

CODIFIED ORDINANCES OF LANCASTER
PART SEVEN - BUSINESS REGULATION CODE

- Chap. 705. Outdoor Refreshment Areas.**
- Chap. 707. Sexually Oriented Business Standards.**
- Chap. 709. Cultivation, Processing or Dispensing of Medical Marijuana.**
- Chap. 711. Auctions.**
- Chap. 715. Arcades.**
- Chap. 721. Liquidation Sales.**
- Chap. 731. Mechanical Amusement Devices.**
- Chap. 741. Mechanical Musical Instruments.**
- Chap. 751. Peddlers, Solicitors and Canvassers.**
- Chap. 753. Peddling on Private Property. (Repealed)**
- Chap. 761. Solicitors and Canvassers. (Repealed)**
- Chap. 771. Taxicabs. (Repealed)**
- Chap. 781. Scrap Metal Dealers.**
- Chap. 785. Itinerant Merchants.**
- Chap. 791. Vehicle Racing.**
- Chap. 795. Yard Sales.**
- Chap. 797. Video Service Providers.**

CODIFIED ORDINANCES OF LANCASTER
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CHAPTER 705
Outdoor Refreshment Areas

705.01	Definitions.	705.04	Rules governing patrons in an outdoor refreshment area.
705.02	Creation of outdoor refreshment areas.	705.05	Safety requirements and application process for outdoor refreshment area events.
705.03	Review and re-approval existing outdoor refreshment areas.		

705.01 DEFINITIONS.

As used in this Chapter:

- (a) "Qualified permit holder" means the holder of an A-1, A-1-A, A-1c, A-2, or D permit issued under Chapter 4303 of the Ohio Revised Code ("ORC").
- (b) "Outdoor refreshment area" shall mean a designated territory in the City of Lancaster, no larger than one-half square mile, within which no fewer than four businesses with liquor permits may sell beer or intoxicating liquor for on-premises consumption and for consumption off-premises but within the outdoor refreshment area, in accordance with ORC §§ 4301.62 and 4301.82.
(Ord. 22-16. Passed 6-27-16.)

705.02 CREATION OF OUTDOOR REFRESHMENT AREAS.

(a) The Mayor may file an application with city council to have property within the city of Lancaster designated as an outdoor refreshment area or to expand an existing outdoor refreshment area to include additional property within the City, in accordance with ORC §§ 4301.62 and 4301.82. The Mayor or his or her designee shall ensure that the application contains all of the following:

- (1) A map or survey of the proposed outdoor refreshment area, which shall not exceed three hundred and twenty contiguous acres or one-half square mile, in sufficient detail to identify the boundaries of the area;
 - (2) A general statement of the nature and types of establishments that will be located within the proposed outdoor refreshment area;
 - (3) A statement that the proposed outdoor refreshment area will encompass not fewer than four qualified permit holders;
 - (4) Evidence that the uses of land within the proposed outdoor refreshment area are in accord with the master zoning plan or map of the City; and
 - (5) Proposed requirements for the purpose of ensuring safety within the proposed outdoor refreshment area.
- (b) Notice and Time Requirements.
- (1) Within forty-five days after the date the application is filed with City Council, City Council shall publish public notice of the application once a week for two consecutive weeks in one newspaper of general circulation in the City of Lancaster or as provided in ORC § 7.16. City Council shall ensure that the notice states that the application is on file in the office of the Clerk of Council and is available for inspection by the public during regular business hours. City Council also shall indicate in the notice the date and time of any public hearing to be held regarding the application by City Council.
 - (2) Not earlier than thirty but not later than sixty days after the initial publication of notice, City Council shall approve or disapprove the application by ordinance. Approval of an application requires an affirmative vote of a majority of City Council.
- (c) Upon approval of the application by City Council, the territory described in the application shall constitute an outdoor refreshment area. City Council shall provide to the Ohio Division of Liquor Control notice of the approval of the application and a description of the area specified in the application. If City Council disapproves the application, the Mayor may make changes in the application to secure its approval by City Council.
- (d) The number of outdoor refreshment areas is limited as provided in ORC §4301.82 or any successor statute.
- (e) As soon as possible after receiving notice that an outdoor refreshment area has been approved, the Ohio Division of Liquor Control, for purposes of ORC § 4301.62, shall issue an outdoor refreshment area designation to each qualified permit holder located within the refreshment area that is in compliance with all applicable requirements under ORC Chapters 4301 and 4303. The division shall not charge any fee for the issuance of the designation. Any permit holder that receives such a designation shall comply with all laws, rules, and regulations that govern its license type and, if applicable, any safety requirements established for the outdoor refreshment area under division (F) of this section.

- (f) Safety requirements and modification of existing outdoor refreshment areas.
- (1) At the time of the creation of an outdoor refreshment area or any time thereafter, City Council may adopt an ordinance that establishes requirements City Council determines necessary to ensure safety within the area. City Council may, but is not required to, include in the ordinance any safety requirements proposed in an application under division (a) of this section to designate or expand the outdoor refreshment area. City Council may subsequently modify the safety requirements as it determines necessary.
 - (2) Prior to adopting an ordinance under this subsection, City Council shall give notice of its proposed action by publication once a week for two consecutive weeks in one newspaper of general circulation in the City of Lancaster or as provided in ORC § 7.16.
 - (3) City Council shall provide to the Division of Liquor Control notice of any safety requirements established or modified under this subsection.

(g) ORC § 4399.18 applies to a liquor permit holder located within an outdoor refreshment area in the same manner as if the liquor permit holder were not located in an outdoor refreshment area. (Ord. 22-16. Passed 6-27-16.)

705.03 REVIEW AND RE-APPROVAL EXISTING OUTDOOR REFRESHMENT AREAS.

(a) Five years after the date of creation of an outdoor refreshment area, city council shall review the operation of the area and shall, by ordinance, either approve the continued operation of the area or dissolve the area.

- (1) Prior to adopting the ordinance, City Council shall give notice of its proposed action by publication once a week for two consecutive weeks in one newspaper of general circulation in Lancaster or as provided in ORC § 7.16.
- (2) If city council dissolves the outdoor refreshment area, the outdoor refreshment area ceases to exist. City Council then shall provide notice of its action to the Ohio Division of Liquor Control, and the division shall revoke all outdoor refreshment area designations issued to qualified permit holders within the dissolved area.
- (3) If City Council approves the continued operation of the outdoor refreshment area, the area continues in operation.

(b) Five years after the approval of the continued operation of an outdoor refreshment area under division (a)(3) of this Section, City Council shall conduct a review in the same manner as provided in division (a) of this section. The legislative authority also shall conduct such a review five years after any subsequent approval of continued operation under this subsection of this section.

(c) At any time, City Council may, by ordinance, dissolve all or a part of the outdoor refreshment area.

- (1) Prior to adopting the ordinance, City Council shall give notice of its proposed action by publication once a week for two consecutive weeks in one newspaper of general circulation in Lancaster or as provided in ORC § 7.16.

- (2) If City Council dissolves all or part of an outdoor refreshment area, the area designated in the ordinance shall no longer constitute an outdoor refreshment area. City Council shall provide notice of its actions to the Division of Liquor Control. Upon receipt of the notice, the division shall revoke all outdoor refreshment area designations issued to qualified permit holders within the dissolved area or portion of the area.
(Ord. 22-16. Passed 6-27-16.)

705.04 RULES GOVERNING PATRONS IN AN OUTDOOR REFRESHMENT AREA.

(a) A person may possess an opened container of beer or intoxicating liquor at an outdoor location within an outdoor refreshment area created under ORC § 4301.82 if the opened container of beer or intoxicating liquor was purchased from a qualified permit holder to which both of the following apply:

- (1) The permit holder's premises is located within the outdoor refreshment area; and
- (2) The permit held by the permit holder has an outdoor refreshment area designation.

(b) Subsection (a) of this section does not authorize a person to do either of the following:

- (1) Enter the premises of an establishment within an outdoor refreshment area while possessing an open container of beer or intoxicating liquor acquired elsewhere; or
- (2) Possess an opened container of beer or intoxicating liquor while being in or on a motor vehicle within an outdoor refreshment area, unless the motor vehicle is stationary and is not being operated in a lane of vehicular travel or unless the possession is otherwise authorized under divisions (D), (E), or (F) of ORC § 4301.62.

(Ord. 22-16. Passed 6-27-16.)

705.05 SAFETY REQUIREMENTS AND APPLICATION PROCESS FOR OUTDOOR REFRESHMENT AREA EVENTS.

(a) Pursuant to 705.02(f)(1), in the interest of the safety of the City, City Council authorizes the Service Safety Director to create and implement an application process for outdoor refreshment area events. City Council vests the authority to approve or deny applications for outdoor refreshment area events exclusively in the Service Safety Director.

(b) City Council authorizes the Service Safety Director to create and post appropriate signage designating the boundaries of the outdoor refreshment area.

(c) City Council authorizes the Service Safety Director to coordinate with designated permit holders to determine the type of cup that shall be used by all designated permit holders during open refreshment area events.

(Ord. 22-16. Passed 6-27-16.)

CHAPTER 707
Sexually Oriented Business Standards

<p>707.01 Rationale and findings.</p> <p>707.02 Definitions.</p> <p>707.03 Classification.</p> <p>707.04 License required.</p> <p>707.05 Issuance of license.</p> <p>707.06 Fees.</p> <p>707.07 Inspection.</p> <p>707.08 Expiration of license.</p> <p>707.09 Suspension.</p> <p>707.10 Revocation.</p> <p>707.11 Hearing; denial, suspension and revocation; appeal.</p> <p>707.12 Transfer of license.</p> <p>707.13 Hours of operation.</p>	<p>707.14 Regulations pertaining to exhibition of sexually explicit films or videos.</p> <p>707.15 Loitering and exterior lighting and monitoring requirements.</p> <p>707.16 Penalties and enforcement.</p> <p>707.17 Applicability of ordinance to existing businesses.</p> <p>707.18 Prohibited activities.</p> <p>707.19 Scierter required to prove violation or business licensee liability.</p> <p>707.20 Failure of City to meet deadline not to risk applicant/licensee rights.</p> <p>707.21 Severability.</p>
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CROSS REFERENCES

Sexually oriented businesses - see P. & Z. Ch. 1137

707.01 RATIONALE AND FINDINGS.

(a) Purpose. It is the purpose of this ordinance to regulate sexually oriented businesses in order to promote the health, safety, moral, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the City. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

(b) Findings and Rationale. Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the City Council, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 124 S.Ct. 2219 (June 7, 2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *Pap's A.M. v. City of Erie*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theatres*, 426 U.S. 50 (1976), *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); and *Deja Vu of Cincinnati, Inc. v. Union Township, Ohio*, 411 F.3d 777 (6th Cir. 2005) (en banc); *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir. 1997); *Brandywine, Inc. v. City of Richmond*, 359 F.3d 830 (6th Cir. 2004); *Currence v. City of Cincinnati*, 2002 U.S. App. LEXIS 1258; *Broadway Books v. Roberts*, 642 F.Supp. 486 (E.D. Tenn. 1986); *Bright Lights, Inc. v. City of Newport*, 830 F. Supp. 378 (E.D. Ky. 1993); *Richland Bookmart v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Center for Fair Public Policy v. Maricopa County*, 336 F.3d 1153 (9th Cir. 2003); *Déjà vu v. Metro Government*, 1999 U.S. App. LEXIS 535 (6th Cir. 1999); *Bamon Corp. v. City of Dayton*, 923 F.2d 470 (6th Cir. 1991); *Triplett Grille, Inc. v. City of Akron*, 40 F.3d 129 (6th Cir. 1994); *O'Connor v. City and County of Denver*, 894 F.2d 1210 (10th Cir. 1990); *Déjà vu of Nashville, Inc., et al. v. Metropolitan Government of Nashville and Davidson County*, 274 F.3d 377 (6th Cir. 2001); *Z.J. Gifts D-2, L.L.C. v. City of Aurora*, 136 F.3d 683 (10th Cir. 1998); *ILQ Investments, Inc. v. City of Rochester*, 25 F.3d 1413 (8th Cir. 1994); *Threesome Entertainment v. Strittmather*, 4 F.Supp.2d 710 (N.D. Ohio 1998); *Bigg Wolf Discount Video Sales, Inc. v. Montgomery County*, 256 F. Supp. 2d 385 (D. Md. 2003); *Kentucky Restaurant Concepts, Inc. v. City of Louisville and Jefferson County*, 209 F.Supp.2d 672 (W.D. Ky. 2002); *Lady J. Lingerie, Inc. v. City of Jacksonville*, 176 F.3d 1358 (11th Cir. 1999); *Restaurant Ventures v. Lexington-Fayette Urban County Gov't*, 60 S.W.3d 572 (Ct. App. Ky. 2001); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003);

and based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Austin, Texas - 1986; Indianapolis, Indiana - 1984; Garden Grove, California - 1991; Houston, Texas - 1983, 1997; Phoenix, Arizona - 1979, 1995-98; Chattanooga, Tennessee - 1999-2003; Minneapolis, Minnesota - 1980; Los Angeles, California - 1977; Whittier, California - 1978; Spokane, Washington - 2001; St. Cloud, Minnesota - 1994; Littleton, Colorado - 2004; Oklahoma City, Oklahoma - 1986; Dallas, Texas - 1997; Greensboro, North Carolina - 2003; Amarillo, Texas - 1977; New York, New York Times Square - 1994; and the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota), the City Council finds:

- (1) Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation.
- (2) Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented businesses, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area.

- (3) Each of the foregoing negative secondary effects constitutes a harm which the City has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the City's rationale for this ordinance, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the City's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the City. The City finds that the cases and documentation relied on in this ordinance are reasonably believed to be relevant to said secondary effects.
(Ord. 7-06. Passed 2-27-06.)

