITIONAL REGULATIONS FOR ESCORT AGENCIES.

(a) An escort agency shall not employ any persons under the age of eighteen (18) years.

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

(Ord. 1998-34. Passed 4-7-98.)

#### 706.15 ADDITIONAL REGULATIONS FOR NUDE MODEL STUDIOS.

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

(b) A person under the age of eighteen (18) years commits an offense if he appears in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under eighteen (18) years was in a restroom not open to public view or persons of the opposite sex.

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

(d) A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

(Ord. 1998-34. Passed 4-7-98.)

#### 706.16 ADDITIONAL REGULATIONS FOR ADULT THEATERS AND ADULT MOTION PICTURE THEATERS.

(a) A person commits an offense if he knowingly allows a person under the age of eighteen (18) years to appear in a state of nudity in or on the premises of an adult theater or adult motion picture theater.

(b) A person under the age of eighteen (18) years commits an offense if he knowingly appears in a state of nudity in or on the premises of an adult theater or adult motion picture theater.

(c) It is a defense to prosecution under subsection (a) and (b) hereof if the person under eighteen (18) years was in a restroom not open to public view or persons of the opposite sex.

(Ord. 1998-34. Passed 4-7-98.)

#### 706.17 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 a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this chapter.

(b) A person commits an offense if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented business license, he rents or subrents a sleeping room to a person and, within ten (10) hours from the time the room is rented, he rents or subrents the same sleeping room again.

(c) For the purpose of subsection (b) of this section, the terms "rent" or "subrent" mean the act of permitting a room to be occupied for any form of consideration.

(Ord. 1998-34. Passed 4-7-98.)

#### 706.18 REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS OR VIDEOS

(a) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, or other video reproduction which depicts specific sexual activities or specific anatomical areas, shall comply with the following requirements:

- (1) Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. The Chief of Police may waive the foregoing diagram for renewal applications if the applicant adopts a diagram for renewal applications that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

- (2) The application shall be sworn to be true and correct by the applicant.
- (3) No alteration in the configuration or location of a manager's station may be made without prior approval of the Chief of Police or his designee.
- (4) It is the duty of the owners and operator of the premises to ensure that at least one (1) employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
- (5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
- (6) In addition, a closed circuit television system shall be maintained and operated with a television monitor(s) located in the area of the manager's station, in the clear view of the public and available for continuous viewing by the manager on duty. A camera or cameras shall be installed in the booth areas and shall scan each hallway and aisle way of the entrance way to each booth. The closed circuit television system shall operate on a switcher system so that the television monitor(s) will switch sequentially and continuously from one camera to another. The continuous switching process will be timed to allow an adequate view of each area surveyed by each camera while accomplishing a complete circuit within less than one (1) minute. To the extent necessary, more than one (1) television monitor shall be installed so that there will be adequate circuits to provide a complete view of the entire interior premises, including booth area(s), in less than one minute. In the event of a malfunction of any of the closed circuit television equipment described above, the operator or his designee shall act promptly to repair or cause to be repaired any such malfunction within twenty-four (24) hours. The operator shall maintain documentation of the date and time of any such malfunction and all measures taken to effect a repair. If an equipment malfunction cannot be repaired within twenty-four (24) hours, those areas of the adult arcade which are not capable of being monitored as a result of the malfunction shall be closed until repairs are completed.

Signs, of adequate size for clear visibility, shall be posted in the adult arcade to give notice to all patrons of the areas therein which are continuously monitored by closed circuit television cameras with monitors.
- (7) It shall be the duty of the owners and operators and it shall also be the duty of any agents and employees present in the premises to ensure that the view area specific in subsection (a)(5) hereof remains unobstructed by any doors, wall, merchandise, display racks or other materials at all times that any patron is present in the premises and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (a)(1) hereof.

- (8) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5) foot candle as measure at the floor level.
- (9) It shall be the duty of the owners and operators and it shall also be the duty of any agents and employees present in the premises to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

(b) A person having a duty under subsections (a)(1) through (9) hereof commits an offense if he knowingly fails to fulfill that duty.  
(Ord. 1998-34. Passed 4-7-98.)

#### 706.19 DISPLAY OF SEXUALLY EXPLICIT MATERIAL TO MINORS.

(a) It is an offense to display a book, pamphlet, newspaper, magazine, film, or video cassette, the cover of which depicts, in a manner calculated to arouse sexual lust or passion for commercial gain or to exploit sexual lust or perversion for commercial gain in a business establishment open to persons under the age of eighteen (18) years, any of the following:

- (1) Human sexual intercourse, masturbation, or sodomy;
- (2) Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breasts;
- (3) Less than completely and opaquely covered human genitals, buttocks or that portion of the female breast below the top of the areola; or
- (4) Human male genitals in a discernibly turgid state, whether covered or uncovered;

(b) In this section "display" means to locate an item in such a manner that, without obtaining assistance from an employee of the business establishment:

- (1) It is available to the general public for handling and inspection; or
- (2) The cover or outside packaging on the item is visible to members of the general public.