707.02 DEFINITIONS.

For purposes of this chapter, the words and phrases defined in the sections hereunder shall have the meanings therein respectively ascribed to them unless a different meaning is clearly indicated by the context.

- (a) "Adult Bookstore or Adult Video Store" means a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas."
A "principal business activity" means that the commercial establishment:
 - (1) Has a substantial portion of its displayed merchandise which consists of said items, or
 - (2) Has a substantial portion of the wholesale value of its displayed merchandise which consists of said items, or
 - (3) Has a substantial portion of the retail value of its displayed merchandise which consists of said items, or
 - (4) Derives a substantial portion of its revenues from the sale or rental, for any form of consideration of said items, or
 - (5) Maintains a substantial section of its interior business space for the sale or rental of said items; or
 - (6) Maintains an "adult arcade," which 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 regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting "specified sexual activities" or specified "anatomical areas."
- (b) "Adult Cabaret" means a nightclub, bar, juice bar, restaurant, bottle club, or other commercial establishment, whether or not alcoholic beverages are served, which regularly features persons who appear semi-nude.

- (c) “Adult Motion Picture Theater” means a commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the display of “specified sexual activities” or “specified anatomical areas” are regularly shown to more than five persons for any form of consideration.
- (d) “City Council” means the City Council of City of Lancaster, Ohio.
- (e) “Characterized by” means describing the essential character or quality of an item. As applied in this ordinance, no business shall be classified as a sexually oriented business by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.
- (f) “City” means City of Lancaster, Ohio.
- (g) “Director” means the Service-Safety Director or his designee.
- (h) “Employ, Employee, and Employment” describe and pertain to any person who performs any service on the premises of a sexually oriented business, on a full time, part time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.
- (i) “Establish or Establishment” shall mean and include 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; or
 - (3) The addition of any sexually oriented business to any other existing sexually oriented business.
- (j) “Hearing Body” shall mean the City Council of City of Lancaster.
- (k) “Influential interest” means any of the following: (1) the actual power to operate the sexually oriented business or control the operation, management or policies of the sexually oriented business or legal entity which operates the sexually oriented business, (2) ownership of a financial interest of thirty percent (30%) or more of a business or of any class of voting securities of a business, or (3) holding an office (e.g., president, vice president, secretary, treasurer, managing member, managing director, etc.) in a legal entity which operates the sexually oriented business.
- (l) “Licensed Day-Care Center” means a facility licensed by the State of Ohio, whether situated within the City or not, that provides care, training, education, custody, treatment or supervision for more than twelve (12) children under fourteen (14) years of age, where such children are not related by blood, marriage or adoption to the owner or operator of the facility, for less than twenty-four (24) hours a day, regardless of whether or not the facility is operated for a profit or charges for the services it offers.
- (m) “Licensee” shall mean a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for a sexually oriented business license. In case of an "employee," it shall mean the person in whose name the sexually oriented business employee license has been issued.

- (n) “Nudity or a State of Nudity” means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.
- (o) “Operate or Cause to Operate” shall mean to cause to function or to put or keep in a state of doing business. “Operator” means any person on the premises of a sexually oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. 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) “Person” shall mean individual, proprietorship, partnership, corporation, association, or other legal entity.
- (q) “Premises” means the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a business license pursuant to Section IV of this ordinance.
- (r) “Regularly” means and refers to the consistent and repeated doing of the act so prescribed.
- (s) “Semi-Nude or State of Semi-Nudity” means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.
- (t) “Semi-Nude Model Studio” means a place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.
- This definition does not apply to any place where persons appearing in a state of semi-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 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 semi-nude person is available for viewing; and
 - B. Where, in order to participate in a class a student must enroll at least three days in advance of the class.

- (u) “Sexual Device” means any three (3) dimensional object designed and marketed for stimulation of the male or female human genital organ or anus or for sadomasochistic use or abuse of oneself or others and shall include devices such as dildos, vibrators, penis pumps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.
- (v) “Sexual Device Shop” means a commercial establishment that regularly features sexual devices. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic, or any establishment primarily dedicated to providing medical or healthcare products or services, nor shall this definition be construed to include commercial establishments which do not restrict access to any portion of their premises by reason of age.
- (w) “Sexual Encounter Center” shall mean a business or commercial enterprise that, as one of its principal business purposes, purports to offer for any form of consideration, physical contact in the form of wrestling or tumbling between persons of the opposite sex when one or more of the persons is semi-nude.
- (x) “Sexually Oriented Business” means an “adult bookstore or adult video store,” an “adult cabaret,” an “adult motel,” an “adult motion picture theater,” a “semi-nude model studio,” “sexual device shop,” or a “sexual encounter center.”
- (y) “Specified Anatomical Areas” means and includes:
 - (1) Less than completely and opaquely covered: human genitals, pubic region; buttock; and female breast below a point immediately above the top of the areola; and
 - (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (z) “Specified Criminal Activity” means:
 - (1) Any of the following specified crimes for which less than five years elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date:
 - A. Rape, aggravated rape, aggravated sexual assault, public indecency, statutory rape, rape of a child, sexual exploitation of a minor, indecent exposure;
 - B. Prostitution, patronizing prostitution, promoting prostitution;
 - C. Obscenity;
 - D. Dealing in controlled substances;
 - (e) Racketeering;
 - (2) Any attempt, solicitation, or conspiracy to commit one of the foregoing offenses; or
 - (3) Any offense in another jurisdiction that, had the predicate act(s) been committed in Ohio, would have constituted any of the foregoing offenses.
- (aa) “Specified Sexual Activity” means any of the following:
 - (1) Intercourse, oral copulation, masturbation or sodomy; or
 - (2) Excretory functions as a part of or in connection with any of the activities described in (a) above.
- (bb) “Substantial” means at least thirty percent (30%) of the item(s) so modified.

- (cc) “Transfer of Ownership or Control” of a sexually oriented business shall mean any of the following:
- (1) The sale, lease, or sublease of the business;
 - (2) The transfer of securities which constitute an influential 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.
- (dd) “Viewing Room” shall mean the room, booth, or area where a patron of sexually oriented business would ordinarily be positioned while watching a film, videocassette, or other video reproduction.
(Ord. 7-06. Passed 2-27-06.)

707.03 CLASSIFICATION.

The classifications for sexually oriented businesses shall be as follows:

- (a) Adult bookstore or adult video store;
 - (b) Adult cabaret;
 - (c) Adult motion picture theater;
 - (d) Semi-nude model studio;
 - (e) Sexual device shop;
 - (f) Sexual encounter center.
- (Ord. 7-06. Passed 2-27-06.)

707.04 LICENSE REQUIRED.

(a) It shall be unlawful for any person to operate a sexually oriented business in City of Lancaster without a valid sexually oriented business license.

(b) It shall be unlawful for any person to be an “employee,” as defined in this Chapter, of a sexually oriented business in City of Lancaster without a valid sexually oriented business employee license.

(c) An applicant for a sexually oriented business license or a sexually oriented business employee license shall file in person at the office of the City of Lancaster Director a completed application made on a form provided by the Director. The application shall be signed as required by subsection (e) herein and shall be notarized. An application shall be considered complete when it contains, for each person required to sign the application, the information and/or items required in Paragraphs 1 through 7 below, accompanied by the appropriate fee identified in Section 707.06:

- (1) The applicant’s full true name and any other names used by the applicants in the preceding five (5) years.
- (2) Current business address or another mailing address of the applicant.
- (3) Written proof of age, in the form of a driver’s license or a copy of a birth certificate accompanied by a picture identification document issued by a governmental agency.
- (4) If the application is for a sexually oriented business license, the business name, location, legal description, mailing address and phone number of the sexually oriented business.

- (5) If the application is for a sexually oriented business license, the name and business address of the statutory agent or other agent authorized to receive service of process.
- (6) A statement of whether an applicant has been convicted of or has pled guilty or nolo contendere to a specified criminal activity as defined in this ordinance, and if so, each specified criminal activity involved, including the date, place, and jurisdiction of each as well as the dates of conviction and release from confinement, where applicable.
- (7) A statement of whether any sexually oriented business in which an applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):
 - A. Been declared by a court of law to be a nuisance; or
 - B. Been subject to a court order of closure or padlocking.The information provided pursuant to Paragraphs 1 through 7 of this subsection shall be supplemented in writing by certified mail, return receipt requested, to the Director within ten (10) working days of a change of circumstances which would render the information originally submitted false or incomplete.

(d) An application for a sexually oriented business license shall be accompanied by a legal description of the property where the business is located and 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 shall 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 (6) inches. Applicants who are required to comply with Sections 707.14 and 707.18 of this chapter shall submit a diagram indicating that the interior configuration meets the requirements of those sections.

(e) If a person who wishes to operate a sexually oriented business is an individual, he shall 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 person with an influential interest in the business shall sign the application for a license as applicant. Each applicant must be qualified under Section 707.05 and each applicant shall be considered a licensee if a license is granted.

(f) The information provided by an applicant in connection with an application for a license under this chapter shall be maintained by the office of the Director on a confidential basis, and such information may be disclosed only as may be required, and only to the extent required, by court order.
(Ord. 7-06. Passed 2-27-06.)

707.05 ISSUANCE OF LICENSE.

(a) Upon the filing of a completed application under Section 707.04(c) for a sexually oriented business license, the City of Lancaster Director shall immediately issue a Temporary License to the applicant if the completed application is from a business that is seeking renewal of a current license that was previously issued under this Ordinance. The Temporary License shall expire upon the final decision of the City to deny or grant an annual license. Within twenty (20) days of the filing date of a completed sexually oriented business license application, the Director shall issue a license to the applicant or issue to the applicant a letter of intent to deny the application. The Director shall issue a license unless:

- (1) An applicant is less than eighteen (18) years of age.
- (2) An applicant has failed to provide information as required by Section 707.04 for issuance of a license or has falsely answered a question or request for information on the application form.
- (3) The license application fee required by this Chapter has not been paid.
- (4) The sexually oriented business, as defined herein, is not in compliance with the interior configuration requirements of this Chapter or is not in compliance with locational requirements of this ordinance or the locational requirements of any other part of the City of Lancaster Code.
- (5) Any sexually oriented business in which the applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):
 - A. Been declared by a court of law to be a nuisance; or
 - B. Been subject to an order of closure or padlocking.
- (6) An applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this ordinance.

(b) Upon the filing of a completed application under Section 707.04(c) for a sexually oriented business employee license, the City of Lancaster Director shall immediately issue a Temporary License to the applicant, which Temporary License shall expire upon the final decision of the City to deny or grant an annual license. Within twenty (20) days of the filing date of a completed sexually oriented business employee license application, the Director shall either issue a license or issue a written notice of intent to deny a license to the applicant. The Director shall approve the issuance of a license unless:

- (1) The applicant is less than eighteen (18) years of age.
- (2) The applicant has failed to provide information as required by Section 707.04 for issuance of a license or has falsely answered a question or request for information on the application form.
- (3) The license application fee required by this Chapter has not been paid.
- (4) Any sexually oriented business in which the applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):
 - A. Been declared by a court of law to be a nuisance; or
 - B. Been subject to an order of closure or padlocking.
- (5) The applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this ordinance.

(c) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the licensee(s), the expiration date, and, if the license is for a sexually oriented business, the address of the sexually oriented business. The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be read at any time. A sexually oriented business employee shall keep the employee's license on his or her person or on the premises where the licensee is then working or performing.

(Ord. 7-06. Passed 2-27-06.)

707.06 FEES.

The initial license and annual renewal fees for sexually oriented business licenses and sexually oriented business employee licenses shall be as follows: one hundred dollars (\$100.00) for the initial fee for a sexually oriented business license and fifty dollars (\$50.00) for annual renewal; fifty dollars (\$50.00) for the initial sexually oriented business employee license and twenty-five dollars (\$25.00) for annual renewal.

(Ord. 7-06. Passed 2-27-06.)

707.07 INSPECTION.

(a) Sexually oriented businesses and sexually oriented business employees shall permit the Director and his or her agents to inspect, from time to time on an occasional basis, the portions of the sexually oriented business premises where patrons are permitted, for the purpose of ensuring compliance with the specific regulations of this chapter, during those times when the sexually oriented business is occupied by patrons or is open to the public. This section shall be narrowly construed by the City to authorize only reasonable inspections of the licensed premises pursuant to this chapter, but not to authorize any inspections that would infringe a reasonable expectation of privacy.

(b) The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

(Ord. 7-06. Passed 2-27-06.)

707.08 EXPIRATION OF LICENSE.

(a) Each license shall remain valid for a period of one calendar year from the date of issuance unless otherwise suspended or revoked. Such license may be renewed only by making application and payment of a fee as provided in Section 707.04 and Section 707.06.

(b) Application for renewal should be made pursuant to the procedures set forth in Section 707.04 at least ninety (90) days before the expiration date, and when made less than ninety (90) days before the expiration date, the expiration of the license will not be affected.

(Ord. 7-06. Passed 2-27-06.)

707.09 SUSPENSION.

(a) The City shall issue a written letter of intent to suspend a sexually oriented business license for a period not to exceed thirty (30) days if the sexually oriented business licensee has knowingly violated this chapter or has knowingly allowed an employee to violate this chapter.

(b) The City shall issue a written letter of intent to suspend a sexually oriented business employee license if the employee has knowingly violated this chapter.

(Ord. 7-06. Passed 2-27-06.)

707.10 REVOCATION.

(a) The City shall issue a letter of intent to revoke a sexually oriented business license or a sexually oriented business employee license, as applicable, if the licensee knowingly violates this chapter or has knowingly allowed an employee to violate this chapter and the licensee's license has been suspended within the previous twelve-month period.