(Ord. 1998-34. Passed 4-7-98.)

#### 706.20 ENFORCEMENT.

(a) Except as provided by subsection (b) or (c) hereof, any person violating this chapter, upon conviction, is punishable by a fine not to exceed one thousand dollars (\$1,000).

(b) It is a defense to prosecution under Sections 706.04(a), 706.13 or 706.15(d) that a person appearing in a state of nudity did so in a modeling class operated:

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

- (3) In a structure:
- A. Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
  - B. Where in order to participate in a class a student must enroll at least three (3) days in advance of the class; and
  - C. Where no more than one (1) nude model is on the premises at any one time.

(c) It is a defense to prosecution under Sections 706.04(a) or 706.13 that each item of descriptive, printed, film, or video material offered for sale or rental, taken as a whole, contains serious literary, artistic, political, or scientific value.  
(Ord. 1998-34. Passed 4-7-98.)

CHAPTER 709  
Video Service Providers

709.01 Fee established; notice.

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709.01 FEE ESTABLISHED; NOTICE.

(a) Council hereby establishes a VSP Fee that is calculated by applying a VSP Fee Percentage of three percent (3%) to the video service provider's gross revenues as defined in Section 1332.32(B) of the Video Law. For purposes of calculating the VSP Fee, the provider's gross revenues shall include advertising revenues in accordance with Section 1332.32(B)(2)(g) of the Video Law. The VSP Fee Percentage and Video Law gross revenues definition, as modified in this section, shall apply equally to all video service providers and cable television operators providing video service in the Village.

(b) The VSP Fee shall be paid by each video service provider providing service in the Village on a quarterly basis not sooner than forty-five days nor later than sixty days after the end of each calendar quarter. (ORC §1332.32(A)).

(c) The Village Administrator is authorized and directed to provide any video service provider with notice of the VSP Fee Percentage and gross revenues definition as determined by Council above, which notice shall be given by certified mail, upon receipt of notice from such video service provider that it will begin providing video service in the Village pursuant to a state-issued video service authorization.  
(Ord. 2008-091. Passed 8-5-08.)





**CHAPTER 711**  
**Dances**

711.01	Permit required; definition.	711.06	Revocation of permit.
711.02	Permit application; fee.	711.07	Age regulations.
711.03	Permit information; revocation.	711.99	Penalty.
711.04	Days and hours regulated.		
711.05	Police officer required during dance.		

**CROSS REFERENCES**

Permit required for public dancing - see Ohio R.C. 3773.19  
Intoxicating liquor in dance hall - see Ohio R.C. 4399.14

**711.01 PERMIT REQUIRED; DEFINITION.**

No person shall give or hold a public dance in the Village without first obtaining from the Mayor a permit therefor and paying the fee required. "Public dance" means any dance to which admission can be had by payment of a fee or by the purchase, possession or presentation of a ticket or token, 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 by the payment of a fee. (Ord. 66-50. Passed 9-19-66.)

**711.02 PERMIT APPLICATION; FEE.**

Any person applying for a permit to give or hold a public dance in the Village shall, before the issuance thereof, pay a permit fee to the Mayor in the sum of five dollars (\$5.00) per day. However, the Mayor shall have full power and authority to refuse to issue a permit. (Ord. 66-50. Passed 9-19-66.)

**711.03 PERMIT INFORMATION; REVOCATION.**

A permit duly issued shall state the location at which the public dance is to be held and the period of the permit, and each permit issued under the provisions of this chapter shall be subject to revocation by the Mayor at any time. (Ord. 66-50. Passed 9-19-66.)

**711.04 DAYS AND HOURS REGULATED.**

No person to whom a permit has been issued under the provisions of this chapter shall conduct a dance later than 1:00 a.m. on week days, except that, upon application by the permit holder, the Mayor may grant permission to continue a dance until 2:00 a.m. Public dances on Sunday shall be prohibited, and no permits shall be issued therefor, except as provided by permits for Saturday dances which extend into Sunday. (Ord. 66-50. Passed 9-19-66.)

**711.05 POLICE OFFICER REQUIRED DURING DANCE.**

The holder of a permit shall employ one patrolman of the Village, or more at the Mayor's discretion through its Police Department, to be on duty during the public dance by giving the Chief of Police three days notice prior to the date the dance is to be held.  
(Ord. 66-50. Passed 9-19-66.)