(b) The City shall issue written intent to revoke a sexually oriented business license or a sexually oriented business employee license, as applicable, if:

- (1) The licensee has knowingly given false information in the application for the sexually oriented business license.
- (2) The licensee has knowingly or recklessly engaged in or allowed possession, use, or sale of controlled substances on the premises;
- (3) The licensee has knowingly or recklessly engaged in or allowed prostitution on the premises;
- (4) The licensee knowingly or recklessly operated the sexually oriented business during a period of time when the license was finally suspended or revoked; or
- (5) The licensee has knowingly or recklessly engaged in or allowed any specified sexual activity to occur in or on the licensed premises.

(c) The fact that any relevant conviction is being appealed shall have no effect on the revocation of the license, provided that, if any conviction which serves as a basis of a license revocation is overturned or reversed on appeal, that conviction shall be treated as null and of no effect for revocation purposes.

(d) When, after the notice and hearing procedure described in Section 707.11, the City Council revokes a license, the revocation shall continue for one (1) years and the licensee shall not be issued a sexually oriented business license or sexually oriented business employee license for one (1) year from the date revocation becomes effective.

(Ord. 7-06. Passed 2-27-06.)

707.11 HEARING; DENIAL, SUSPENSION, AND REVOCATION; APPEAL.

(a) When the Director issues a written notice of intent to deny, suspend, or revoke a license, the Director shall immediately send such notice, which shall include the specific grounds under this ordinance for such action, to the applicant or licensee (respondent) by personal delivery or certified mail. The notice shall be directed to the most current business address or other mailing address on file with the Director for the respondent. The notice shall specify a date, not less than ten (10) days nor more than twenty (20) days after the date the notice is issued, on which the City Council shall conduct a hearing on the Director's intent to deny, suspend, or revoke the license.

- (1) At the hearing, the respondent shall have the opportunity to present all of respondent's arguments and to be represented by counsel, present evidence and witnesses on his or her behalf, and cross-examine any of the Director's witnesses. The Director shall also be represented by counsel, and shall bear the burden of proving the grounds for denying, suspending, or revoking the license. The hearing shall take no longer than two (2) days, unless extended at the request of the respondent to meet the requirements of due process and proper administration of justice. The City Council shall issue a written decision, including specific reasons for the decision pursuant to this ordinance, to the respondent within five (5) days after the hearing.

- (2) If the decision is to deny, suspend, or revoke the license, the decision shall not become effective until the thirtieth (30th) day after it is rendered, and the decision shall include a statement advising the respondent of the right to appeal such decision to a court of competent jurisdiction. If the City Council's decision finds that no grounds exist for denial, suspension, or revocation of the license, the City Council shall, contemporaneously with the issuance of the decision, order the Director to immediately withdraw the intent to deny, suspend, or revoke the license and to notify the respondent in writing by certified mail of such action. If the respondent is not yet licensed, the Director shall contemporaneously therewith issue the license to the applicant.

(b) If any court action challenging the City Council's decision is initiated, the City Council shall prepare and transmit to the court a transcript of the hearing within ten (10) days after receiving written notice of the filing of the court action. The City Council shall consent to expedited briefing and/or disposition of the action, shall comply with any expedited schedule set by the court, and shall facilitate prompt judicial review of the proceedings. The following shall apply to any sexually oriented business that is in operation as of the effective date of this ordinance: Upon the filing of any court action to appeal, challenge, restrain, or otherwise enjoin the City's enforcement of the denial, suspension, or revocation, the City shall immediately issue the respondent a Provisional License. The Provisional License shall allow the respondent to continue operation of the sexually oriented business or to continue employment as a sexually oriented business employee and will expire upon the court's entry of a judgment on the respondent's appeal or other action to restrain or otherwise enjoin the City's enforcement.
(Ord. 7-06. Passed 2-27-06.)

707.12 TRANSFER OF LICENSE.

A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the sexually oriented business license application.
(Ord. 7-06. Passed 2-27-06.)

707.13 HOURS OF OPERATION.

No sexually oriented business shall be or remain open for business between 12:00 midnight and 6:00 a.m. on any day, except that a sexually oriented business which has obtained a permit or license to sell alcoholic beverages from the State of Ohio may remain open until the hour specified in that permit or license. (Ord. 7-06. Passed 2-27-06.)

707.14 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 characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements.

- (1) Each application for a sexually oriented business license shall contain a diagram of the premises showing the location of all operator's stations, viewing rooms, overhead lighting fixtures, video cameras and monitors installed for monitoring purposes and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain video reproduction equipment. 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 shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The Director may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
- (2) It shall be the duty of the operator, and of any employees present on the premises, 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 Paragraph 1 of this subsection.
- (3) The interior 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 (5.0) foot candles as measured at the floor level. It shall be the duty of the operator, and of any employees present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.
- (4) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no sexual activity occurs in or on the licensed premises.
- (5) It shall be the duty of the operator to post conspicuous signs in well-lighted entry areas of the business stating all of the following:
 - A. That the occupancy of viewing rooms is limited to one person.
 - B. That sexual activity on the premises is prohibited.
 - C. That the making of openings between viewing rooms is prohibited.
 - D. That violators will be required to leave the premises.
 - E. That violations of subparagraphs B., C. and D. of this paragraph are unlawful.
- (6) It shall be the duty of the operator to enforce the regulations articulated in (5)A. though D. above.

- (7) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed thirty-two (32) square feet of floor area. If the premises has two (2) or more operator'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 operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator to ensure that at least one employee is on duty and situated in each operator's station at all times that any patron is on the premises. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.

(b) It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty. (Ord. 7-06. Passed 2-27-06.)

707.15 LOITERING, EXTERIOR LIGHTING, VISIBILITY, AND MONITORING REQUIREMENTS.

- (a) It shall be the duty of the operator of a sexually oriented business to:
- (1) Post conspicuous signs stating that no loitering is permitted on such property;
 - (2) Designate one or more employees to monitor the activities of persons on such property by visually inspecting such property at least once every ninety (90) minutes or inspecting such property by use of video cameras and monitors; and
 - (3) Provide lighting of the exterior premises to provide for visual inspection or video monitoring to prohibit loitering. If used, video cameras and monitors shall operate continuously at all times that the premises are open for business. The monitors shall be installed within an operator's station.

(b) It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

(c) No sexually oriented business shall erect a fence, wall, or other barrier that prevents any portion of the parking lot(s) for the establishment from being visible from a public right of way. (Ord. 7-06. Passed 2-27-06.)

707.16 PENALTIES AND ENFORCEMENT.

(a) A person who knowingly violates, disobeys, omits, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this chapter shall be guilty of a misdemeanor of the first degree. Each day that a violation continues shall constitute a separate offense.

(b) The City's legal counsel is hereby authorized to institute civil proceedings necessary for the enforcement of this ordinance to prosecute, restrain, or correct violations hereof. Such proceedings, including injunction, shall be brought in the name of the City, provided, however, that nothing in this section and no action taken hereunder, shall be held to exclude such criminal or administrative proceedings as may be authorized by other provisions of this ordinance, or any of the laws or ordinances in force in the City or to exempt anyone violating this code or any part of the said laws from any penalty which may be incurred.
(Ord. 7-06. Passed 2-27-06.)

707.17 APPLICABILITY OF ORDINANCE TO EXISTING BUSINESSES.

All existing sexually oriented businesses and sexually oriented business employees are hereby granted a De Facto Temporary License to continue operation or employment for a period of ninety (90) days following the effective date of this chapter. By the end of said ninety (90) days, all sexually oriented businesses and sexually oriented business employees must conform to and abide by the requirements of this chapter.
(Ord. 7-06. Passed 2-27-06.)

707.18 PROHIBITED ACTIVITIES.

It is unlawful for a sexually oriented business to knowingly violate the following regulations or to knowingly allow an employee or any other person to violate the following regulations.

- (a) It shall be a violation of this chapter for a patron, employee, or any other person to knowingly or intentionally, in a sexually oriented business, appear in a state of nudity, regardless of whether such public nudity is expressive in nature.
- (b) It shall be a violation of this chapter for a person to knowingly or intentionally, in a sexually oriented business, appear in a semi-nude condition unless the person is an employee who, while semi-nude, remains at least six (6) feet from any patron or customer and on a stage at least eighteen (18) inches from the floor in a room of at least one thousand (1,000) square feet.
- (c) It shall be a violation of this chapter for any employee who regularly appears semi-nude in a sexually oriented business to knowingly or intentionally touch a customer or the clothing of a customer on the premises of a sexually oriented business.
- (d) It shall be a violation of this chapter for any person to sell, use, or consume alcoholic beverages on the premises of a sexually oriented business.

A sign in a form to be prescribed by the Director, and summarizing the provisions of Paragraphs (a), (b), (c), and (d) of this section, shall be posted near the entrance of the sexually oriented business in such a manner as to be clearly visible to patrons upon entry.
(Ord. 7-06. Passed 2-27-06.)

707.19 SCIENTER REQUIRED TO PROVE VIOLATION OF BUSINESS LICENSEE LIABILITY.

This chapter does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a knowing or reckless mental state is necessary to establish a violation of a provision of this chapter. Notwithstanding anything to the contrary, for the purposes of this ordinance, an act by an employee that constitutes grounds for suspension or revocation of that employee's license shall be imputed to the sexually oriented business licensee for purposes of finding a violation of this ordinance, or for purposes of license denial, suspension, or revocation, only if an officer, director, or general partner, or a person who managed, supervised, or controlled the operation of the business premises, knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act.
(Ord. 7-06. Passed 2-27-06.)

**707.20 FAILURE OF CITY TO MEET DEADLINE NOT TO RISK
APPLICANT/LICENSEE RIGHTS.**

In the event that a City official is required to take an act or do a thing pursuant to this chapter within a prescribed time, and fails to take such act or do such thing within the time prescribed, said failure shall not prevent the exercise of constitutional rights of an applicant or licensee. If the act required of the City official under this chapter, and not completed in the time prescribed, includes approval of condition(s) necessary for approval by the City of an applicant or licensee's application for sexually oriented business license or a sexually oriented business employee's license (including a renewal), the license shall be deemed granted and the business or employee allowed to commence operations or employment the day after the deadline for the City's action has passed. (Ord. 7-06. Passed 2-27-06.)

707.21 SEVERABILITY.

This chapter and each section and provision of said chapter hereunder, are hereby declared to be independent divisions and subdivisions and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of said chapter, or the application thereof to any person or circumstance is held to be invalid, the remaining sections or provisions and the application of such sections and provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid. Should any procedural aspect of this ordinance be invalidated, such invalidation shall not affect the enforceability of the substantive aspects of this chapter. (Ord. 7-06. Passed 2-27-06.)

CHAPTER 709
Cultivation, Processing or Dispensing of
Medical Marijuana

- 709.01** Definitions.
- 709.02** Cultivating, processing or dispensing medical marijuana prohibited.

709.99 Penalty.

CROSS REFERENCES
Illegal cultivation - see GEN. OFF. 513.06

709.01 DEFINITIONS.

As used in this chapter:

- (a) "Marijuana" means marihuana as defined in Section 3719.01 of the Ohio Revised Code.
- (b) "Medical marijuana" means marijuana that is cultivated, processed, dispensed, tested, possessed or used for a medical purpose.
(Ord. 20-16. Passed 9-26-16.)

709.02 CULTIVATING, PROCESSING OR DISPENSING MEDICAL MARIJUANA PROHIBITED.

No person shall cultivate, process, dispense or sell medical marijuana.
(Ord. 20-16. Passed 9-26-16.)

709.99 PENALTY.

Whoever violates any section of this chapter is guilty of a misdemeanor of the first degree. Each day that any person continues to violate this chapter shall constitute a separate and complete offense. (Ord. 20-16. Passed 9-26-16.)

CHAPTER 711
Auctions

<p>711.01 License required; issuance.</p> <p>711.02 Application and bond.</p> <p>711.03 Fee for auctioneer.</p> <p>711.04 Mayor's authority.</p>	<p>711.05 Conduct of sale; inventory and sales list required.</p> <p>711.06 By-bidding prohibited.</p> <p>711.99 Penalty.</p>
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CROSS REFERENCES

Power to regulate - see Ohio R. C. 715.24, 715.63
 State licensing of new merchandise public auction sales - see Ohio R.C. Ch. 1318
 State licensing of motor vehicle auctioning - see Ohio R. C. Ch. 4517
 State licensing of auctioneers - see Ohio R. C. Ch. 4707
 Liquidation sales - see BUS. REG. Ch. 721

711.01 LICENSE REQUIRED; ISSUANCE.

Except sales under judicial processes and exceptions granted by Ohio R. C. 4707.01, no person shall sell, dispose of or offer for sale in the City at public auction any merchandise, whether the same is his property or whether he sells or offers the same for sale as an agent, unless a license therefor is issued for such sale. Such license shall be issued by the Mayor. (1939 R.O., 4:02)

711.02 APPLICATION AND BOND.

All applications for such licenses shall be in writing and filed with the Mayor fifteen days previous to the commencement of such sale. The application shall state that the applicant has been in continuous business in the City as a retail or wholesale merchant for a period of one year preceding such application, that such applicant shall have owned the goods to be sold for a period of one month prior thereto, that such applicant has tendered with the application a bond in a sum not to exceed two thousand five hundred dollars (\$2,500) and conditioned for the observance of this chapter and for the indemnification of any purchaser at such auction sale suffering loss, upon proof by reason of misrepresentation, and that such applicant consents to the forfeiture of the license and bond in the event of conviction of a violation of this chapter. (1939 R.O., 4:02)

711.03 FEE FOR AUCTIONEER.

Any auctioneer shall pay a fee of five dollars (\$5.00) per day, or one hundred dollars (\$100.00) per annum. (1939 R.O., 4:02)

711.04 MAYOR'S AUTHORITY.

Authority is vested with the Mayor as to the granting and revoking of licenses, the time such auction sale may be held and the length of time of such sale. (1939 R.O., 4:02)

711.05 CONDUCT OF SALE; INVENTORY AND SALES LIST REQUIRED.

All auction sales shall be held on successive days, Sundays and legal holidays excepted. Satisfactory evidence shall be submitted to the Mayor that the property proposed to be sold is a bona fide part of the applicant's stock in trade and was not secured, purchased or brought into such place of business for, or in anticipation of, such sale. No person shall, during the progress of any auction sale, replenish his stock by substitutions, fill-ins or goods of any character. On the day preceding the commencement of any such auction sale, the licensee shall file with the Mayor a complete inventory of stock to be sold. At the close of each day's business and before the opening of the next day's sale, the licensee shall file with the Mayor an itemized list of the articles sold on the previous day's sale, which list shall identify such articles on the inventory. Failure to file such sales list shall be deemed a violation of this chapter and the right to conduct further sales under such license shall be suspended during such delinquency. (1939 R.O., 4:02)

711.06 BY-BIDDING PROHIBITED.

No person shall act or employ another to act as a by-bidder, or what is commonly known as a "caper" or "booster", at any such auction sale or make or accept any false or misleading bid or pretend to buy or sell any articles sold or offered for sale at any such auction sale. (1939 R.O., 4:02)

711.99 PENALTY.

Whoever violates this chapter shall be deemed guilty of a misdemeanor and shall be fined not more than fifty dollars (\$50.00). Each day's violation shall constitute a separate offense. (Ord. 72-55. Passed 11-28-55.)