**711.06 REVOCATION OF PERMIT.**

The permit issued for any public dance may be suspended, forfeited or revoked by the Mayor for disorderly or immoral conduct on the premises, or for the violation of any of the provisions of this chapter. No suspension, forfeiture or revocation of a permit for any public dance shall be made for a period longer than ninety days.  
(Ord. 66-50. Passed 9-19-66.)

**711.07 AGE REGULATIONS.**

(a) No permit shall be issued for any public dance wherein children under the age of eighteen take part, unless the person seeking permission to hold the public dance submits to the Mayor at least three days prior thereto a list bearing the name and address of any responsible adults of both sexes who will act as chaperons and be present at and during the entire period of the public dance.

(b) Public dances held for the benefit of children under the age of eighteen shall be discontinued on or before the hour of 12:00 midnight of the day for which the permit is issued.  
(Ord. 66-50. Passed 9-19-66.)

**711.99 PENALTY.**

Whoever violates any provision of this chapter shall be guilty of a minor misdemeanor.

**CHAPTER 717**  
**Casual Sales**

717.01	Definitions.	717.04	Limitations.
717.02	Permit required; signs.	717.05	Persons and sales excepted.
717.03	Application for permit.	717.99	Penalty.

**CROSS REFERENCES**  
Power to regulate - see Ohio R.C. 715.61

**717.01 DEFINITIONS.**

(a) For the purposes of this chapter all sales titled or labeled "garage sale", "lawn sale", "attic sale", "rummage sale" or "flea market sale" means any sale of tangible personal property not otherwise regulated in this chapter and advertised by any means whereby the public at large is or can be made aware of such sale.

(b) "Goods" means any goods, warehouse merchandise or other property capable of being the object of a sale regulated hereunder.  
(Ord. 77-64. Passed 10-3-77.)

**717.02 PERMIT REQUIRED; SIGNS.**

No person, firm, group, corporation, association or organization shall sell or offer to sell any goods at a sale to be advertised or held out by any means to be one of the types of sales enumerated in Section 717.01, without first obtaining a permit to do so from the Chief of Police. There shall be no fee charged for the issuance of such permit. An outdoor sign to advertise a casual sale for which a permit has been issued may be erected for display during the period of time when the casual sale is being conducted. Such sign shall not be of a size in excess of two feet by four feet and shall not be subject to the usual fees charged for sign permits.  
(Ord. 77-64. Passed 10-3-77.)

**717.03 APPLICATION FOR PERMIT.**

An application for a permit for any of the sales regulated hereunder shall be made to the Chief of Police on a form to be provided therefor and shall contain the following information:

- (a) The name of the person, firm, group, corporation, association or organization conducting the sale;
- (b) The location at which the sale is to be conducted;
- (c) The number of days which the sale is to be conducted within the limit hereinafter prescribed;

- (d) The date and nature of any past sale held by the applicant subject to any regulations under this chapter;
- (e) Relationships or connections the applicant may have with any other person, firm, group, organization, association or corporation conducting any such sale and the date or dates of such sale;
- (f) An itemized list or other detailed description of the goods proposed to be sold, together with a statement as to the date or dates when such goods or merchandise were obtained or purchased by the applicant; and
- (g) Whether or not the applicant has been issued a vendor's license by the State and, if so, the number of such license and the date on which the same was issued.  
(Ord. 77-64. Passed 10-3-77.)

#### 717.04 LIMITATIONS.

(a) No person shall conduct, advertise or promote any sale subject to this chapter without a permit issued pursuant hereto.

(b) No permit shall be issued authorizing any such sale to be conducted for a period longer than three days, and no person shall be issued more than two such permits within any twelve-month time period; provided, however, that the Chief of Police may for good cause shown issue additional permits within such twelve-month time period to deserving applicants.

(c) In determining the number of permits that have been issued in any twelve-month time period, the Chief of Police is authorized and directed to refuse to issue a permit hereunder to any member of a household wherein two casual sales have been conducted by any member of a household in or about a single premises within the preceding twelve-month time period.

(d) No person shall display or place any items within the road right of way before, during or after any sale event that is regulated by this chapter.

(e) No person shall violate any term or condition that is contained in the casual sale permit that is issued pursuant to this chapter.  
(Ord. 2010-051. Passed 7-6-10.)

#### 717.05 PERSONS AND SALES EXCEPTED.

The provisions of this chapter shall not apply to or affect the following persons or sales:

- (a) Persons selling goods pursuant to an order or process of a court of competent jurisdiction;
- (b) Persons acting in accordance with their powers and duties as public officials;
- (c) Any person selling or advertising for sale an item or items of personal property which is specifically named or described in the advertisement and which separate items do not exceed ten in number;
- (d) Any publisher of a newspaper, magazine or other publication or other communication media who publishes or broadcasts in good faith without knowledge of its false, deceptive or misleading character or without knowledge that the provisions of this chapter have not been complied with;
- (e) Any sale regulated under any other provisions of the Village ordinances;

- (f) Any sale conducted by any merchant or mercantile or other business establishment from or at a place of business wherein such sale would be permitted by the Zoning Ordinance or under the protection of the presently nonconforming section thereof, or any other sale conducted by a manufacturer, dealer or vendor, which sale would be conducted from properly zoned premises and is not otherwise prohibited by the Village ordinances;
- (g) Any bona fide charitable, eleemosynary, educational, cultural or governmental institution or organization, provided, however, that the burden of establishing the exemption under this subsection shall be on the organization or institution claiming such exemption; and
- (h) Any sale of household furnishings made or offered in connection with a bona fide effort to sell the improved real estate upon which such household furnishings are situated.  
(Ord. 77-64. Passed 10-3-77.)

717.99 PENALTY.

Whoever violates any provision of this chapter shall be guilty of a minor misdemeanor. Each day a sale is conducted in violation of any of the provisions of this chapter shall constitute a separate offense.  
(Ord. 77-64. Passed 10-2-77.)



CHAPTER 723  
Regulation of Business

723.01 Business representative  
required.

723.99 Penalty.

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**723.01 BUSINESS REPRESENTATIVE REQUIRED.**

No person, corporation, partnership, or business organization of any type shall maintain a storeroom, salesroom, or any place of business open to the general public between the hours of 11:00 p.m. and 5:00 a.m. unless such place of business has a person physically present and on duty during any time period that the place of business is open to the general public between the hours aforesaid. (Ord. 77-63. Passed 9-17-77.)

**723.99 PENALTY.**

Whoever violates any provision of this chapter is guilty of a minor misdemeanor. Each violation of the within regulation shall constitute and be





**CHAPTER 725**  
**Entertainment Device Arcades**

725.01	Applicability.	725.06	Location.
725.02	Definitions.	725.07	Hours of operation.
725.03	License application; requirements.	725.08	Miscellaneous operating requirements.
725.04	License fees; transfer and display; disposition of fees.	725.09	Severability.
725.05	License revocation; hearing procedure.	725.99	Penalty.

**CROSS REFERENCES**

Tampering with coin machines - see GEN. OFF. 545.12

**725.01 APPLICABILITY.**

This Chapter shall be applicable in the Village of Fairport Harbor, Ohio. This Chapter shall apply to the operation of Entertainment Devices that are lawfully operated pursuant to the Ohio Revised Code and does not legalize or license any operation of a device that is unlawful to operate pursuant to the Ohio Revised Code. This Chapter shall apply immediately to all Entertainment Device Arcades that commence operations after the date of the enactment of this Chapter. All Entertainment Device Arcades in operation at the time of enactment of this Chapter shall come into compliance with all Sections of this Chapter no later than thirty (30) days after enactment of this Chapter, unless otherwise stated herein. (Ord. 2012-028. Passed 5-1-12.)

**725.02 DEFINITIONS.**

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

- (a) "Entertainment Device Arcade" means any business, establishment, room or place where seven or more Entertainment Devices are kept for use by the public or by persons other than the owner of the devices, where persons give anything of value to access the use of the Entertainment Devices or the premises, and the person may be given anything of value by the operator, whether the giving occurs on or off the premise or at the same time or a later time.
- (b) "Entertainment Device" means any mechanical, electronic, video or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a person, for the purpose of playing a game, viewing a video display, hearing an audio transmission or reading entries or outcomes from any other kind of device. "Entertainment Device" does not include any vending machine, juke box, audio book, video player or any device that gives anything of value where the only value given, directly or indirectly, is a video or audio transmission or the playing of a game.

- (c) "Anything of value" means cash, cash equivalents, tangible objects, credits to play, sweepstakes entry points and any other tangibles or intangibles, no matter how slight. Anything of value includes playing a game, viewing a video display, hearing an audio transmission, and reading entries or outcomes from any other kind of device. A person who gives anything of value for a product or service, whether tangible or intangible, in any way, directly or indirectly, in association with being given access to the use of an Entertainment Device, is deemed to have given value for the access to the Entertainment Device.
- (d) "Operator" means any person or organization that owns, controls, operates, promotes or maintains or knowingly engages in conduct that facilitates the operation of an Entertainment Device Arcade or the Entertainment Devices in an Entertainment Device Arcade.
- (e) "Law enforcement agency" means the Fairport Harbor police department or the Lake County Sheriff's Department.  
(Ord. 2012-028. Passed 5-1-12.)