CHAPTER 715

Arcades

715.01 License required; term.

715.02 License fee.

715.99 Penalty.

CROSS REFERENCES

Gambling - see GEN. OFF. Ch. 517

Mechanical amusement devices - see BUS. REG. Ch. 731

715.01 LICENSE REQUIRED; TERM.

Each person, firm or corporation which has at any of its locations in the City, any pool tables, video games, pinball machines and other amusement devices and machines, shall register as an arcade and obtain a license from the Mayor's office to operate as an arcade. The license shall be obtained annually and shall be effective July 1 of each year.

(Ord. 18-85. Passed 4-8-85.)

715.02 LICENSE FEE.

A fee shall be charged for the issuance of an arcade license based on the following schedule:

<u>Number of Amusement Devices</u>	<u>Fee</u>
Less than 5	\$ 50.00
5 or more	100.00

(Ord. 18-85. Passed 4-8-85.)

715.99 PENALTY.

Whoever violates any provision of this chapter shall be deemed guilty of a misdemeanor of the fourth degree. (Ord. 18-85. Passed 4-8-85.)

CHAPTER 721
Liquidation Sales

<p>721.01 Legislative findings.</p> <p>721.02 Definitions.</p> <p>721.03 License required.</p> <p>721.04 License application and inventory; information confidential.</p> <p>721.05 Bond required.</p> <p>721.06 Application investigation; grounds for license denial.</p>	<p>721.07 Examiners; information confidential.</p> <p>721.08 License issuance and conditions.</p> <p>721.09 License revocation.</p> <p>721.10 License renewal.</p> <p>721.11 License fee.</p> <p>721.12 Exceptions.</p> <p>721.99 Penalty.</p>
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CROSS REFERENCES

Auctions - see BUS. REG. Ch. 711
 Peddlers - see BUS. REG. Ch. 751
 Solicitors and canvassers - see BUS. REG. Ch. 761

721.01 LEGISLATIVE FINDINGS.

Council finds that:

- (a) The provisions of this Chapter 721 regulating distress merchandise sales are being circumvented by persons who purchase the stock in trade of defunct businesses and conduct liquidation sales at the former place of business of such defunct businesses;
- (b) In most such sales the persons conducting the sales represent to the public that the goods, wares and merchandise being sold have been purchased from defunct businesses and that such goods, wares and merchandise are being sold at greatly reduced prices, whereas in reality most of the goods, wares and merchandise offered at such sales were never a part of the stock in trade of such defunct businesses but were purchased by the persons conducting the sales only for the purpose of being offered for sale at such sales;
- (c) Misrepresentation with respect to the real retail value of such goods, wares and merchandise are commonplace and many persons are being deceived and defrauded by such sales, and
- (d) The regulation of such sales is necessary to protect the public welfare.
(Ord. 17-59. Passed 3-9-59.)

721.02 DEFINITIONS.

The following words shall have the meanings ascribed unless the context clearly indicates a different meaning:

- (a) "Defunct business" means any business or branch store thereof which has terminated business at a particular location.
- (b) "Liquidation sale" means any sale in which the seller represents, either directly or indirectly, that any or all of the goods, wares or merchandise offered for sale are all or part of the former stock in trade of a defunct business which was theretofore conducted on the premises on which the sale is held. Without limiting the generality of the foregoing, "liquidation sale" includes any sale in connection with which the seller represents that he is liquidating all or part of the stock in trade of a business previously conducted on the premises on which the sale is being held. (Ord. 17-59. Passed 3-9-59.)

"Liquidation sale", includes and means any closing-out sale, which is hereby defined as any offer to sell to the public or the sale to the public of goods, wares or merchandise upon the implied or direct holding out or representation that such sale is in anticipation of the ceasing, discontinuance and termination of a business at its present location.

(Ord. 17-59. Passed 3-9-59; Ord. 48-60. Passed 7-11-60.)

721.03 LICENSE REQUIRED.

No person shall advertise or conduct a liquidation sale without first having obtained a license to do so in accordance with the provisions of this chapter. (Ord. 17-59. Passed 3-9-59.)

721.04 LICENSE APPLICATION AND INVENTORY; INFORMATION CONFIDENTIAL.

Any person desiring to conduct a liquidation sale shall make, at least five days prior to the date on which such sale is to be commenced, written application to the Mayor on forms furnished by the Mayor and sworn to by the applicant before a person authorized to administer oaths. In cases where, due to circumstances beyond the control of the applicant, application cannot be made five days prior to the commencement of the sale, the Mayor shall waive such five-day requirement.

Each application shall contain the following information and such other information as the Mayor may deem necessary:

- (a) The name and address of the owner of the goods, wares or merchandise to be sold.
- (b) The name and address of the owner of the defunct business, the former stock in trade of which is to be offered for sale, and the full name of such defunct business.
- (c) A description of the place where the liquidation sale is to be held.
- (d) The commencement and termination date of the liquidation sale.
- (e) A complete and detailed inventory of the goods, wares and merchandise offered at the liquidation sale, which inventory may be in the form of a copy of the bill of sale from the owner of the defunct business to the person conducting the sale. Only the former stock in trade of the defunct business sold to the person conducting the liquidation sale can be sold at such sale.

The filing of an application for a license, the contents of such application and the issuance of a license shall be confidential information and no disclosure thereof shall be made, except such as may be necessary in the administration of the provisions of this chapter. However, any disclosure may be made with the consent of the applicant, and the filing of an application and the issuance of a license shall not be confidential after public notice has been given of the proposed sale. (Ord. 17-59. Passed 3-9-59.)

721.05 BOND REQUIRED.

No license shall be issued for a liquidation sale unless there is filed with the Mayor a bond conditioned upon the observance of all the conditions of this chapter and the indemnifying of any purchaser at such sale who suffers any loss by reason of any misrepresentation made in connection therewith, and authorizing actions thereunder by the City for the violation of any provisions of this chapter, and by any purchaser at such sale for damages or loss suffered by him by reason of any misrepresentation made in connection with such sale. The amount of the bond shall be determined as follows: five percent of the inventory cost of all the goods, wares and merchandise to be offered at sale. The bond shall be approved as to form by the City Solicitor. (Ord. 17-59. Passed 3-9-59.)

721.06 APPLICATION INVESTIGATION; GROUNDS FOR LICENSE DENIAL.

Upon receipt of an application, the Mayor shall cause such investigation as he deems necessary to be made of the facts contained therein. No license shall be issued if any one or more of the following facts or circumstances are found to exist:

- (a) The defunct business, the stock in trade of which is to be sold, conducted a going out-of-business sale at the premises described in the application for a license within one year prior to the date of the filing of such application.
- (b) The applicant was theretofore convicted of a violation of this chapter or had a license issued to him pursuant to this chapter revoked within the five-year period immediately preceding the date of the filing of the application.
- (c) The inventory submitted with the application includes goods, wares or merchandise which was not part of the stock in trade of the defunct business sold to applicant.
- (d) The applicant, in the ticketing of the goods, wares and merchandise to be offered for sale, has misrepresented the original retail price or value thereof.
- (e) Any representation made in the application is false. (Ord. 17-59. Passed 3-9-59.)

721.07 EXAMINERS; INFORMATION CONFIDENTIAL.

The Mayor shall from time to time enter into contracts with competent, qualified persons for the examination of the inventories and records of applicants for licenses. Such persons shall work under the direction and control of the Mayor and shall make such examinations of records and inventories as are specified by the Mayor and authorized by this chapter. All information obtained by such persons or any City employee or official through applications or examinations made pursuant to this chapter shall be confidential, and any disclosure thereof, except where such disclosure is necessary in the administration of the provisions of this chapter, shall constitute a misdemeanor. (Ord. 17-59. Passed 3-9-59.)

721.08 LICENSE ISSUANCE AND CONDITIONS.

When it appears to the Mayor that all the statements in the application are true and that the proposed sale is of the character represented therein, that the application is in full compliance with the terms and conditions of this chapter, that the required license fee has been paid and the required bond has been filed, the Mayor shall issue a license to the applicant authorizing such applicant to advertise and conduct the sale as described in the application, subject to the following conditions:

- (a) The sale shall be held at the place named in the application and by the particular licensee named therein for a period of not more than thirty consecutive calendar days, Sundays and legal holidays excluded, next following the date specified in the license.

- (b) Only goods, wares and merchandise included in the inventory attached to the application shall be sold at the sale.
- (c) Upon the commencement of the sale and for its duration, the license issued hereunder shall be prominently displayed in the place at which the sale is conducted.
- (d) The licensee shall keep suitable books during the sale at the location at which the sale is conducted and in which shall be made daily entries showing the goods, wares and merchandise sold each day. Copies of such daily entries shall be sent to the Mayor weekly, and all books of the licensee shall be open for inspection by the Mayor or his duly authorized representatives during business hours.
(Ord. 17-59. Passed 3-9-59.)

721.09 LICENSE REVOCATION.

The Mayor shall revoke any license issued pursuant to the provisions of this chapter if he shall find that the licensee has:

- (a) Violated any provisions of this chapter;
- (b) Made any material misstatement on his application for a license;
- (c) Failed to include in the inventory required by the provisions of this chapter all the goods, wares and merchandise being offered for sale;
- (d) Offered, or permitted to be offered at such sale, any goods, wares or merchandise not included in the inventory attached to the application;
- (e) Failed to keep suitable records of such sale, or
- (f) Made or permitted to be made any false or misleading statement or representation in advertising such sale or in displaying, ticketing or pricing goods, wares or merchandise offered for sale. (Ord. 17-59. Passed 3-9-59.)

721.10 LICENSE RENEWAL.

The Mayor shall, upon application therefor, renew a license issued under the provisions of this chapter for one or more periods of thirty days each, Sundays and legal holidays excluded, if the licensee has not sold all the goods listed on the inventory submitted with the original application. Such facts shall be sworn to by the applicant in the appropriate place on the application for renewal of the license. Only such goods as were listed on the original inventory filed with the application and not previously sold may be sold during the renewal period. The fee for the renewal of a license shall be ten dollars (\$10.00).

(Ord. 17-59. Passed 3-9-59.)

721.11 LICENSE FEE.

The fee for any license issued pursuant to this chapter shall be twenty-five dollars (\$25.00).
(Ord. 17-59. Passed 3-9-59.)

721.12 EXCEPTIONS.

The provisions of this chapter shall not apply to any sale conducted by a public officer as part of his official duties, to any sale an accounting of which must be made to a court of law, or to any sale conducted pursuant to an order of a court of law.

(Ord. 17-59. Passed 3-9-59.)

721.99 PENALTY.

(a) Any person violating any provision of this chapter, where no other penalty is provided, shall upon conviction thereof be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) or imprisoned for not more than thirty days, or both. Each day's violation shall constitute a separate offense.

(b) Whoever violates the confidential information provisions of Section 721.07 shall be fined not more than one hundred dollars (\$100.00) or imprisoned not more than sixty days, or both. (Ord. 17-59. Passed 3-9-59.)

CHAPTER 731
Mechanical Amusement Devices

<p>731.01 Definitions.</p> <p>731.02 Exhibitor's license required.</p> <p>731.03 Each device to be licensed and registered.</p> <p>731.04 License and registration issuance, fees and renewal.</p> <p>731.05 Affidavit of ownership required.</p> <p>731.06 License and registration application, contents, display and exceptions.</p>	<p>731.07 Mayor's records.</p> <p>731.08 Mayor's regulations; affidavit of moral character.</p> <p>731.09 Minors prohibited. (Repealed)</p> <p>731.10 Seizure and destruction of devices adapted for gambling.</p> <p>731.11 License revocation, suspension; notice.</p> <p>731.12 Appeal procedure and Board.</p> <p>731.99 Penalty.</p>
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CROSS REFERENCES

Gambling - see GEN. OFF. Ch. 517

Mechanical musical instruments - see BUS. REG. Ch. 741

Arcades - see BUS. REG. Ch. 715

731.01 DEFINITIONS.

When used in this chapter, unless otherwise provided, the following words shall have the meanings respectively ascribed to them in this section:

- (a) "Exhibitor" means any person owning and exhibiting or contracting or permitting any mechanical amusement device to be installed, used and exhibited in his own place of business irrespective of the ownership of such devices.
- (b) "Mechanical" or "electrically operated amusement device" means a machine which, upon the insertion of a coin or slug, operates or may be operated for use as a game, contest of amusement of any description or which may be used for any such game, contest or amusement, and which contains no automatic payoff device for the return of slugs, money, coins, checks, tokens, merchandise or anything of value or which contains no automatic device by the operation of which the player may win at uncertain intervals a free game, free play or any other additional amusement. This definition shall not include any mechanical or electrically operated amusement device which is a gambling device per se. This definition is not intended to and does not include merchandise vending machines.
- (c) "Owner" means any person having title to any such mechanical amusement device. (Ord. 33-53. Passed 6-8-53.)