#### 725.03 LICENSE APPLICATION; REQUIREMENTS.

(a) No person, partnership, corporation, or other entity shall operate or conduct an Entertainment Device Arcade without first obtaining an annual license to operate therefore from the Administrator or his designee. The license to operate shall first be obtained prior to the initial operation of the Entertainment Device Arcade and annually thereafter, with the subsequent annual application and associated fee due prior to the 1st day of January of each calendar year.

- (b) Every person, partnership, corporation, organization or other entity shall make an application in writing to the Administrator or his designee, which application shall set forth:
- (1) The name and federal tax identification number under which the business is to be conducted;
  - (2) The location where the business is conducted, with a description of the premises, including a scaled diagram;
  - (3) The name, address, and government issued photo identification of any manager, supervisor, and all other employees;
  - (4) The name, address, and government issued photo identification of the owner or owners of the Entertainment Devices; and
  - (5) The name, address, government issued photo identification and principal occupation of every person with an interest in the business. If the business is conducted by:
    - A. A sole proprietorship, the name, home address, government issued photo identification and principal occupation of that individual.
    - B. A firm, limited liability company or partnership, the names, home addresses, government issued photo identification and principal occupations of each member of the firm or partnership.
    - C. A corporation, the names, home addresses, government issued photo identifications and principal occupations of all officers and shareholders and the statutory agent;
  - (6) If a corporation or limited liability company, a certificate of good standing from the Ohio Secretary of State.

- (7) The name, description, model number and serial number of each Entertainment Device on the premises and any other device on the premises that is necessary to the operation of the Entertainment Device;
- (8)
  - A. A list of each separate prize that may be given out and each separate dollar amount that may be given; and
  - B. The odds of winning any offered prize or dollar amount awarded for the participation in any game, activity, program, scheme or play, use or participation in any way in an Entertainment Device or participating in any other activity or promotion in the Entertainment Device Arcade, whether or not the determination of the giving of the thing of value or the delivery of the thing of value occurs totally within the confines of the premises or requires some event, occurrence or happening at another location;
- (9) The name and address of any and all persons, businesses or organizations that provide games, computer software, equipment, or services or operate devices linked to the licensee's Entertainment Devices or to devices necessary to operate the Entertainment Devices, whether any such provisions are sold, leased or licensed; and
- (10) A certificate or report, provided by an Authorized Independent Testing Laboratory, identifying the components of the Entertainment Devices and related systems, identifying the operational characteristics of the Entertainment Device and systems and verifying that each Entertainment Device identified in Section 725.03(b)(8), above, and the software therein, is either a skill-based amusement machine as defined in Section 2915.01 of the Ohio Revised Code, or is part of a sweepstakes game format. If the certificate or report verifies that the Entertainment Device and the software therein is part of a sweepstakes game format, the certificate or report shall verify the following information:
  - A. The sweepstakes game is governed by official rules, which are clearly posted and available to customers.
  - B. Sweepstakes entries are provided to customers upon purchase of a good or service, for which consideration is paid, and no consideration is paid for the sweepstakes entry itself. Additionally, the sweepstakes game provides for a method of free entry upon request, and the chance of winning the sweepstakes game does not vary between free entries and entries received as a result of purchase.
  - C. The total number of entries, the number of winning and losing entries and the number and nature of prizes of the sweepstakes game are finite, predetermined and established prior to the start of the sweepstakes. Additionally, all winning and losing entries are predetermined prior to the start of the sweepstakes game and the entries cannot be changed or modified once the sweepstakes game begins.
  - D. The sweepstakes game contains no element of skill and the customer has no ability to alter or affect the outcome or results of the sweepstakes game.

The Administrator shall publish, within thirty (30) days after the enactment of this chapter a list of Authorized Independent Testing Laboratories, and shall keep said list updated and current at all times. Only certificates or reports from the entities listed by the Administrator or his designee as Authorized Independent Testing Laboratories shall satisfy the requirements of this Section. Said certificate or report shall be provided to the Administrator or his designee for each Entertainment Device prior to an operator placing the device into service.

The certificate or report for an Authorized Independent Testing Laboratory required herein shall be updated annually for each Entertainment Device and the updated certificate or report shall be provided at the time of each annual application, and shall contain the information required in this subsection.

Any update to an Entertainment Device, or the software therein, during the course of the year shall be reviewed and inspected by an Authorized Independent Testing Laboratory, and a certificate or report from the Authorized Independent Testing Laboratory shall be filed with the Administrator or his designee prior to the operator placing the device in service, and shall contain the information required in this subsection.

No Entertainment Device shall be lawfully operated unless it is certified to meet the requirements of this subsection.

(c) Duty to Keep Information Current. The person, partnership, corporation, or other entity operating or conducting the business shall have a continuing duty to inform the Administrator or his designee as to changes in the information required in this section. No person, partnership, corporation, or other entity shall operate or conduct an Entertainment Device Arcade at any time unless the information on file with the Administrator or his designee is current and accurately reports the licensing information at the time of operation.

(d) Rejection of Application. The Administrator or his designee shall reject or preliminarily approve an application within ten (10) business days of receipt. If rejected, the Administrator or his designee Department shall notify the applicant in writing, with reasons for rejection. If the application is preliminarily approved, the Administrator or his designee shall notify the applicant in writing of said preliminary approval. Upon notification of preliminary approval, applicant shall pay to the Administrator or his designee the semi-annual license fee due in conjunction with the initial or annual application for each Entertainment Device that will be located on the premises during the following semi-annual period. Upon receipt of said semi-annual license fee, the Administrator or his designee shall grant final approval of the application and shall issue a license to operate. No person shall operate an Entertainment Device Arcade, until such final approval is granted and said license to operate is issued, unless otherwise permitted herein.

The required certificate or report shall be included in the initial or annual application, and at any other time as required by Chapter 725, and no Entertainment Device Arcade shall operate without the final approval and license to operate being issued by the Administrator or his designee.

(e) Prohibition as a Result of Conviction; Fire Inspection. The Administrator or his designee shall not issue a license to any person, partnership, corporation, or other entity if any of the persons with an interest in the business or if any of the employees of the business have been convicted of a violation of a federal or state statute or of any local ordinance pertaining to gambling or other crime of moral turpitude within five years preceding the application. Also, as a prerequisite to the issuance of such license, an inspection shall be made of the premises by the Village's Fire Department to seek and obtain the approval of said department.

(f) Right of Entry for Inspection. The Entertainment Device Arcade shall be open to inspection and viewing of operations by the Administrator or his designee, fire department personnel, and health department personnel at all times that the arcade is open for business. Law enforcement agency officers may accompany officials from the Administrator or his designee, fire department and health department on any official business or inspection to the extent authorized by Chapter 725 of these Codified Ordinances. No operator shall fail to immediately permit entry to any such officials.

(g) Suspension or revocation of license. Failure to register or pay a license fee for an Entertainment Device or the failure to follow all of the requirements of this chapter shall be grounds for suspension or revocation of the license for the Entertainment Device Arcade and said device(s) shall be seized and forfeited to the Village.  
(Ord. 2012-028. Passed 5-1-12.)

#### 725.04 LICENSE FEES; TRANSFER AND DISPLAY; DISPOSITION OF FEES.

(a) License Fees. The non-refundable annual license fee, payable to the Administrator or his designee at the time of initial or annual application, shall be \$2,500.00 for each Entertainment Device Arcade location for each calendar year or any part thereof. The initial \$2,500.00 fee shall be due at the time of the initial application and the subsequent annual fee shall be due on January 15th of each year.

(1) Additionally, a semi-annual non-refundable license fee of \$250.00 for each entertainment device that will be located on the premises during the following semi-annual period shall be paid to the Zoning Department. The initial semi-annual license fee for each entertainment device shall be paid upon preliminary approval of the initial or annual application. The second semi-annual license fee shall then be paid six months later. The second semi-annual license fee shall be prorated to the remaining time in either the calendar year or the remaining time to June 30th, whichever date occurs first in time. The semi-annual license fees shall then be due for all subsequent payments on January 15th and then on July 15th. (For example, if the initial semiannual license fee was paid on April 1st, then the second payment would be due on October 1st for the 3 months remaining in the year. The next payment would then be a full payment that is due on January 15th. If the initial semi-annual license fee was paid on September 1st, then the second payment would be due on March 1st for the 4 months remaining till June 30th. The next payment would then be due on July 15th.)

(2) If a new or additional entertainment device is brought to the premises following the payment of the semi-annual license fee, then the owner and/or operator shall pay the semi-annual license fee on such device on a prorated basis for the balance of the semi-annual license fee period prior to operation or use of any such device. For purposes of determining licensing fees, each device that is operable by one or more persons is a separate device.

(b) Non-transferability; Display. Licenses issued under this chapter shall not be transferable to any other person, partnership, corporation, or other entity and the business may be conducted only at the location for which the license is issued. The license must be so placed as to be made conspicuously visible and shall list each Entertainment Device with serial number.

(c) Disposition of License Fees. License fees received by the Administrator or his designee shall be deposited in the General Fund.  
(Ord. 2012-028. Passed 5-1-12.)