731.02 EXHIBITOR'S LICENSE REQUIRED.

No exhibitor shall install or permit the use of any mechanical amusement device without first obtaining an exhibitor's license and registration therefor from the Mayor. The Mayor shall not issue a license or registration to any exhibitor who installs or proposes to install any gambling device per se. The Mayor shall not issue a license or registration for any device that is adapted to or may be readily converted into a gambling device. Such license and registration shall be issued only to persons of good moral character and shall not be transferable to any other person. (Ord. 33-53. Passed 6-8-53.)

731.03 EACH DEVICE TO BE LICENSED AND REGISTERED.

Each individual mechanical amusement device shall be licensed and registered, and no person shall keep, maintain, permit or allow any unlicensed or unregistered device to be in or upon any public place, or place of business under the control, supervision or direction of such person, except such devices as may be exempted from such license and registration by this chapter. (Ord. 33-53. Passed 6-8-53.)

731.04 LICENSE AND REGISTRATION ISSUANCE, FEES AND RENEWAL.

(a) The Mayor is authorized to issue licenses and registrations to exhibitors of mechanical amusement devices upon fulfillment of the requirements set forth in this chapter, and upon the payment of the following fees:

- (1) For one-cent (1¢) to four-cent (4¢) mechanical amusement devices, the fee shall be two dollars and fifty cents (\$2.50) each per year. (Ord. 33-53. Passed 6-8-53; Ord. 78-57. Passed 10-14-57.)
- (2) For five-cent (5¢), ten-cent (10¢) or higher denomination mechanical amusement devices commonly known as pin ball machines, the fee shall be twenty-five dollars (\$25.00) each per year.
- (3) For all other five-cent (5¢), ten-cent (10¢) or higher denomination mechanical amusement devices, including skill pool, shuffleboard and television games, the fee shall be twenty-five dollars (\$25.00) each per year. (Ord. 11-85. Passed 3-11-85.)

However, no license or registration shall be issued to an applicant therefor until the Mayor shall have found that such applicant is of good moral character. The lack of such good moral character on the part of the applicant shall be deemed grounds for denial or revocation of such license and registration by the Mayor. (Ord. 33-53. Passed 6-8-53, Ord. 78-57. Passed 10-14-57.)

(b) License renewal fees shall become due and payable on July 1 of each year. Fees for new registrations shall be prorated at one-twelfth of the total fee for each month or portion thereof remaining until the next following July 1. (Ord. 27-65. Passed 2-22-65.)

731.05 AFFIDAVIT OF OWNERSHIP REQUIRED.

The exhibitor shall be required to take out a machine license and registration for each mechanical amusement device used, and shall be required to furnish the Mayor with the name of the owner of such mechanical amusement device. In the event the exhibitor is also the owner of such device, he shall file an affidavit with the Mayor setting forth that he is the bona fide owner of such mechanical amusement device and that, as such owner, he receives all the benefits from the operation thereof and that no other person has any actual or beneficial interest therein, either directly or indirectly. (Ord. 33-53. Passed 6-8-53.)

731.06 LICENSE AND REGISTRATION APPLICATION, CONTENTS, DISPLAY AND EXCEPTIONS.

Every applicant for an exhibitor's license and registration shall file an affidavit with the Mayor prior to receiving such license and registration stating the number of machines intended to be exhibited, together with affidavit as to good moral character as required by Section 731.04. Upon payment of the fees required by this chapter, the Mayor shall issue a license and registration which shall contain the name and address of the licensee, the number of mechanical amusement devices exhibited, the address at which it is desired to exhibit and operate the devices, the nature of the business conducted at such place, the make, name, model and other identifying information with reference to the particular devices desired to be exhibited, the serial number of the license, and such other information as the Mayor, in his discretion, may require. Such license and registration shall be displayed by the exhibitor in a conspicuous place within his place of business and in close proximity to the mechanical amusement devices licensed and registered therein. A licensee desiring to exhibit additional mechanical amusement devices shall apply for a license and registration to cover the exhibition of such additional mechanical amusement devices in the manner above set forth and shall pay the fees required by this chapter for the exhibition of any such additional mechanical amusement devices.

All licenses for one year shall expire on the anniversary date of issuance in the following year, unless earlier revoked by the Mayor.

No license fee shall be charged for mechanical amusement devices exhibited and operated solely for the benefit of a charitable, benevolent, religious or eleemosynary institution.

This chapter shall not be applicable to owners and exhibitors having machines on the Fairfield County Fairgrounds during the days when the Fairfield County Fair is in session.

The Mayor is authorized and empowered to deny, for reasonable cause, applications for licenses. (Ord. 33-53. Passed 6-8-53.)

731.07 MAYOR'S RECORDS.

The Mayor shall keep and maintain on file in his office a full and complete list of all licensees licensed under this chapter, and also a full and complete list of all mechanical amusement devices which are licensed and registered under this chapter, together with a cross index showing the location of each such licensed and registered mechanical amusement device. (Ord. 33-53. Passed 6-8-53.)

731.08 MAYOR'S REGULATIONS; AFFIDAVIT OF MORAL CHARACTER.

The Mayor is authorized and empowered to establish, adopt and enforce or cause to be enforced such rules and regulations governing the issuance of the licenses and registrations required under this chapter as he may deem reasonable and necessary and not inconsistent with this chapter.

Applicants for licenses under this chapter shall be required to be of good moral character, and the Mayor shall adopt and enforce a rule or regulation requiring an affidavit by each applicant relative to any arrest or conviction of such applicant for any crime involving morals or moral turpitude within a period of five years immediately preceding the date of application. (Ord. 33-53. Passed 6-8-53.)

731.09 MINORS PROHIBITED.

(EDITOR'S NOTE: This section was repealed by Ordinance 55-81, passed November 9, 1981.)

**731.10 SEIZURE AND DESTRUCTION OF DEVICES
ADOPTED FOR GAMBLING.**

Any machine, apparatus, contrivance or device which is adapted to or may be readily converted into a gambling device which shall have been exhibited or made use of by any owner or exhibitor in violation of this chapter may be seized and destroyed in compliance with the statutes of the State relating to gambling devices. (Ord. 33-53. Passed 6-8-53.)

731.11 LICENSE REVOCATION, SUSPENSION; NOTICE.

The license of any person violating any of the provisions of this chapter or any of the rules and regulations established and adopted by the Mayor as herein provided, except those relating to the exhibition or operation of such machine or device for gambling, for the first violation thereof shall be suspended by the Mayor for not less than ten or more than thirty days, for the second violation thereof shall be suspended by the Mayor for not less than thirty or more than sixty days, and for the third violation thereof shall be revoked by the Mayor. For a violation of the chapter or the rules and regulations established and adopted by the Mayor as herein provided relating to the exhibition or operation of such machine or device for gambling, such license shall be revoked by the Mayor.

In case of any hearing before the Mayor involving the denial of a license to an applicant therefor, as provided by Section 731.06, or involving the suspension or revocation of a license, the Mayor shall notify such applicant or licensee of such hearing by registered mail directed to the last address of such applicant or licensee on file with the Mayor. In the event such license is denied, suspended or revoked, the Mayor shall notify such applicant or licensee of such denial, suspension or revocation in the same manner as provided for notification of hearings. (Ord. 33-53. Passed 6-8-53.)

731.12 APPEAL PROCEDURE AND BOARD.

There is created the Amusement Device Board of Appeals consisting of the Safety-Service Director, who shall be Chairman, the City Treasurer, who shall be Secretary, and the City Solicitor. An applicant for a license who has been refused a license or a licensee whose license has been suspended or revoked, as provided in Section 731.11 herein, may appeal to such Board within ten days after the date of mailing by the Mayor of the notice of denial, suspension or revocation, by filing written notice of such appeal with the chairman of the Board. The Board shall consider such appeal within five days after the date upon which written appeal is filed with the Board. The Board may, in its discretion, consider such appeal, either solely upon the evidence considered by the Mayor in cases of denial, suspension or revocation of license respectively, or may consider such appeal de novo. Upon such hearing the Board shall affirm, disaffirm or modify such order of denial, suspension or revocation from which an appeal has been perfected, and the decision of the Board shall be final. The Board shall also hear appeals concerning licenses of mechanical musical instruments. (Ord. 33-53. Passed 6-8-53.)

731.99 PENALTY.

Any exhibitor who shall exhibit or permit the exhibition of any mechanical amusement device without first having obtained a license and registration therefor and paying the fees herein required, or any person who shall exhibit or permit to be exhibited any mechanical amusement device for which a license and registration has not been first obtained, or any person who shall exhibit or operate such machine or device or who shall permit the same to be exhibited or operated for gambling, or any person who shall violate this chapter or any rule or regulation of the Mayor established and adopted hereunder, shall be deemed guilty of a misdemeanor and shall be fined not more than fifty dollars (\$50.00) for a first offense, and for

a second or subsequent such offense shall be fined not more than one hundred dollars (\$100.00) or imprisoned not more than ninety days, or both, as the court hearing the case may, in its discretion, determine. No person shall be charged with a second or subsequent offense unless such fact is set forth in the affidavit charging such second or subsequent offense. However, in addition to and independent of such fine for a first offense, or such fine and imprisonment for a second or subsequent offense, such person, so convicted, is thereby subject to having his license and registration suspended or revoked by the Mayor. Any person who shall swear falsely in any affidavit required to be made under the terms of this chapter shall be subject to the penalties as provided therefor by the statutes of the State. (Ord. 33-53. Passed 6-8-53.)

CHAPTER 741
Mechanical Musical Instruments

<p>741.01 Definitions.</p> <p>741.02 License required.</p> <p>741.03 License application.</p> <p>741.04 Licenses issuance, fee, expiration and registration sticker.</p> <p>741.05 Mayor's records.</p>	<p>741.06 Obscenity and peace disturbance prohibited.</p> <p>741.07 Mayor's regulations.</p> <p>741.08 License revocation or denial; notice.</p> <p>741.09 Appeal from denial or revocation order.</p> <p>741.99 Penalty.</p>
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CROSS REFERENCES

Peace disturbance - see GEN. OFF. 509.02
 Mechanical amusement devices - see BUS. REG. Ch. 731
 Board of Appeals - see BUS. REG. 731.12

741.01 DEFINITIONS.

As used in this chapter:

- (a) "Mechanical musical instrument" means and includes any amusement machine, apparatus or device designed or constructed for the purpose of producing, reproducing or playing any musical or vocal tone or combination of tones, the operation or use of which instruments is permitted, controlled, allowed or made possible by the deposit or placing of any coin, plate, disc, token or key into any slot, crevice or other opening in such instrument.
- (b) "Premises which are open to the public", or similar words include clubs, private clubs, headquarters and meeting places of fraternal and other societies, associations and bodies, and all other public places. (Ord. 34-53. Passed 6-8-53.)

741.02 LICENSE REQUIRED.

No person shall maintain, operate or permit to be maintained or operated in, upon or about any premises under his control, which premises are open to the public, any mechanical musical instrument unless a license and registration therefor shall have been first obtained from the Mayor. (Ord. 34-53. Passed 6-8-53.)

741.03 LICENSE APPLICATION.

Application for such license shall be made to the Mayor upon such blank forms as shall be prescribed therefor. On such application the applicant shall state his name; whether an individual, partnership or corporation, and if a partnership the names and addresses of the partners composing the same; the addresses at which it is desired to maintain and operate the mechanical musical instrument; the nature of the business conducted at such place; the make,

name, model, serial number and other identifying information with reference to the particular mechanical musical instrument which it is desired to operate; the name and address of the owner of such instruments, and such other and further information as the Mayor, in his discretion, may require. (Ord. 34-53. Passed 6-8-53.)

741.04 LICENSE ISSUANCE, FEE, EXPIRATION AND REGISTRATION STICKER.

Upon the filing of the application and the payment of the sum of fifteen dollars (\$15.00), which is the annual license fee for the license, the Mayor shall issue to the applicant a license which shall entitle the licensee to maintain and operate at the premises mentioned in the application the mechanical musical instruments described in the application, subject to the terms and conditions of this chapter, other ordinances of the City and to the rules and regulations which may be promulgated under this chapter. At the time of issuing the license, the Mayor shall also issue to the licensee a registration slip or sticker for each mechanical musical instrument described in the application. The license fee herein provided for shall be the annual license fee for the fiscal year which shall expire on December 31 of each calendar year. (Ord. 34-53. Passed 6-8-53.)

741.05 MAYOR'S RECORDS.

The Mayor shall keep and maintain on file in his office a full and complete list of all licensees licensed under this chapter, and also a full and complete list of all mechanical musical instruments which are registered under this chapter, together with a cross index showing the location of each registered mechanical musical instrument. (Ord. 34-53. Passed 6-8-53.)

741.06 OBSCENITY AND PEACE DISTURBANCE PROHIBITED.

No person shall play, produce or reproduce upon any mechanical musical instrument any obscene selection or rendition. No person shall use or permit to be used or maintained any mechanical musical instrument in such manner as to disturb the peace and quiet of the neighborhood. (Ord. 34-53. Passed 6-8-53.)

741.07 MAYOR'S REGULATIONS.

The Mayor is authorized and empowered to establish, adopt and enforce, or cause to be enforced, such rules and regulations governing the issuance of the licenses required under this chapter as he may deem reasonable and necessary and not inconsistent with this chapter. (Ord. 34-53. Passed 6-8-53.)

741.08 LICENSE REVOCATION OR DENIAL; NOTICE.

The license of any person violating any of the terms of this chapter or any of the rules and regulations established and adopted by the Mayor, as herein provided, shall be revoked by the Mayor. The Mayor is authorized and empowered to deny, for reasonable cause, applications for licenses.

The Mayor shall notify any licensee of any hearing of the Mayor involving the denial or revocation of such license. Such notification shall be by registered mail directed to the last address of the licensee on file with the Mayor. (Ord. 34-53. Passed 6-8-53.)

741.09 APPEAL FROM DENIAL OR REVOCATION ORDER.

A licensee who has been refused a license or whose license has been revoked, may appeal in writing to the Amusement Device Board of Appeals within ten days after the date of mailing of the notice of denial or revocation. The Board may consider such appeal in whatever manner it may determine and its decision thereon shall be final. Such written appeal shall be filed with the Chairman of the Amusement Device Board of Appeals.
(Ord. 34-53. Passed 6-8-53.)

741.99 PENALTY.

Any person who shall maintain or operate any mechanical musical instrument in any public place without first having obtained a license and registration thereof shall be deemed guilty of a misdemeanor and shall be fined not more than two hundred fifty dollars (\$250.00). Any licensee who shall violate this chapter or any rule of the Mayor established and adopted hereunder shall be deemed guilty of a misdemeanor and may be punished by having his license revoked and, in addition thereto, by being fined not more than one hundred dollars (\$100.00). (Ord. 34-53. Passed 6-8-53.)

CHAPTER 751
Peddlers, Solicitors and Canvassers

<p>751.01 Definitions.</p> <p>751.02 Peddling, solicitation or canvassing.</p> <p>751.03 Organizational liability.</p> <p>751.04 Display of registration card.</p>	<p>751.05 Reserved.</p> <p>751.06 Street peddler.</p> <p>751.07 Permit to solicit charitable contributions in the roadway.</p> <p>751.99 Penalty.</p>
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CROSS REFERENCES

Power to inspect food products - see Ohio R.C. 715.46
 Power to regulate - see Ohio R. C. 715.61 et seq.
 Frozen desserts - see Ohio R.C. 3717.51 et seq.
 Disturbing the peace - see GEN. OFF. 509.02
 Trespass - see GEN. OFF. 537.06
 Littering - see GEN. OFF. 553.04
 Solicitors and canvassers - see BUS. REG. Ch. 761

751.01 DEFINITIONS.

As used in this chapter:

- (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 residents, including any house, apartment or other dwelling within the City, 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 and/or performed immediately or in the future.
- (1) “Street peddler” means a peddler that sells or offers for sale food, beverages, merchandise or service on public property or right of way as further defined in Section 751.06(a). Street peddlers are stationary peddlers and are often referred to as street vendors.
- (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 City.

- (c) “Canvasser” means any person who obtains or influences the opinions of the residents of the City 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 City, but does not seek to obtain funds for any cause whatsoever.
- (d) “Charitable” means and includes the words patriotic, philanthropic, social service, welfare, eleemosynary, benevolent, educational, civic, fraternal, veterans, medical and social research, either actual or purported.
- (e) “Religious” as used herein for organizations registered with the Secretary of State religious organization and given its community accepted definition. Charitable organizations are excluded from this definition.
(Ord. 34-07. Passed 6-25-07.)

751.02 PEDDLING, SOLICITATION OR CANVASSING.

(a) Registration Required. No peddler or solicitor shall peddle or solicit within the City unless he or she is the holder of a valid registration issued pursuant to this chapter. Canvassers do not need to register but must abide by relevant sections of this chapter.

(b) Registration Application; Contents. Application for a registration as a solicitor or as a peddler shall be made upon a form provided by the Service-Safety Director. Each application shall contain among other information, the name, address, and telephone number of the applicant; the name, address, and telephone number of his or her employer, if any; the nature of the goods or services for which he or she will take orders or to be offered for sale; proof of motor vehicle insurance; a valid operator’s license; the proposed method of operation in the City; a written commitment that such person(s) shall comply with Chapter 751 of the Codified Ordinances; and such other information as the Service-Safety Director may require.

(c) Criminal Background Checks.

- (1) Required. All peddlers and solicitors not exempt in subsection (c)(2) hereof are required to provide a criminal background check completed that is no more than 30 days old. Said background check must be presented at the time a registration application is completed.
- (2) Exempt. All charitable or religious solicitors or peddlers are exempt from the criminal background checks.

(d) Registration Prohibition.

- (1) No person who has been convicted of:
 - A. Any felony; or
 - B. Any misdemeanors involving false statements, dishonesty, theft, offenses of violence, offenses against juveniles, or violations of Ohio Revised Code Chapter 2907,shall be issued a registration.

(e) Registration Expiration. All registrations issued under this chapter shall be valid for not more than one year from date of issue or as otherwise designated by the Service-Safety Director.

(f) Group Registration. An organization which desires to place a number of solicitors or peddlers for charitable or religious purposes at residences or on public property in the City may make a group application to cover all of them, even if such application is for more than one fund raising event during the period for which the certificate is valid; however, a separate information card shall be issued to each solicitor or peddler by the registered organization. Such information card shall include, at a minimum, the name of the registered organization; description of the purpose of the solicitation; the period for which the registration was issued, and the name of the solicitor or peddler. The organization shall keep a record of each solicitor or peddler and his or her social security number and date of birth which shall be made available to law enforcement upon request.

(g) Exceptions.

- (1) The provisions of this section shall not apply to solicitations conducted only among the members of the entity or organization conducting the soliciting or to solicitations in the form of collections or contributions at the regular assemblies, meetings or services of any such established charitable or religious organization.
- (2) No registration shall be required of a farmer or producer who is selling the product of his own farm.
- (3) Street peddlers must comply with Section 751.06.

(h) Registration Revocation.

- (1) Any registration issued hereunder shall be revoked by the Service-Safety Director if the holder thereof is convicted of a violation of any of the provisions of this chapter, or has made a false material statement in the application. Any conviction for a violation of this chapter shall be cause for rejection of future registrations.
- (2) Immediately upon such revocation, written notice thereof shall be given by the Service-Safety Director to the holder of the registration in person or by certified U.S. mail addressed to his or her residence address as set forth in the application. Immediately upon the giving of such notice the registration shall become null and void.

(i) Fraudulent Solicitations Prohibited.

- (1) No solicitor or peddler shall make or perpetrate any misstatement, deception, or fraud in connection with any solicitation of any contribution for any charitable purpose.
- (2) No person having entered into an agreement to conduct any solicitation on behalf of any person or any charitable purpose shall fail to remit or pay to the party entitled thereto the proceeds of such solicitation in accordance with the true terms of the agreement.

- (j) Fee.
- (1) No person shall act as a peddler or solicitor without the invitation or previous consent of the owner(s) or occupant(s) without first having secured from the Service-Safety Director a registration therefor. The fee for each registration shall be as follows:
 - A. For one day: \$1.00.
 - B. For one week: \$5.00.
 - C. For one year: \$15.00.
 - (2) All fees collected shall be paid into the General Fund.
 - (3) Fee exemption. Individuals or corporations soliciting or peddling on behalf of an educational, religious, civic or charitable organization shall not be required to pay registration fees.

(k) Nontransferable. Once issued a registration may be used only in conformity with the laws of the City and the State of Ohio and may not be assigned or transferred.

(l) Restrictions; Hours; Conduct. Every person to whom a registration 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 City 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 registration 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 City without the consent of any adult occupant of the residence, house, apartment or other dwelling in the City.

(m) 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 City 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 prohibits 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.

(n) Appeals. Any registrant or applicant may appeal his/her revocation or denial to the City Staff Safety Committee. Said appeal will be heard within 45 days. The Committee shall issue its finding in writing within 10 days of the meeting and shall mail said finding to the appellant at the address on the application.

(Ord. 34-07. Passed 6-25-07.)

751.03 ORGANIZATIONAL LIABILITY.

The organization sponsoring or employing individuals violating any of the provisions of Chapter 751 may be prosecuted and held liable for the criminal penalties contained herein. (Ord. 34-07. Passed 6-25-07.)

751.04 DISPLAY OF REGISTRATION CARD.

Any peddler, street peddler, or solicitor shall, at all times while soliciting or peddling, carry said registration. Upon request of any resident, police officer or City official, a solicitor, peddler or street peddler shall present said registration card for further inspection. (Ord. 34-07. Passed 6-25-07.)

751.05 RESERVED.

(EDITOR'S NOTE: This section is reserved for future legislation.)

751.06 STREET PEDDLER.

(a) Registration Required; Effective Period; Revocation. No peddler shall sell or offer for sale any ice cream, frozen dessert, soft drink, candy, sandwich, nuts, novelty confection or similar foodstuff, food, merchandise, or services on public rights of way within the City without first obtaining a registration from the City prior to engaging in such selling or offering for sale, such registration to be issued by the Service-Safety Director. Any registration issued hereunder shall be valid for a period of one year from the date of issue. Such registration may be revoked for failure of the registrant, or his agents or employees to comply with the terms of this chapter.

(b) Conditions of Registration; Fee. The registration provided in this Section 751.06 shall be issued by the Service-Safety Director upon payment of a fee of twenty-five dollars (\$25.00) and upon compliance with the following conditions:

- (1) The applicant shall submit to the City evidence of insurance providing coverage for property damage and bodily injury occasioned by the registrant, his/her agents or employees, the limits of such coverage to be not less than one million dollars (\$1,000,000) combined single limit coverage (property damage and bodily injury).
- (2) The application shall contain a schedule of vehicles to be used by the applicant, and the applicant shall submit evidence that each person required to be licensed to operate such vehicles under the laws of the State has a valid Ohio operator's or chauffeur's license as required by law.
- (3) Each operator shall provide evidence that a valid food handler's permit has been issued by the Fairfield County Department of Health to the operator and his/her agents and employees.
- (4) The applicant shall be the owner.
- (5) Street peddlers requesting registration desiring access to City water and electricity shall comply with additional administrative regulations adopted by the Service-Safety Director. Any additional fee and utility charges may be assessed.
- (6) The Service-Safety Director shall establish Administrative Rules and Regulations and fees as necessary.

(c) Hours of Sale. Street peddlers or their agents or employees, subject to the provisions of this Section 751.06 shall operate only from 9:00 a.m. to 8:00 p.m.

(d) Location of Sales. The Service-Safety Director maintains management and oversight of the public rights of way and reserves the right to deny a street peddler's request for a location due to health, safety or welfare concern.

(e) Stopping Vehicle for Sales. Solicitors, peddlers and street peddlers, or their agents or employees shall transact business only when the vehicle is stopped at the curbing or, if there is not curbing, when the vehicle is stopped at the right edge of the paved part of the right of way.

(f) Street Vendors Serving Fairs and Festivals.

(1) In order to provide for the health and safety of persons attending a fair or festival authorized by the City, the Service-Safety Director shall designate those streets, highways and public rights of way adjacent to, or in the area of, a fair or festival which shall not be used for the purpose of the sale of foodstuffs pursuant to the registration issued under the terms of this chapter or for the purpose of the sale of goods, merchandise or property of any kind and under terms of the right of way permit.

(2) The Service-Safety Director shall approve the layout of the festival and number of approved street peddlers at the time the right-of-way permit is drawn by the festival. The Service-Safety Director shall establish administrative rules governing said use of right of way for fairs and festivals.

(3) Any person, firm, corporation, group or agency which has secured a permit for the purpose of sponsoring a fair or festival may promulgate its own rules, regulations and fees to oversee its function in addition to those established by the Service-Safety Director, as long as said rules are consistent with those established by the Service-Safety Director.

(g) Registration Revocation. Any registration issued hereunder shall be revoked by the Service-Safety Director if the holder thereof is convicted of a violation of any of the provisions of this chapter, or has made a false material statement in the registration application.

(h) Nontransferable. Once issued, a registration may be used in conformity with the laws of the City and the State of Ohio and may not be assigned or transferred.
(Ord. 34-07. Passed 6-25-07.)

751.07 PERMIT TO SOLICIT CHARITABLE CONTRIBUTIONS IN THE ROADWAY.

(a) The Service-Safety Director or his/her designee may issue a permit to solicit contributions on a street, highway or roadway from the driver or occupant of a vehicle when all of the requirements of subsection (b) hereof have been met.

(b) Charitable organizations may apply for and obtain a permit to solicit contributions in the street, highway or roadway but not on a freeway as provided by Ohio R.C. 4511.051 when a permit issued by the Service-Safety Director or his/her designee as follows:

- (1) The Service-Safety Director or his/her designee shall prescribe a form and receive applications to solicit contributions on a street, highway or roadway.
- (2) An application may be made only by a charitable organization that has received from the Internal Revenue Service a currently valid ruling or determination letter recognizing the tax exempt status of the organization pursuant to Section 501(c) of the Internal Revenue Code with a local charitable organization meeting within Fairfield County. The Internal Revenue Service ruling or determination shall be attached to the application prescribed by the Service-Safety Director and/or his/her designee.
- (3) Collections shall be made only at Center Alley, Main Street between Broad and Columbus Street. A permit shall be obtained from the Service-Safety Director.
- (4) Collections shall not commence before thirty minutes after sunrise and shall not continue beyond thirty minutes before sunset.
- (5) Collections shall not exceed thirty hours on three continuous days, and shall be one time only, per calendar year.
- (6) All persons collecting in the streets shall be eighteen years of age or older.
- (7) All collectors shall be neatly attired and wear orange safety vests when working in the street collecting moneys.
- (8) Only four people may be in the same location at one time for street collections.
- (9) A one million dollar (\$1,000,000) personal liability insurance policy for any occurrence shall be carried by the collector and proof of such insurance shall be provided to the Service-Safety Director.
- (10) A collector shall sign a release of liability form for the City, relieving the City from all liability and agreeing to indemnify the City for all damages.
- (11) The supervisor of all organizations engaged in street collections shall list all workers who will collect at a specific time. Each worker shall sign the release liability mentioned in subsection (a)(10) hereof, and the supervisor shall sign for the organization.
- (12) Orange cones and orange vests shall be furnished by the Lancaster Street Department. A plan showing where collectors are recommended to stand shall be given to each organization.
- (13) Two temporary signs shall be displayed that shall notify motorists of street collections ahead.
- (14) The Service-Safety Director shall be given fourteen days notice prior to requesting the street collection permit.
(Ord. 34-07. Passed 6-25-07.)