725.05 LICENSE REVOCATION; HEARING PROCEDURE.

(a) Creation of Commission. An Entertainment Device Arcade License Review Commission is hereby created to hear complaints concerning Entertainment Device Arcade licenses. The Commission shall consist of the Village Administrator or their designee, the President of the Village Council or their designee and one additional member of Village Council that is appointed by the Mayor.

(b) Revocation or Suspension of License. A license may be suspended or revoked at any time by the Commission on satisfactory proof that violation of the laws of the State of Ohio, the Codified Ordinances of the Village or this Chapter occurs at an Entertainment Device Arcade. In addition to any license suspension, the Commission may assess the licensee a penalty fee of not less than \$500.00 or more than \$1,000.00 for any violation of this Chapter. Each day a continuing violation exists shall constitute a separate violation for purpose of assessing penalty fees. Suspensions, revocations and assessments of penalty fees by the Commission is in addition to and separate from any criminal liability and does not preclude criminal prosecution for any violation of this chapter or other County, State of Ohio or federal laws. Penalty fees shall be disposed of in the same manner as license fees as set forth in Section 725.04(c).

(c) Submission of Complaint; Regular Inspection. Any resident or employee of the Village may submit a written notice of complaint to the Administrator or his designee concerning any Entertainment Device Arcade located within the Village. The notice of complaint will include the name, phone number and address of the resident, the address of the location, the device number, if applicable, and the specific reasons why the resident is complaining. The Administrator or his designee and/or the Village Police Department shall regularly inspect the premises, the operation, the Entertainment Devices and the licensee's records and may issue a notice of complaint to the licensee for any violations.

(d) Interview of Complainant. The Administrator or his designee shall interview the complainant and inquire as to the specific reasons for the complaint. The Administrator or his designee may dismiss the complaint if it is determined that:

- (1) The specific reasons listed in the complaint are not proper grounds for suspension or revocation of the license; or
- (2) There are not substantial credible facts to support the complaint by the Village resident.

(e) No Appeal from Dismissal of Complaint. No appeal shall lie from the decision of the Administrator or his designee to dismiss a complaint.

(f) Fact-finding Conference. If the complaint is not dismissed by the Administrator or his designee, the Office will then notify the licensee and the owner of the devices on the premises, as listed on the license application, that a complaint has been filed and will set a date for a fact-finding conference on the matter. Extensions will be granted and necessary investigations will be conducted at the discretion of the Administrator or his designee and the Office may request the assistance of the law enforcement agency to assist in the investigation. The Office and any assisting law enforcement agency officer shall have access to the Entertainment Device Arcade and the records of the licensee during all times that the Entertainment Devices are available for play.

(g) Resolution of Complaint. At the time of the conference, the resident, the licensee, and the owner of the devices will meet and attempt to amicably resolve the situation. If the resident, licensee, and the owner can reach an amicable solution, the Office will issue a written notice directing the licensee to comply with the agreed resolution of the complaint.

(h) Referral to the Commission. If the parties cannot agree upon an amicable solution to the problem, the Administrator or his designee will transmit the complaint, together with its recommendation thereon, to the Entertainment Device Arcade License Review Commission. The Office's recommendation may be for dismissal of the complaint, suspension of the license and assessment of penalty fees, or revocation of the license.

(i) Hearing. The Commission may accept, reject, or modify the recommendation of the Administrator or his designee. The resident, the licensee and the owner of the devices, as listed on the license application, shall be notified in advance by certified mail of the day on which the Commission is to consider the complaint; and they may, if they so choose, be present during consideration of the complaint. Consideration of the complaint before the Commission shall be a public hearing which shall be held within 30 days after said notice is given. The licensee shall have the right to be represented by counsel, and have the right to examine and cross-examine witnesses. The Commission shall enter its decision the day of hearing. In the event of a decision and ruling adverse to the licensee, the licensee shall have the right to appeal such decision and ruling to a court of competent jurisdiction under authority of and pursuant to the provisions of Chapter 2506 of the Ohio Revised Code.

(j) Other Enforcement Actions. The complaint process set forth in this section is separate and distinct from any law enforcement action taken to enforce the laws of the State of Ohio or the Codified Ordinances of the Village of Fairport Harbor and this Chapter, and is not a condition precedent or otherwise an impediment to enforcement of said laws by criminal prosecution. (Ord. 2012-028. Passed 5-1-12.)

#### 725.06 LOCATION.

No license shall be granted to an Entertainment Device Arcade that will conduct its business at a location that is within 100 feet from the boundaries of a parcel of real estate having situated on it an existing Entertainment Device Arcade. (Ord. 2012-028. Passed 5-1-12.)

#### 725.07 HOURS OF OPERATION.

Entertainment Device Arcades shall operate only between the hours set forth below:

Fridays and Saturdays	10:00 a.m. to 2:00 a.m. of the following day
Sundays	1:00 p.m. to 12:00 a.m. Monday morning
All Other Days	10:00 a.m. to 12:00 a.m. of the following day

No operator shall permit any person to operate any Entertainment Device during any time other than specified herein. (Ord. 2012-028. Passed 5-1-12.)

## 725.08 MISCELLANEOUS OPERATING REQUIREMENTS.

(a) Supervision of Entertainment Devices. Any Entertainment Device Arcade shall have an adult who is 21 years of age or over on the premises and supervising at all times the Entertainment Devices during all hours of operation.

(b) Square-Footage. The interior of Device Arcade shall provide a minimum area Entertainment Device in each room in which are located, the Entertainment of 50 square feet per Entertainment Devices

(c) Open to View. The Entertainment Device Terminal area shall remain accessible and visible to the customer service area of the main use of the premises and the backs of the Entertainment Devices shall not be exposed to a window.

(d) Public Peace. No operator shall fail to maintain order and quiet on the premises so as not to violate the public peace.

(e) No Minors. No persons under the age of eighteen years shall be permitted on the premises of any Entertainment Device Arcade.

(f) Photo Identification. The operator shall require a photo identification of every person to whom anything of value is given in connection with the Entertainment Device Arcade and, if the dollar value of the thing given to a person is \$600.00 or more, the operator shall make and maintain a copy of the person's photo identification and shall record the person's name and home address and a description of the thing given, a stated dollar value of the thing given, the date and time of the giving and, if an Entertainment Device is involved in the circumstances of the giving, the serial number or other identifying description of the device. By the second Tuesday of each month the operator shall cause to be delivered to the Administrator or his designee a copy of the record of things given to persons together with the above required information given during the preceding month. If the records pertaining to photo identification contain social security numbers or drivers license numbers, the operator and the Administrator or his designee shall not disclose those numbers to anyone except as required by the laws of the State of Ohio and the United States government.

(g) Posting. The operator shall post in a conspicuous place on the premises in the room where the Entertainment Devices are located in no less than twenty point type:

- (1) Each separate prize that may be given and each separate dollar amount that might be given.
- (2) The odds as stated in the filing with the Administrator or his designee, as required in Section 725.03 (b)(7).
- (3) A complete statement of the rules and conditions pertaining to the giving of any prizes or anything of value to any person, whether or not the determination the giving of the thing of value or the delivery of the thing of value occurs totally within the confines of the premises or requires some event, occurrence or happening at another location.
- (4) On each machine, a sticker, if issued by the Administrator or his designee, indicating that it has been registered by the operator with the Administrator or his designee, and bearing a unique identification number for that machine.



(h) Records. The operator shall keep a complete set of all records of the operations at the premises at all times, including all federal, state and local tax records, all records of payments and receipts, all records of expenses and revenues of the operation, all banking records, all contracts, leases and agreements affecting the premises, equipment and operation, all personnel records and all other records pertaining to the business, which shall be available for inspection and copying by any entity provided a right of entry under subsection 725.03(f). Records more than 10 years old are exempt from this requirement.

(i) Correct Information. No applicant shall make a false or incorrect statement in an application for an Entertainment Device Arcade license and no operator shall fail to update the information supplied to the Administrator or his designee to reflect existing operations as required in Section 725.03(b).

(j) Reporting of Internet Time. Any Entertainment Device Arcade that engages in the sale of internet time or computer usage time in exchange for anything of value shall provide to the Administrator or his designee, no later than the 2nd Tuesday of each month a report detailing the daily amount of time sold in the preceding calendar month.

(l) Strict Liability for Violations. It is the intent of this Chapter that operators are strictly liable for any violations of this Chapter.  
(Ord. 2012-028. Passed 5-1-12.)

#### 725.09 SEVERABILITY.

In the event any provision of Sections 725.01-725.99 shall be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of this Chapter as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.  
(Ord. 2012-028. Passed 5-1-12.)

#### 725.99 PENALTY.

(a) Minor Misdemeanor. Whoever violates or fails to comply with any of the provisions of this Chapter, for which no penalty is otherwise provided, is guilty of a minor misdemeanor and shall be fined not more than \$150.00 for each offense, said fine shall not be reduced or suspended. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) Failure to Obtain or Operating Without a License. Whoever violates or fails to comply with the requirement to obtain a license for an Entertainment Device Arcade or an Entertainment Device as provided in this Chapter is guilty of a misdemeanor of the fourth degree and shall be fined not more than \$250.00, or imprisoned not more than 30 days or both, for each offense, provided said fine shall not be reduced or suspended. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues. (Ord. 2012-028. Passed 5-1-12.)