751.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a minor misdemeanor and, in addition, may have his or her registration revoked by the Service-Safety Director. A second offense shall be enhanced to a misdemeanor of the fourth degree.
(Ord. 34-07. Passed 6-25-07.)

CHAPTER 753
Peddling on Private Property

EDITOR'S NOTE: Former Chapter 753 was repealed by Ordinance 4-07, passed February 26, 2007.

CHAPTER 761
Solicitors and Canvassers

EDITOR'S NOTE: Former Chapter 761 was repealed by Ordinance 4-07, passed February 26, 2007.

CHAPTER 771
Taxicabs

EDITOR'S NOTE: Former Chapter 771 was repealed by Ordinance 12-03, passed April 28, 2003.

CHAPTER 781
Scrap Metal Dealers

<p>781.01 Definitions.</p> <p>781.02 License requirement; expiration.</p> <p>781.03 Application for scrap metal facility licenses; fee.</p> <p>781.04 Issuance and display of license.</p> <p>781.05 Transfer of license.</p> <p>781.06 License suspension or revocation.</p> <p>781.07 Records of transactions; daily reports to police.</p> <p>781.08 Additional requirements for motor vehicles and parts; exemption.</p>	<p>781.09 Retention of articles; permission of police for disposition; recovery of stolen goods by true owner.</p> <p>781.10 Purchase of certain articles restricted.</p> <p>781.11 Purchases prohibited.</p> <p>781.12 Authority to conduct inspections.</p> <p>781.13 Appeals.</p> <p>781.14 Severability.</p> <p>781.99 Penalty.</p>
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CROSS REFERENCES

Power to regulate - see Ohio R.C. 715.61
 Secondhand dealers - see Ohio R.C. Ch. 4737
 Record of transactions required - see Ohio R.C. 4737.01, 4737.04
 Dealing with minors prohibited; hours regulated - see Ohio R.C. 4737.03
 Receiving stolen property - see GEN. OFF. 545.18
 Unlawful transactions in weapons - see GEN. OFF. 549.07

781.01 DEFINITIONS.

As used in this chapter:

- (a) "Scrap metal facility" means any facility, establishment or place of business that is maintained or operated for the primary purpose of receiving, storing, processing, buying, or selling scrap metal for remelting or recycling purposes.
- (b) "Scrap metal facility licensee" or "licensee" means any person holding a scrap metal facility license issued pursuant to this chapter and includes any person acting as the license holder's authorized agent or employee.
- (c) "Scrap metal" means any scrap article or material composed of iron, steel, or nonferrous metal or metal alloy, including but not limited to, copper, brass, bronze, aluminum, or stainless steel.
- (d) "Motor vehicle" shall have the same meaning as set forth in Ohio Revised Code 4501.01 B.
- (e) "Vehicle identification number or derivative thereof" means any number or derivative of such a number that is embossed, engraved, etched, or otherwise marked on any vehicle or vehicle part by the manufacturer. "Vehicle identification number" also includes a duplicate vehicle identification number replaced upon a vehicle under the authority of the registrar of motor vehicles.

- (f) "Retail transaction" means any transaction involving any person other than an industrial or commercial account, a nonprofit account, or a governmental account, in which a scrap metal facility purchases or receives scrap metal.
- (g) "Industrial or commercial account" means any person, operating from a fixed location, that sells scrap metal to a scrap metal facility pursuant to a written agreement or written account certification. The term may include other scrap metal facilities.
- (h) "Nonprofit account" means any nonprofit organization that is exempt from federal income taxation under subsection 501(a) of the Internal Revenue Code, 26 U.S.C.A. 501(a), and that sells scrap metal to a scrap metal facility pursuant to a written agreement or written account certification.
- (i) "Governmental account" means any political subdivision, as defined in Section 2744.01(F) of the Ohio Revised Code, that sells scrap metal to a scrap metal facility pursuant to a written agreement or written account certification.
(Ord. 42-07. Passed 8-27-07.)

781.02 LICENSE REQUIREMENT; EXPIRATION.

No person shall operate a scrap metal facility in the City of Lancaster except under authority of a valid scrap metal facility license issued by the Service-Safety Director, in the name of the person operating the facility and for the specific site of the facility. Every license shall expire on December 31st of each year following its date of issuance, subject to suspension or revocation pursuant to Section 781.06 of this chapter. An application for a renewal of a license must be submitted prior to the annual expiration date of the existing license, and operation under authority of the existing license may continue until issuance or denial of the renewal of the license, provided submission of the renewal application is timely.
(Ord. 42-07. Passed 8-27-07.)

781.03 APPLICATION FOR SCRAP METAL FACILITY LICENSES; FEE.

(a) Application for a scrap metal facility license required by Section 781.02, including the renewal of a license, shall be made in writing and sworn to on a form provided by the Service-Safety Director and pursuant to the terms of this chapter. Each application and renewal shall include a filing fee of fifty dollars (\$50.00), which shall not be refundable, and identify the applicant and the address of the facility to be licensed. The fee shall be waived for any person that is operating a scrap metal facility at that specific site as a 501-C nonprofit organization.

(b) The application for a license to operate a scrap metal facility shall include the following information:

- (1) A list identifying every individual who will be directly engaged in managing or supervising the daily operations of the facility, and for each individual so identified the following information shall be provided by the applicant:
 - A. The individual's name, address and social security number;
 - B. A photocopy of a current and valid driver's license, military identification, or other government-issued photo identification card issued to the individual;
 - C. A set of fingerprints and a certified copy of the individual's criminal history information, including date, time and place of convictions for all violations except traffic offenses as obtained from any local or state law enforcement agency;

- (2) The applicant's history of any government-issued licenses or permits related to the operation of any scrap metal facility, including any currently held by the applicant and any previously issued licenses or permits that were revoked or suspended within the past ten (10) years and the reasons therefore;
- (3) If the applicant is a business entity that is required to register with the Secretary of State of Ohio, a copy of a current certificate of good standing issued by that office.

(c) No person shall knowingly make a false license application or procure or seek to procure a license for another.
(Ord. 42-07. Passed 8-27-07.)

781.04 ISSUANCE AND DISPLAY OF LICENSE.

(a) Subject to the terms of this chapter the Service-Safety Director shall issue a license to an applicant to operate a scrap metal facility at a specified location, unless the Service-Safety Director finds any of the following:

- (1) That the application does not contain all the required information, or that the application contains a material misrepresentation;
- (2) That the facility which is to be licensed fails to conform to the Lancaster Codified Ordinances, including, but not limited to, zoning, building, health and fire.

(b) The Service-Safety Director may refuse to issue a license to an applicant if it finds any of the following:

- (1) That the applicant, or any person having a direct or indirect interest in that which is to be licensed, has been convicted of a felony or theft offense within the past ten (10) years or is on probation or parole for a felony or theft offense;
- (2) That criminal conduct as defined in Title 29 of the Ohio Revised Code has or is occurring on the premises of the facility on a repeated basis by customers, patrons, employees, operators or licensees. Repeated basis shall mean two (2) or more offenses within the previous twelve (12) months.

(c) The issued license shall be displayed in a conspicuous place within the public area of the facility. (Ord. 42-07. Passed 8-27-07.)

781.05 TRANSFER OF LICENSE.

(a) A scrap metal facility license is not transferable to another location. No person so licensed shall transact or solicit business at any location other than at the address stated in the license. Any change in location of scrap metal facility licensed pursuant to this chapter shall require the submission of a new application and the issuance of a new license.

(b) Any change in ownership or location of scrap metal facility licensed pursuant to this chapter shall require the submission of a new application and the issuance of a new license. For purposes of this section, whenever the person to which a license has been issued is a corporation or limited liability company and there is a transfer of the corporation's stock or that limited liability company's membership interests such that, following the transfer, the owner of the majority or plurality of the limited liability company's membership interests would change, the transfer of stock or membership interests shall be considered a change of ownership.

(Ord. 42-07. Passed 8-27-07.)

781.06 LICENSE SUSPENSION OR REVOCATION.

(a) The Service-Safety Director may revoke or suspend a scrap metal facility license where it finds:

- (1) A section of this chapter was violated upon the facility premises;
- (2) A violation of the Ohio Revised Code or Lancaster Codified Ordinances was committed upon the facility premises, and was reasonably related to the management or operation of the facility;
- (3) A material misrepresentation was made upon the application for a license;
- (4) An operator of the facility, or employee or agent of the operator, hindered, obstructed or prevented any inspection of the facility authorized by this chapter.

(b) Unless a stay order has been issued by a court of competent jurisdiction, a licensee is prohibited from purchasing, receiving or selling any scrap metal articles or material during the time that the licensee's scrap metal facility license is revoked or suspended.

(Ord. 42-07. Passed 8-27-07.)

781.07 RECORDS OF TRANSACTIONS; DAILY REPORTS TO POLICE.

(a) All scrap metal facility licensees shall maintain a separate record book or electronic file in which the licensee shall keep an accurate, legible and complete record of all of the following specified information for each retail transaction on a form approved by the Chief of Police:

- (1) A complete and accurate description of any scrap metal article or material that has been purchased or received by the licensee, including, where available, the name and maker of the article or material, and the serial number or other identification number, letters or marks written or inscribed on the article or material;
- (2) The seller's name and current address;
- (3) The identification number from a current and valid driver's license, military identification, or other government-issued photo identification card issued to the seller;
- (4) The license plate number and state issuing the license plate of the motor vehicle being used by the seller to transport the articles or material to the facility;
- (5) An impression of the right or left thumb of the seller;
 - A. If the licensee uses the electronic reporting method, the following procedures will comply with the requirement for a thumb impression:
 1. A finger print scanner impression of the thumb print provided in an electronic file with the daily reporting titled by name and date.
 2. A thumb print impression on a receipt signed by seller, filed by date, and retained for three (3) years, and kept in such a manner as it may be retrieved by law enforcement upon request.
- (6) The date and time that the licensee purchased or received the article or material and the name of the individual employee or operator of the facility who conducted the transaction;
- (7) A declaration of whether the total amount paid by the licensee for the articles or material purchased or received was five hundred dollars (\$500.00) or more.

- (b) Every retail transaction shall be numbered consecutively.
- (c) Every retail transaction shall have a digital image taken with date and time stamp of such quality as approved by the Chief of Police. The tapes or pictures must be maintained for 90 days.
- (d) The licensee shall prepare a daily report listing all retail transactions occurring during the preceding day and containing all the information described in this section for each retail transaction. Before 12:00 noon each day, the licensee shall deliver a copy of the licensee's daily report to the chief of police or his or her designee. Delivery of the daily report shall be by means of a secured electronic transmission, a legible facsimile transmission, or the delivery of a paper copy or physical electronic medium containing the report. Licensees submitting a physical electronic medium or data from a computerized tracking system must submit the data in a format approved by the chief of police or his or her designee. Timing of delivery of the report may be adjusted by a written protocol of the Chief of Police.
- (e) The records described in this section shall be retained by the licensee for three years following the date of the retail transaction.
- (f) Aluminum cans are exempt from reporting.
(Ord. 42-07. Passed 8-27-07.)

**781.08 ADDITIONAL REQUIREMENTS FOR MOTOR VEHICLES AND PARTS;
EXEMPTION.**

- (a) In addition to all other requirements of this chapter, a scrap metal facility that purchases or receives in a retail transaction as scrap a motor vehicle shall also comply with all the following requirements:
- (1) No motor vehicle shall be purchased or received unless at the time of the transaction the seller has provided both a valid certificate of title showing that the seller is the owner of that motor vehicle and a current and valid driver's license, military identification, or other government-issued identification card issued to the seller bearing a photograph of the seller.
 - (2) A scrap metal facility that purchases or receives a motor vehicle from the owner described on the certificate of title shall within ten days mark the certificate "TO BE CANCELED," keep a record of the cancellation, and forward the certificate to the clerk of the court who issued it in accordance with Section 4738.16(B) of the Ohio Revised Code. The scrap metal facility shall keep the record of the cancellation for three years after creating the record. The record shall include a copy of the canceled title.
- (b) In addition to all other requirements of this chapter, a scrap metal facility that purchases or receives in a retail transaction as scrap a motor vehicle part bearing a vehicle identification number or derivative thereof shall also record, as part of the record of the retail transaction, that part's vehicle identification number or derivative thereof.
- (c) This chapter shall not apply to any operations person licensed by the state of Ohio as a motor vehicle salvage dealer under Ohio Revised Code Chapter 4738. Non auto salvage derived scrap operations shall be subject to regulation as a scrap metal facility.
(Ord. 42-07. Passed 8-27-07.)

781.09 RETENTION OF ARTICLES; PERMISSION OF POLICE FOR DISPOSITION; RECOVERY OF STOLEN GOODS BY TRUE OWNER.

(a) Except as otherwise provided in this section, a scrap metal facility licensee shall retain any and all scrap metal articles or material composed of copper, brass, aluminum or stainless steel that have been purchased or received by the licensee in a retail transaction, in the condition the article or material was received, until the expiration of at least seven (7) days after the date of purchase or receipt. This required seven (7) days retention period does not apply to: aluminum cans; motor vehicles; scrap metal articles or material other than copper, brass, aluminum or stainless steel; or, any other scrap metal articles or material for which the licensee has received written permission for disposition from the chief of police or his or her designee.

(b) For any article or material received for which a retention period is required under this section, the licensee shall attach a tag to the article or material in some visible and convenient place that identifies the date and transaction number applicable to that article or material, which tag shall remain attached until disposition of the article or material.

(c) If the Chief of Police or his or her designee has probable cause to believe that an article or material is stolen property, he shall notify the licensee in writing. Upon receipt of such a notice, the licensee shall retain the article or material until the expiration of thirty (30) days after receipt of the notice, unless the chief or his or her designee notifies the licensee in writing that retention of the article or material is no longer required. Upon expiration of the thirty (30) day period, absent renewal thereof by the chief or his or her designee, or the failure of the true owner to pick up the allegedly stolen property, the scrap article or material may be immediately recycled.

(d) If the Chief of Police or his or her designee receives a report that property has been stolen and determines the identity of the true owner of the allegedly stolen property that is in the possession of a licensee, and informs the licensee of the true owner's identity, the licensee shall hold the allegedly stolen property for at least thirty (30) days from the date of notification by the chief of police or his or her designee to enable the true owner to pick up that property from the licensee. If a licensee fails or refuses to return the allegedly stolen property that has been held as required by this division, the true owner may recover the property from the licensee in an action at law. Upon expiration of the thirty (30) day period, absent renewal thereof by the chief or his or her designee, or the failure of the true owner to pick up the allegedly stolen property, the scrap article or material may be immediately recycled.

(e) If the Chief of Police or his or her designee determines that there is a need for investigative purposes to tag and retain certain articles or materials received from a specified person, the chief of police or his or her designee shall notify the licensee in writing of such need and the licensee shall tag and retain said material for three (3) days. Upon expiration of the three (3) day period, absent renewal thereof by the chief or his or her designee, the scrap article or material may be immediately recycled. This tagging shall occur regardless of whether or not the licensee reports electronically.

(f) A scrap metal facility licensee shall be exempt from the retention requirements contained in division (a) of this section provided:

- (1) The licensee utilizes the automated electronic reporting system approved by the Chief of Police for all retail transactions involving scrap metal for which a retention period would otherwise be required under this section; and
- (2) All required data fields in the transaction report, as determined by the director or his designee, are completed and transmitted by the licensee to the approved reporting system.
- (3) The licensee takes a digital image with date and time of such quality as is approved by the Chief of Police. The tapes or pictures must be maintained for 90 days showing date and time.
(Ord. 42-07. Passed 8-27-07.)

781.10 PURCHASE OF CERTAIN ARTICLES RESTRICTED.

(a) No scrap metal facility licensee shall purchase or receive any restricted article in a retail transaction unless at the time of the transaction the seller has received reasonable, reliable, written documentation verifying that the seller is the owner of the article, or is an employee, agent, or other person authorized to sell the article on behalf of the owner.

(b) For purposes of this section, "restricted article" means all of the following:

beer kegs; shopping carts; electric or communication cable or wire and their electronic components owned by a public utility, electric or communication company; grave markers, sculptures, plaques, and vases, the appearance of which suggest that the articles have been obtained from a cemetery; guard rails for bridges, highways, and roads; highway and street signs; street light poles and fixtures; manhole covers, water meter covers, and other similar types of utility access covers; traffic directional and control signs and light signals; metal marked with the name of a political subdivision of the state, and other articles that are purchased and installed for use upon authorization of the state or any political subdivision of the state; historical markers.

(c) No scrap metal facility licensee shall purchase or receive any consumer appliance in a retail transaction unless:

- (1) At the time of the transaction the seller has received reasonable, reliable, written documentation verifying that the seller is the owner of the consumer appliance, or is an employee, agent, or other person authorized to sell the consumer appliance on behalf of the owner; or
- (2) No more than two (2) consumer appliances are purchased or received per seller per day.

(d) For purposes of this section, "consumer appliance" means all of the following:

air conditioners; hot water heaters; furnaces; refrigerators; freezers; stoves; clothes washers or dryers.

(e) No scrap metal facility licensee shall purchase or receive any catalytic converter in a retail transaction unless:

- (1) At the time of the transaction the seller has received reasonable, reliable, written documentation verifying that the seller is the owner of the catalytic converter, or is an employee, agent, or other person authorized to sell the catalytic converter on behalf of the owner; or
- (2) No more than one (1) catalytic converter is purchased or received per seller per day. (Ord. 42-07. Passed 8-27-07.)

781.11 PURCHASES PROHIBITED.

No licensee shall purchase or receive any scrap metal article or material from any person under the age of eighteen (18), or from any person identified in writing to the licensee by the chief of police as a known or suspected thief or receiver of stolen property, or from any person failing or refusing to provide to the licensee all the identifying information required from the seller under Section 781.07(a). Aluminum cans may be purchased from a minor without identification or reporting. (Ord. 42-07. Passed 8-27-07.)

781.12 AUTHORITY TO CONDUCT INSPECTIONS.

(a) Upon display of the proper credentials, any law enforcement officer or designee of the Service-Safety Director authorized to enforce this chapter shall be granted entry to a scrap metal facility at any time the facility is open for business for the purpose of conducting an inspection to ensure compliance with this chapter. For purposes of such inspection, an inspecting official shall be granted full and immediate access by the licensee to the building, grounds and records of the licensee.

(b) No person shall deny access to, or in any way impede, or any law enforcement officer authorized to enforce this chapter conducting an inspection of a licensed scrap metal facility, or any portion thereof, or fail to cooperate with an inspecting official. (Ord. 42-07. Passed 8-27-07.)

781.13 APPEALS.

The refusal to issue or renew, and the suspension or revocation of, a scrap metal facility license shall be pursuant to the provisions of this chapter, and the appeal of any such order shall be pursuant to the provisions of Chapter 1303 of the Lancaster Codified Ordinances. (Ord. 42-07. Passed 8-27-07.)

781.14 SEVERABILITY.

In the event any section or provision of this chapter 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. 42-07. Passed 8-27-07.)

781.99 PENALTY.

Whoever violates any section of this chapter is guilty of a misdemeanor of the first degree subject to the costs of prosecution. Each day that any person continues to violate this chapter shall constitute a separate and complete offense. (Ord. 42-07. Passed 8-27-07.)

(NOTE: The next printed page is page 47.)

CHAPTER 785
Itinerant Merchants

785.01	Defined.	785.03	Registration information.
785.02	Registration required.	785.99	Penalty.

CROSS REFERENCES

Power to regulate - see Ohio R. C. 715.61 et seq.
 Transient dealers - see Ohio R. C. 715.64
 Home solicitation sales - see Ohio R. C. 1345.21 et seq.
 Charitable solicitations - see Ohio R.C. Ch. 1716
 Secondhand dealers - see BUS. REG. Ch. 781

785.01 DEFINED.

For the purpose of this chapter any merchant engaging or intending to engage in business as a merchant in the City for a period of time not exceeding 100 days shall be considered as an itinerant merchant.

(Ord. 35-84. Passed 9-10-84.)

785.02 REGISTRATION REQUIRED.

It shall be unlawful to do business in the City of Lancaster as an itinerant merchant without having first registered as herein provided. (Ord. 35-84. Passed 9-10-84.)

785.03 REGISTRATION INFORMATION.

Registrations to do business in the City shall be made in writing to the Mayor and shall disclose all information which the Mayor determines necessary in order to assure compliance with the City income tax ordinance. (Ord. 35-84. Passed 9-10-84.)

785.99 PENALTY.

Whoever violates this chapter shall be deemed guilty of a minor misdemeanor on first offense. Additional violations within a two year period shall be a misdemeanor of the fourth degree. (Ord. 35-84. Passed 9-10-84.)

**CHAPTER 791
Vehicle Racing**

791.01	Racing Commission composition and term.	791.03	Rules subject to Council approval.
791.02	Supervision; permit fee.	791.99	Penalty.

CROSS REFERENCES

Street racing - see TRAF. 333.07

Vehicle gas or noise - see TRAF. 337.20

Emergency vehicle required - see GEN. OFF. 521.08

791.01 RACING COMMISSION COMPOSITION AND TERM.

There is hereby created a Motor Vehicle Racing Commission to govern and regulate stock car and motorcycle races and other motor vehicle races. Such Commission shall consist of five residents of the City whose members shall serve during the term of the Mayor appointing them. (Ord. 7-85. Passed 2-25-85.)

791.02 SUPERVISION; PERMIT FEE.

The Motor Vehicle Racing Commission shall regulate, supervise and govern all stock car and motorcycle races and other motor vehicle races in the City. It shall issue permits for all races or a racing season, for which it shall charge a fee of five percent (5%) of the gross receipts. (Ord. 7-85. Passed 2-25-85.)

791.03 RULES SUBJECT TO COUNCIL APPROVAL.

The Motor Vehicle Racing Commission shall have the authority to adopt rules and regulations governing the hours, noise level, safety conditions and all other conditions incident to motor vehicle racing. Such rules and regulations shall not be effective until approved by Council. (Ord. 7-85. Passed 2-25-85.)

791.99 PENALTY.

Whoever violates any provision of this chapter, including rules and regulations lawfully promulgated pursuant thereto shall be guilty of a misdemeanor of the fourth degree. (Ord. 7-85. Passed 2-25-85.)

CHAPTER 795
Yard Sales

795.01	Intent and purpose.	795.06	Exceptions.
795.02	Definitions.	795.07	Advertising; signs.
795.03	Permitted goods.	795.08	Parking.
795.04	Permitted garage sales.	795.09	Exemptions.
795.05	Hours of operation.	795.99	Penalty.

795.01 INTENT AND PURPOSE.

(a) The provisions contained in this chapter are intended to prohibit the infringement of any businesses in any established residential areas by regulating the term and frequency of garage sales, so as not to disturb or disrupt the residential environment of the area.

(b) The provisions of this chapter do not seek control of sales by individuals selling a few of their household or personal items.

(c) The provisions and prohibitions hereinafter contained are enacted not to prevent but to regulate garage sales for the public health, safety and welfare of the City's residents.
(Ord. 60-97. Passed 10-13-97.)

795.02 DEFINITIONS.

For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(a) "Garage sale" includes all general sales, open to the public, conducted from or on a residential premises in any residential zone, as defined by the zoning ordinance, for the purpose of disposing of personal property including but not limited to, all sales entitled "garage", "lawn", "yard", "attic", "porch", "room", "backyard", "patio", "flea market", "rummage", "basement", "barn" or "clothesline" sale. This definition shall not include a situation where no more than five specific items are held out for sale and all advertisement of such sale specifically names those items to be sold.

(b) "Personal property" means property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.
(Ord. 60-97. Passed 10-13-97.)

795.03 PERMITTED GOODS.

No person shall sell or offer for sale, under authority granted by this chapter, property other than personal property. (Ord. 60-97. Passed 10-13-97.)

795.04 PERMITTED GARAGE SALES.

Each residence is permitted to have two garage sales per calendar year with each garage sale lasting no more than three consecutive days. (Ord. 60-97. Passed 10-13-97.)

795.05 HOURS OF OPERATION.

Such garage sales shall be limited in time to no more than the daylight hours of three consecutive days. (Ord. 60-97. Passed 10-13-98.)

795.06 EXCEPTIONS.

A third garage sale shall be permitted in a calendar year only with prior written approval by the Service-Safety Director or his designee. (Ord. 60-97. Passed 10-13-97.)

795.07 ADVERTISING; SIGNS.

(a) Only the following specified signs may be displayed in relation to a pending garage sale:

- (1) One sign permitted. One sign of not more than nine square feet shall be permitted to be displayed on the property of the residence where the garage sale is being conducted.
- (2) No lighted signs. No lighted signs shall be used.

(b) No signs shall be placed on the public right of way or on property other than where the sale is being conducted.

(c) Permitted signs shall be displayed only during the sale and shall promptly be removed after the sale. (Ord. 60-97. Passed 10-13-97.)

795.08 PARKING.

All parking of vehicles shall be conducted in compliance with all applicable laws and ordinances. Further, the Police Division may enforce such temporary controls to alleviate any special hazards and/or congestion created by any garage sale. (Ord. 60-97. Passed 10-13-97.)

795.09 EXEMPTIONS.

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

- (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 sale conducted by any merchant or mercantile or other business establishment from or at a place of business where such sale would be permitted by the zoning regulations of the City or under the protection of the nonconforming use section thereof or any other sale conducted by a manufacturer, dealer or vendor and which sale would be conducted from properly zoned premises and not otherwise prohibited in other ordinances.
- (d) Any bona-fide charitable, educational, cultural or governmental institution or organization when the proceeds from the sale are used directly for the institution's or organization's charitable purposes and the goods or articles are not sold on a consignment basis.

- (e) Any auction conducted by a certified auctioneer.
- (f) 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 five in number. (Ord. 60-97. Passed 10-13-97.)

795.99 PENALTY.

Whoever violates or fails to comply with any provision of this chapter is guilty of a minor misdemeanor. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.
(Ord. 60-97. Passed 10-13-97.)

CHAPTER 797
Video Service Providers

797.01 Fee.

797.01 FEE.

(a) Council hereby establishes a VSP Fee that is calculated by applying a VSP Fee Percentage of five percent (5%) to the video service provider's gross revenues as defined in Section 1332.32(B) of the Video Law. For purposed of calculating the VSP Fee, the provider's gross revenues shall include advertising revenues in accordance with Section 1332.23(B)(2)(g) of the Video Law. The VSP Fee Percentage and Video Law gross revenues definition, as modified in this Ordinance, shall apply equally to all video service providers and cable television operators providing video service in the City.

(b) The VSP Fee shall be paid by each video service provider providing service in the City on a quarterly basis but not sooner than forty-five (45) days nor later than sixty (60) days after the end of the each calendar quarter.

(c) The Mayor is authorized and directed to provide any video service provider with notice of the VSP Fee Percentage and gross revenues definition as determined by this 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 City pursuant to a state-issued video service authorization. (Ord. 50-08. Passed 11-10-08.)

